

Department of Legislative Services

Maryland General Assembly

2024 Session

FISCAL AND POLICY NOTE**First Reader**

House Bill 1289

(Delegate McComas)

Health and Government Operations

State Board of Social Work Examiners - Practice Social Work - Definition and Scope of Authority

This bill alters the definition of “practice social work” to (1) clarify the scope of practice for all social workers in the State and (2) codify existing duties for a licensed certified social worker-clinical (LCSW-C). Notwithstanding any other provision of law, the Board of Social Work Examiners (BSWE) may adopt regulations regarding requirements for engagement in acts of social work that are not specifically authorized under the Maryland Social Workers Practice Act but are otherwise authorized by statute or regulations and may (1) be performed under any condition authorized by BSWE; (2) require education and clinical experience in addition to the requirements of the Social Workers Practice Act; and (3) require board certification.

Fiscal Summary

State Effect: As the bill is generally clarifying in nature, it does not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Generally, an individual must be licensed by BSWE to practice social work in the State. In Maryland, there are four social work license categories, distinguished by specific education and/or training requirements, including: licensed

bachelor social worker; licensed master social worker; licensed certified social worker (no longer issued, but renewed); and LCSW-C.

Under current law, BSWE has specified powers and duties, including to (1) adopt rules and regulations; (2) adopt a code of ethics; (3) adopt an official seal; (4) hold hearings and keep records and minutes necessary for the orderly conduct of business; (5) issue a list of all currently licensed social workers and social workers disciplined by the board in the past year; and (6) investigate an alleged violation of the Social Workers Practice Act.

Practice Social Work for All Social Work Licensees

Under current law, “practice social work” means to apply the theories, knowledge, procedures, methods, or ethics derived from receiving a baccalaureate or master’s degree from a program in social work that is accredited by or a candidate for accreditation by the Council on Social Work Education, or an equivalent organization, to restore or enhance social functioning of individuals, couples, families, groups, organizations, or communities through assessment; planning; intervention; evaluation of intervention plans; case management; information and referral; counseling that does not include diagnosis or treatment of behavioral health disorders; advocacy; consultation; education; research; community organization; development, implementation, and administration of policies, programs, and activities; or supervision of other social workers as set forth in regulations.

The bill specifies that “practice social work” through assessment includes through the administration and interpretation of tests within the licensee’s scope of practice as determined by the licensee’s training and experience.

The bill also expands the definition of “practice social work” to include biopsychological treatment that systemically considers biological, psychological, and social factors and their complex interactions as existing along a continuum of natural systems in order to understand health, illness, health care delivery, and environmental factors.

Practice Social Work for Licensed Certified Social Workers-clinical

Under current law, for an individual licensed as an LCSW-C, “practice social work” also includes (1) supervision of other social workers; (2) 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; (3) petitioning for emergency evaluation; and (4) the provision of psychotherapy.

The bill expands the definition of “practice social work” for an individual licensed as an LCSW-C to include:

- authorizing sick leave in accordance with the State Personnel and Pensions Article;
- certifying involuntary admission in accordance with the Health-General Article;
- certifying competency in accordance with the Estates and Trusts Article;
- determining eligibility for the Temporary Disability Assistance Program (TDAP);
- determining eligibility for Maryland Transportation Authority (MTA) Mobility;
- acting as a health care provider for purposes of health care malpractice claims under the Courts Article; and
- acting as an authorized provider for purposes of workers’ compensation and receiving reimbursement.

Sick Leave

Section 9-504 of the State Personnel and Pensions Article specifies that a State employee who uses sick leave for five or more consecutive workdays is prohibited from receiving sick leave pay unless the employee provides an original certificate of illness or disability, which must be signed by a medical doctor, chiropractor, clinical psychologist, dentist, LCSW-C, nurse midwife, nurse practitioner, oral surgeon, optometrist, physical therapist, podiatrist, accredited Christian Science practitioner, or health care provider as defined by the federal Family Medical Leave Act.

Involuntary Admission

Section 10-616 of the Health-General Article requires that a certificate for involuntary admission of an individual must be based on the personal examination of the physician, psychologist, psychiatric nurse practitioner, LCSW-C, or licensed clinical professional counselor who signs the certificate. In this instance, “involuntary admission” includes every admission of a minor to a State facility unless the admission is a voluntary admission.

Guardianship of a Disabled Person

Section 13-705 of the Estates and Trusts Article establishes that, on petition and after any notice or hearing, a court may appoint a guardian of the person of a disabled person. A petition for guardianship of a disabled person must include signed and verified certificates of competency from the following health care professionals who have examined or evaluated the disabled person: (1) two licensed physicians; or (2) one licensed physician and either one licensed psychologist, one LCSW-C, or one nurse practitioner. An examination or evaluation by at least one of these health care professionals must occur within 21 days before filing a petition for guardianship of a disabled person.

Temporary Disability Assistance Program

TDAP is a State-funded program that provides cash benefits to low-income disabled adults (without dependent children) who are ineligible for other categories of assistance through a period of short-term disability. Eligibility requirements include completion of a medical report signed by a health care provider. The health care provider must have independent diagnostic authority and be authorized to evaluate, determine impairment, and independently treat medical, mental, and/or emotional disorders and conditions, and provide services according to the requirements of the appropriate health occupations board.

Maryland Transportation Authority Mobility

MTA Mobility is MTA's paratransit service available to people, who because of a disability, are functionally unable to get to a bus stop, wait unassisted at a stop or station, or board or ride a bus or train by themselves. To qualify for MTA Mobility, applicants must have an impairment that prevents them from independently accessing, boarding, disembarking, or riding other MTA services. Specified providers, including an LCSW-C, with knowledge of an individual's disability or health condition must fill out a portion of the individual's application for MTA Mobility.

Health Care Malpractice Claims

Under current law, a health care provider includes an LCSW-C for purposes of medical malpractice claims in the State. Except for a claim seeking damages within the limit of the District Court's concurrent civil jurisdiction (\$30,000 or less), a claim for medical injury against a health care provider is required to be filed with the Director of the Health Care Alternative Dispute Resolution Office (although the parties may elect mutually or unilaterally to waive arbitration of the claim).

Workers' Compensation

Generally, each employer in the State must secure workers' compensation for all covered employees by maintaining insurance with an authorized insurer or, in limited circumstances, through self-insurance. Under Maryland regulations (COMAR 14.09.08), an LCSW-C is considered an "authorized provider" for workers' compensation reimbursement purposes.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Human Services;
Department of Legislative Services

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