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POSITION ON PROPOSED LEGISLATION

BILL: SB 0379 - State Board of Social Work Examiners - Membership and Examination Requirements

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 01/31/2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 0379.

As LCSW-Cs with a combined total of 32 years of licensed professional social work practice we collectively acknowledge the alarming nature of the racial disparity in exam passage rates, we validate the emotional pain and financial burdens imposed on those impacted groups, and we stand firmly in agreement that any racial discrimination should be eradicated as it is in direct opposition with the values of the social work profession. However, we strongly assert that elimination of the LBSW and LMSW examinations which are objective measures of competency will undermine the efficacy of the profession as a whole, and cause long-term collateral consequences that are unseen at this current time. Below are our shared points of contention:

- **Negative Impact of the Elimination of the Examination Requirement**
 - 1. Public Safety and Quality of Client Care**

Social workers are often the first responders to mental health crises involving suicidal ideation, homicidal ideation, and the threat of self harm presented by clients. Such mental health crises may arise for clients regardless of an assigned social worker's level of experience or area of practice. For example, social workers who primarily deliver case management services can still be exposed to these client circumstances and are required to act. Because social workers have an ethical obligation to social welfare, it is imperative for the safety and

wellbeing of clients and the general public that social workers are competent and prepared to execute appropriate and responsive evaluations as well as the development of a plan for next steps to ensure safety for clients. Moreover, incidents arise where it is critical to act quickly and gather the needed information to keep a client safe, and clinical supervisors cannot be present for each and every interaction an LMSW has with a client. A baseline level of competency is required during such interactions with clients that cannot wait until case review or supervision. It is highly concerning that the existing measure, the Maryland Board of Social Work Examiners (BWSE) licensing exam, would be eliminated without an alternative measure to assess competency and ensure quality of care. Elimination of the exam will leave vulnerable clients at a greater risk of being a victim of social work malpractice (failure to provide competent services).

2. Ethics Competency

Per the National Association of Social Workers (NASW) Code of Ethics (2021), “Professional ethics are at the core of social work.” Not only is it essential for social workers to be able to identify and resolve ethical dilemmas that arise in the course of our work, but it is also critical that the general public has ethical standards by which the profession can be held accountable. As such, social workers’ knowledge of the Code of Ethics is assessed prior to providing services to clients via the licensure examination. Even at entry level, social workers must be able to identify ethical dilemmas, collect and process information, and report the dilemma to a supervisor to navigate in supervision. Frequently in practice, social workers face conflicting ethical responsibilities and values and therefore must be able to navigate such dilemmas consistently and within the spirit of the Code of Ethics. Elimination of the licensure examination requirement removes any objective measure of ethical integrity from the social work profession.

3. Social Workers as Experts in Legal Matters

Social workers, particularly those employed by the Maryland Office of the Public Defender, are often called upon to serve as expert witnesses in legal matters pertaining to mental health, juvenile offenders, parental rights, and mitigation in sentencing. Social workers are uniquely positioned to provide expert testimony on such matters because of our profession’s training and focus on the cumulative biopsychosocial factors that influence human behavior

and in particular, that of vulnerable populations. Over the past two decades, the Social Work Division of MOPD has grown into a nationally-recognized model of how social workers can utilize their expertise in legal contexts to improve the efficacy of public defense.

In order to be qualified as an expert witness in the field of social work and provide expert witness testimony, a social worker is questioned by both the defense attorney and the state's attorney. The social worker must prove their competence, work experience, education, and expertise through their responses to Voir Dire questions. Questions include but are not limited to: social work board examination, licensure, degree, training, and supervision requirements. The judge must agree and accept to move the social worker's CV into evidence and stipulate to their expertise based on the thoroughness and credibility proven during the social worker's responses to Voir Dire questions. According to the Daubert Standard (Stanley Rochkind v. Starlena Stevenson, No. 47, September Term, 2019. Opinion by Getty, J.), the following reliability factors must be considered:

- (1) whether a theory or technique can be (and has been) tested;
- (2) whether a theory or technique has been subjected to peer review and publication;
- (3) whether a particular scientific technique has a known or potential rate of error;
- (4) the existence and maintenance of standards and controls;
- (5) whether a theory or technique is generally accepted;
- (6) whether experts are proposing to testify about matters growing naturally and directly out of research they have conducted independent of the litigation, or whether they have developed their opinions expressly for purposes of testifying;
- (7) whether the expert has unjustifiably extrapolated from an accepted premise to an unfounded conclusion;
- (8) whether the expert has adequately accounted for obvious alternative explanations;
- (9) whether the expert is being as careful as he or she would be in his or her regular professional work outside his or her paid litigation consulting; and

(10) whether the field of expertise claimed by the expert is known to reach reliable results for the type of opinion the expert would give.

The court has to weigh all of the 10 factors to decide if the evidence/testimony can be admitted. It is essential that the committee recognizes that a wide range of professions require examinations to obtain a license, including healthcare practitioners like doctors and nurses, legal professionals like lawyers, educators like teachers, financial professionals like accountants, engineers, architects, electricians, plumbers, and many other fields; essentially, any profession that requires a license necessitates passing an examination to qualify. These exams are designed to ensure competency and ethical practice within a profession, protecting the public safety by verifying the individual's knowledge and skills. The assertion that the exam does not effectively assess “quality” or “safety” is a false negative. We would have to assume that either the social work exam is an anomaly in comparison to all other professional exams, and agree that all other professional exams are not biased. Simply put, quality and competency are not synonymous.

We respectfully provide the below list of strategically crafted and considered options to the repeal of the exams:

Alternatives to Elimination of the Exam Requirement

1. Amend the drafting process of the exam to better reflect cultural competencies

The deficits of the Board of Social Work examination must be fixed and the racial disparities rectified. It is perplexing that amending and correcting the examination to reflect an equitable and inclusive objective measure for all social workers has not been attempted. Confronting the damage done and developing reparations would serve as a model to other disciplines with racial disparities in passing rates of board licensing examinations. As social workers, we are agents of change, we tirelessly advocate for social justice. Discarding any examination to evaluate competence is injustice for our clients and social work colleagues. By eliminating the examination all together, we are avoiding confronting oppression, and abandoning the opportunity to create long-lasting change.

2. Improve educational curriculum in schools

It is the responsibility of each and every graduate school of social work to prepare students to be able to articulate social work knowledge, theory, and practice in a way that benefits the students and public. Deans of graduate schools, accreditation bodies, and professors who have hands-on relationships with students should reevaluate the current rates of students who are not able to pass the exam in its current form. Students seek education from schools that have been accredited and approved to provide social work education. It is the expectation that after graduation students are able to participate in a meaningful way in their chosen career including passing the licensing exam.

3. Enact additional measures to promote passage rates/reduce inequitable barriers to entry in the profession.

Structural racism is a system of policies, practices, and beliefs that give some people an unfair advantage based on their race or ethnicity. Structural racism has played a significant role in the bias found in the exam. Some recommendations to decrease barriers include development and implementation of a course designed to provide exposure and prepare students of disadvantaged background with testing content areas and types of questions. Teaching students techniques to manage test/performance anxiety when taking the exam. Integrating testing instruments that mirror components of the licensing exam throughout the MSW academic experience along with the papers that students are required to complete as a part of the designated coursework. Encourage and seek out individuals that are reflective of those communities that the current exam is biased to assist in exam question development. Reducing or removing fees after an initial testing attempt may reduce economic barriers to licensing along with providing low cost test preparation materials, classes, and practice guides.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 0379.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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