

SB 1002 (Portantino)

Workers' Compensation – Licensed Clinical Social Workers

PROBLEM

California is facing a mental and behavioral health crisis that has further escalated with the COVID-19 pandemic. While mental health needs among workers is skyrocketing, the number of professionals available to help is decreasing. States such as Texas and New York have mobilized Licensed Clinical Social Workers (LCSWs) to help fill the gap, but workers' compensation law in California does not provide for listing of LCSWs in the networks as providers that are permitted to assess, evaluate, and treat mental illness among affected workers.

Essential workers, including medical staff, firefighters, Emergency Medical Technicians (EMTs), and police officers who are significantly affected by these unprecedented times and may struggle with anxiety, depression, substance abuse, and thoughts of suicide. Injured workers must often wait for extensive periods before seeking full psychiatric treatment due to a scarcity of available providers. These delays in health care and evaluation often result in the injured worker's delayed return to work and increased costs to the system.

LCSWs have expertise in assessing and treating the most common mental health conditions experienced by injured workers, including post-traumatic stress disorder (PTSD), anxiety, and depression. In addition, LCSWs can assist the worker in recognizing when there is a need to seek more comprehensive services and treatment from a psychologist or psychiatrist. Expressly including LCSWs in workers' compensation provider networks will enhance our state's ability to address the mental and behavioral health care needs of California's workforce.

BACKGROUND

Mental and behavioral health treatment opportunities that are covered by California's workers' compensation are severely limited for essential workers who are most impacted by these unprecedented times. While 8.7% of the general population experiences PTSD in their lifetime, the number is markedly higher for medical staff, firefighters, EMTs, and police officers. The Kaiser Family Foundation reported that in 2021, 20% of first responders experienced PTSD – a number steadily increasing due to the stresses of the COVID-19 pandemic.

The listing of LCSWs in workers' compensation provider networks will increase the behavioral health provider footprint in California by more than 29,000 LCSW professionals. According to the Workers' Compensation Insurance Rating Bureau, there are approximately 600,000 workers' compensation claims filed each year. Many stress claims are not reported due to the shortage of psychologists and psychiatrists. Addressing the shortage of mental and behavioral health providers in the workers' compensation system also will increase counseling opportunities for workers who may not wish to submit to formal psychiatric disability evaluation.

The State Division of Workers' Compensation reports that the Labor Code has not been updated since 1998 to meet the mental and behavioral health needs of today's worker population. As unprecedented times continue and stress and fatigue plague the front lines, the addition of LCSWs will provide better access to mental and behavioral health services for injured workers.

SUMMARY

This bill authorizes qualified LCSWs to provide assessment and psychotherapy to affected workers suffering from mental or behavioral health issues, thereby providing additional and readily available resources within their licensure to injured workers in need of immediate mental health consultation and services.

SB 1002 adds Licensed Clinical Social Workers (LCSWs) who meet the licensure requirements of the state Board of Behavioral Sciences to the list of available provider types that a Medical Provider Network (MPN), Workers' Compensation Healthcare Organization (HCO), Joint Powers Authority (JPA), and Self-Insured Self-Administered Employer may include in a list of providers in their Provider Directories, rather than have LCSWs listed as ancillary service providers, which is the case currently.

This listing change will enable the Primary Treating Physician (PTP) to view LCSWs in the list of available mental health providers, thereby allowing the PTP to directly refer an injured worker to a LCSW in the same manner as the PTP may currently refer an injured worker to a psychologist or psychiatrist for work-related mental health services.

This bill does not authorize LCSWs to act as a treating physician in the workers' compensation system – the bill authorizes LCSWs to evaluate and treat injured workers only upon referral by a physician as defined in Section 3209.3 of the Labor Code. This bill specifically prohibits an LCSW from making workers' compensation disability determinations. Therefore, LCSWs are also precluded from serving as Qualified Medical Examiners (QME).

Adding LCSWs directly to the provider listing facilitates referrals and encourages providers to participate in the Workers' Compensation system, as well as broadens the available mental health network offering that an MPN, HCO, JPA and Self-Insured Self-Administered Employer can provide.

EXISTING LAW

Existing law authorizes a primary treating physician in the workers' compensation system to refer injured workers needing mental health services for work-related injuries to LCSWs; however, existing law does not establish a mechanism by which LCSWs may be designated and listed as providers in Provider Directories of MPNs and other entities providing medical treatment or services to injured employees. Consequently, physicians are unaware that LCSWs are available for referral because LCSWs do not appear in provider directory listings that are available to treating physicians and injured workers.

Existing law does not expressly include LCSWs within the definition of medical treatment that employers provide to injured employees in the workers' compensation system.

SUPPORT

American Association of Payers, Administrators and Networks (AAPAN)

California Asian Pacific Chamber of Commerce

California Association for Micro Enterprise Opportunity

California Professional Firefighters (CPF)

Coventry Workers' Compensation Networks

California Metals Coalition
Coalition of Small and Disabled Businesses

Enlyte (Mitchell, Genex and Coventry)

MEDEX Healthcare

National Association of Independent Businesses

National Association of Social Workers -CA Chapter

National Association of Women Business Owners – CA Chapter

Risk and Insurance and Management Society – CA Chapter

Sierra Business Council

Small Business California

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