

February 15, 2025

Senator Pamela Beidle, Committee Chair
 Senator Antonio Hayes, Committee Vice Chair
 Maryland General Assembly
 Senate Finance Committee
 3 East Miller Senate Office Building
 Annapolis, Maryland 21401
 Cc: Delegate Susan McComas

RE: HB-1210 - Workers' Compensation - Evaluation of Permanent Impairments -Licensed Certified Social Worker-Clinical (LCSW-C)

POSITION: FAVORABLE- STRONGLY SUPPORT

Dear Senators Pamela Beidle, Chair, Vice Chair Antonio Hayes, and Members of the Senate Finance Committee:

Disclaimer: Although I consult closely with the below listed entities, 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.

Please note, this **legislation only applies to the Licensed Certified Social Worker-Clinical (LCSW-C) and no other classification of Social Worker license. The LCSW-C license is an advanced clinical license.** I reviewed the requirements for Workers Compensation-Evaluation of Permanent Impairments. I initiated and prepared the initial draft for HB-1210. I am registered with the WCC number (G0235). I can provide a full range of services to the injured worker, but not render my opinion as to my evaluative findings affecting permanent impairment.

In 2005, Psychologists were included in Sec. 9-721(HB-384-SB-264-yr. 2005). Psychologists are not physicians. Licensed Certified Social Workers-Clinical and psychologists are both medical health care/health care providers. **Since 2005, the Scope of Practice of the LCSW-C has greatly expanded to include equal diagnostic, evaluative, and treatment authority to a licensed psychologist.**

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; (Exhibit 2),and is qualified to testify as an expert witness (See AG Advice of Counsel(s) dated 01/30/2004 (Exhibit 3), and AG Advice of Counsel dated 01/25/2024 (Exhibit 3a). . 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 (Exhibit 4).

There is a severe shortage and need for qualified mental health practitioners who are experienced, and qualified in the evaluation, diagnosis, treatment, and collaboration with other health care providers,

agencies, and resources to provide this service for the injured worker through the Workers Compensation Commission. This includes the evaluation, diagnosis, and treatment including determinations of impairment, if a handicap exists related to the impairment, further treatment and coordination with other sources, and recommendations for reasonable accommodations under EEOC. The LCSW-C is legally defined as a medical provider and more broadly as a health care provider who incorporates social work values. **Further, HB-1210 requires the LCSW-C "shall comply with all regulations of the Commission". This allows for the adoption of regulations, if deemed necessary, as to specific experience or training.**

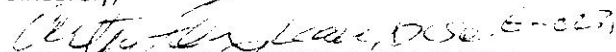
The Scope of Practice of the LCSW-C has expanded over the last 20 years as noted above (HO 19-101, n, (5) (ii) referencing HG-Sec. 7.5-101 (1) (2)) and in several other State and Federal statutes and CFR (Exhibit 5). The LCSW-C is authorized to independently provide a range of full services to Medicaid, Medicare, and commercial insurance to patients same as a psychologist (Exhibit 5).

Texts books, including the AMA Comprehensive Textbook of Psychiatry, and the AMA Guides to the Evaluation of Permanent Impairment, Ch.14, (does not restrict usage to only physicians and psychologists (Exhibit 6), and is incorporated into the learning process for the LCSW-C. The Diagnostic and Statistical Manual of Mental Disorders 4th Ed. (DSM), and later editions are standard diagnostic references, as is the International Classification of Diseases, 10th Ed. (ICD), and the use of CPT codes that define services provided. In addition the Global Assessment of Function (GAF) incorporated into the DSM4th.Ed. is utilized, as are other assessment instruments to conduct functional capacity evaluations-mental (FCE-M) (also referred to as ADL's) standing alone, or in conjunction with physical injury or illness. (Exhibit 6)

Section 9-721 of the L&E Article was enacted many years ago, before the LCSW-C license was enacted and since amended. Note, a Physician (Psychiatrist) or Psychologist, without any training, or experience in impairment determinations of injured workers is accepted to evaluate and testify on Permanent Impairment. While the qualified LCSW-C is arbitrarily disallowed to engage in this function within their Scope of Practice. This appears to be a restraint of trade (HB-1615 (2018)) deleted physician (Exhibit 7a).

In support of this amendment I submit the following documentation:

Sincerely,



Arthur Flax, LCSW-C, DCSW, WCC # G-0235

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Attachments:

EXHIBIT 1. HB-1210 TESTIMONY; House Bill 1210 passed the House of Delegates and is now scheduled in the Senate Finance Committee on 3/20/2025 at 1:00 PM.

EXHIBIT 2.

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.

EXHIBIT 3. Attorney General Advice of Counsel – Ultimate Issue AG Advice of Counsel; on January 30, 2004.

EXHIBIT 3a. Attorney General Advice of Counsel – Ultimate Issue -01-25-2024

EXHIBIT 4. LABOR AND EMPLOYMENT -Title 14-09 Ch. 08; LCSW-C included as a medical provider.

EXHIBIT 5. CMS FINAL RULE 2024 INCLUDES LCSW-C

EXHIBIT 6. AMA GUIDES TO THE EVALUATION OF PERMANENT INPAIRMENT CHAPTER 14 does not limit usage to physicians and psychologists

EXHIBIT 7. DHR FIA ACTION TRANSMITTAL 3/3/2015; addresses restraint of trade;

Exhibit 7a. House Bill-1615 (2018), **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 permanent impairment (DHR /FIA Form 500)).**

