

March 3, 2024
Maryland General Assembly
Finance Committee
Senator Pamela Beidle, Chair
Senator Katherine Klausmeier, Vice Chair (Sponsor)
And Members of the Committee
3 East
Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB-931 WORKERS' COMPENSATION – Rehabilitation Practitioners – Licensed Social Workers

POSITION: FAVORABLE-SUPPORT

Dear Senators Beidle, Klausmeier, and Members of the Committee:

Disclaimer: The opinions and suggested amendments concerning HB-1185 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, or educational institution.

Workers Compensation Case Manager:

I support this legislation, based upon my experience and knowledge: I am a Maryland Workers Compensation Commission, Support Services Division, Registered Vocational Practitioner(G0235) as a Counselor/Evaluator.

Sec.9-6A-09

Enable Licensed Social Workers along with Nurses, to be identified as Case Managers, if the Licensed Social Worker, is qualified, and desires to also provide this service. Presently, Licensed Social Workers are (if registered with the WCC Support Services Division) Practitioners –Counselors / Evaluators. Frankly, there are not enough WCC Case Managers, particularly in urban and rural communities; this will increase the number of qualified health care practitioners to provide this needed service. Presently, only nurses are recognized in the **Labor and Employment Article Sec.9 Workers Compensation, Subtitle Sec.9-6A-09** as Nurse Case Managers. The essential duties of an Licensed Social Worker (several categories of licensure), in various settings, are comparable to those of a nurse case manager, which includes, but is not limited to, home visits, arranging for and taking patients to health care appointments, maintaining and organizing records and consultation with medical and rehabilitation facilities, including interactions with insurance companies, and making referrals for care.

Supervision:

Under L&E 9-6A-09, and COMAR 14.09.08 The LCSW-C is authorized to evaluate, diagnose, and treat the injured worker independently as an “authorized provider” for workers compensation reimbursement purposes. The current statute is confusing; I support an amendment to clarify the language to not require supervision. Presently, it appears a person certified (by a non-governmental organization) as a disability management specialist may be required to provide supervision of the Practitioner.

SEC. 9-721 Testimony Concerning Permanent Impairment:

There are not enough psychiatrists, psychologists or psychiatric nurse practitioners trained and able to, in a timely manner, evaluate, and or treat, and testify concerning mental illness, mental disorders, conditions and impairments of the injured worker. This results poor coordination with other health care providers, assessing contributing factors alleged in a claim, and a delay in resolution of claims. HO-19-101(n)(1) and specifically, the **LCSW-C, the “Practice of Social Work” also includes** the (1) supervision of other social workers (2) **evaluation, diagnoses, and treatment of biopsychosocial conditions, mental and emotional conditions and impairments, and behavioral health disorders, including substance abuse disorders, addictive disorders, and mental disorders, as defined in Sec. 7.5-101 of the Health General Article** (3) **Petitioning for an Emergency Evaluation,** (4) **provision of psychotherapy (HO-19-101(n)(1)and (5).**


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. **(See AG Advice of Counsel dated 01/25/2024 referencing HG-Sec. 7.5-101 –I (1) (2))** and Title 14, Independent Agencies, Subtitle 09, Workers Compensation Commission, Chapter 08 Guide to Medical and Surgical Fees; and Health Care Practitioner HO-Sec.1-901 (v).; The Scope of Practice of the LCSW-C, includes evaluation, diagnosis, and treatment including determinations of impairment. An LCSW-C may evaluate, determine Temporary Total Impairment and Certify Sick Leave, and submit findings to the Commission, but analysis and conclusions cannot be admitted for consideration at the Hearing or on Appeal as to Permanent Impairment.

The American Medical Association Guides to the Evaluation of Permanent Impairment, 4th, 5th, and 6th Editions, Chapter 14, Mental and Behavioral Disorders, **Administered by: Psychiatrists, psychologists or other trained rater** (usage is not limited to physicians and psychologists). (Maryland statute uses the AMA Guides to the Evaluation of Permanent Impairment ... Disorders 4th Edition). The 14th Chapter "Mental and Behavioral Disorders" is not limited to evaluation by a physician or psychologist; this Chapter considers takes into account the person in the context of his or her environment and ability to cope and adjust. Numerical rating are not always used as they are in somatic evaluations of physical illness.

Presently, an entire classification of licensee, no matter how well individually qualified, is not allowed to be permitted to be qualified by the Commissioner or Judge in conjunction with attorneys concerning the evaluation and testifying concerning permanent impairment on a case by case basis. On a personal note, I was referred cases by the Workers Compensation Commission (Regina Roberts, was then the Director of the Support Services Division) to evaluate and make determinations until it was clarified an LCSW-C could not evaluate permanent impairment. Cases referred to me, to assess, were from both defense and claimants counsel where there were large discrepancies' in evaluations conducted by physicians. The Hearing Officer or Judge should be the authority to decide if the Health Care Practitioner is qualified to testify **(HG-Sec. 7.5-101 –I (1) (2))**.

In support of this amendment, I submit the following attached documentation:

Sincerely,


Arthur Flax, LCSW-C, DCSW

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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. January 25, 2024 AG Advice of Counsel; Md. Code, Health Gen. Sec. 7.5-101(I) (1) (2) Expert Witness; the LCSW-C may testify as an Expert Witness as a Health Care Provider. 3. On January 30, 2004, an AG Advice of Counsel was issued (See attachments).
4. 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 permanent impairment (DHR form 500)).

5. The LCSW-C, per individual education and training, may conduct various assessments and testing reference: Blue Cross Blue Shield Federal Employee Benefits Program (2005) (Pearson Testing Qualifications based on APA Standards).

6. Workers Compensation Commission Labor and Employment Article, Sec.9-309, 9-663, and 9-731; COMAR 14-09-08. LCSW-C "authorized provider".

7. HB-1289 Fiscal and Policy Note—LCSW-C Scope of Practice

8. CMS Final Rule Effective 01/01/2024 Includes the LCSW-C.