

February 24, 2025

Maryland General Assembly
Delegates C.T. Wilson Chair, and Brian M. Crosby, Vice Chair
Delegate Susan McComas, Sponsor
Economic Matters Committee
Room 231
House Office Building
Annapolis, Maryland 21401

RE: **HB-1210 - Workers' Compensation - Evaluation of Permanent Impairments - Licensed Certified Social Worker-Clinical**

POSITION: FAVORABLE- STRONGLY SUPPORT

Dear Delegate Wilson and Members of the Committee:

Disclaimer: The opinions concerning HB-1210 are my own and do not in any way, shape, form, or matter represent those of any other person, individual (LLC, S-Corp., etc.), Governmental agency, for or not for Profit Corporation, or Organization.

I reviewed the requirements for Workers Compensation-Evaluation of Permanent Impairments. I am registered with the WCC number (G0235) as a Vocational Rehabilitation Practitioner. **The Licensed Certified Social Worker-Clinical licensee is authorized to independently evaluate, diagnose, treat mental and emotional disorders, conditions and impairments (HO 19-101, n, (5) (ii) referencing HG-Sec. 7.5-101 (1) (2) and testify as an expert witness (See AG Advice of Counsel(s) dated 01/30/2004, and 01/25/2024** There is a severe need for qualified mental health practitioners to fully serve the injured worker who are experienced, and qualified in the evaluation, diagnosis, treatment including the determination of permanent impairment . The LCSW-C also collaborates with other health care providers, agencies, and resources to support decisions

In years past, up until the mid 2000's, I treated and evaluated persons' persons injured in the course of their employment for both defense and claimants attorneys. There was one case, I did the evaluation of permanent impairment; the claimant's attorney raised the issue of my authority to do so. Because, Licensed Certified Social Worker-Clinical (LCSW-C) was not included under Sec. 9-721 even though, defense counsel (Semmes, Bowen and Semmes) and the Commissioner found me qualified by experience and training. I can submit my evaluative findings to the Commission, but my conclusions as to rating of permanent impairment cannot be admitted for consideration at the Hearing or on Appeal as to Permanent Impairment.

I was encouraged to seek legislation to amend Sec. 9-721. I have worked with legislators to do so.

I support Sec. 9-721 (c) be amended to include the Licensed Certified Social Worker-Clinical. The Attorney General Advice of Counsel(s) affirms the LCSW-C may testify as an Expert Witness.

The Labor and Employment Article, Title 14, Independent Agencies, Subtitle 09, Workers Compensation Commission, Chapter 08 Guide to Medical and Surgical Fees, recognizes the Scope of Practice of the LCSW-C. , This includes the evaluation, diagnosis, and treatment which, includes determinations of the severity of

impairment, if a handicap exists related to the impairment, further treatment and coordination with other sources, and recommendations for reasonable accommodations under EEOC.

Section 9-721 of the L&E Article was enacted many years ago to protect the public but this was before the LCSW-C license was enacted. A Physician (Psychiatrist) or Psychologist, without any training, experience in impairment determinations of Workers Compensation is automatically accepted to testify on Permanent Impairment. While the qualified LCSW-C is arbitrarily disallowed to engage in this function which is within their Scope of Practice. Is this a restraint of trade.

In support of this amendment I submit the following documentation:

Sincerely,


Arthur Flax, LCSW-C, DCSW, WCC (G-0235)

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Attachments:

HEALTH OCCUPATIONS TITLE 19. SOCIAL WORKERS SUBTITLE 1 DEFINITIONS; GENERAL PROVISIONS § 19-101. Definitions

1. (5) For an individual licensed as a certified social worker–clinical, “practice social work” also includes: (i) Supervision of other social workers; (ii) Evaluation, diagnosis, and treatment of biopsychosocial conditions, mental and emotional **conditions and impairments**, and behavioral health disorders, including substance use disorders, addictive disorders, and mental disorders, as defined in § 7.5–101 of the Health – General Article;

(a) “Clinical social work” means the professional application of social work knowledge, skills, values, theories, and methods for the treatment and prevention of psychosocial dysfunction, disability, or impairment, including emotional disorders, mental disorders, and substance use disorders with individuals, groups, and families.

2. On January 25, 2024 AG Advice of Counsel; on January 30, 2004, an AG Advice of Counsel was issued (See attachments). Md. Code, Health Gen. Sec. 7.5-101(l) (1) (2) Expert Witness.

3. House Bill-1615 (2018), **Pg. 5, line 17; pg.6 line 3 deleted physician and inserted “by a licensed health care provider” with independent diagnostic authority, to render an opinion on the ultimate issue of impairment (DHR /FIA Form 500)**).

4. The LCSW-C, who is trained, may conduct various assessments and testing reference: Blue Cross Blue Shield Federal Employee Benefits Program (2005) (Pearson Testing Qualifications based on APA Standards) and or like a physician refer the injured worker for testing and then include those results within the treatment plan and testimony.