

Date of Hearing: June 22, 2022

ASSEMBLY COMMITTEE ON INSURANCE
Tom Daly, Chair
SB 1002 (Portantino) – As Amended May 23, 2022

SENATE VOTE: 36-0

SUBJECT: Workers' compensation: licensed clinical social workers

SUMMARY: Authorizes an employer's workers' compensation insurer or self-insured employer to provide employees with access to the services of a licensed clinical social worker (LCSW). Specifically, **this bill:**

- 1) Allows an employer workers' compensation insurer or self-insured employer to provide an employee with access to the services of a LCSW, as defined and acting within the scope of their practice.
- 2) Allows Medical Provider Networks (MPNs), Workers' Compensation Healthcare Organizations (HCOs), Joint Powers Authority (JPA), and Self-Insured Self-Administered Employers to add LCSWs as providers in their networks.
- 3) Defines "Licensed Clinical Social Worker" to mean an LCSW with a master's degree in clinical social work, or a degree deemed equivalent, and who either has two years of clinical experience in a recognized health setting or has met the standards of the Association of Social Work Boards.
- 4) Clarifies that this bill does not authorize LCSWs to determine disability within the workers' compensation system, as specified.

EXISTING LAW:

- 1) Establishes a workers' compensation system that provides benefits to an employee who suffers from an injury or illness that arises out of and in the course of employment, irrespective of fault. This system requires all employers to secure payment of benefits by either securing the consent of the Department of Industrial Relations to self-insure or by securing insurance against liability from an insurance company duly authorized by the state. (Labor Code §3600)
- 2) Defines "Physician" to include physicians and surgeons holding an M.D. or D.O. degree, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California State Law. (Labor Code §3209.3)
- 3) Allows treatment reasonably required to cure or relieve from the effects of an injury to include the services of marriage and family therapists, professional clinical counselors, and clinical social workers licensed by California state law and within the scope of their practice if the injured person is referred for that particular treatment for their occupational injury. (Labor Code §3209.8)

- 4) Authorizes an insurer, employer, or entity that provides physician network services to establish or modify a medical provider network for the provision of medical treatment to injured employees, and requires that a network include an adequate number and type of physicians or other providers, as defined. (Labor Code §4616)
- 5) Requires that when a self-insured employer, group of self-insured employers, or the insurer of an employer contracts with a health care organization for health care services to be provided to injured employees, those employees subject to the contract are to receive medical services in the manner prescribed in the contract. (Labor Code §4600.3)
- 6) Establishes procedures for the payment of temporary disability indemnity and permanent disability indemnity. This includes a requirement that a Qualified Medical Evaluator make a determination about the degree of disability experienced by the injured worker. (Labor Code §4650)
- 7) Establishes the procedure for licensure for licensed clinical social workers, including degree and supplementary trainings. (Business and Professions Code §§4996-4997.1)

FISCAL EFFECT: Negligible. The Senate Appropriations Committee waived a hearing on this bill pursuant to Senate Rule 28.8.

COMMENTS:

- 1) **Purpose.** According to the author:

Despite growing demand, the available supply of mental health providers has not been able to keep pace and the COVID pandemic only compounded the issue further. SB 1002 will allow Licensed Clinical Social Workers (LCSWs) to be an available resource to injured workers in need of immediate mental health care. Additionally, SB 1002 addresses the shortage of mental and behavioral health providers in the workers' compensation system and will increase counseling opportunities for injured workers.

- 2) **Workers' compensation system is facing a shortage of available mental health professionals to treat injured workers.** Since 2005, injured employees have accessed care through a MPN or HCO set up by an insurer or self-insured employer. These networks are simply a list of doctors that have experience treating common workplace injuries and supplementary specialists that can cover the needs of specific industries, provide second opinions, or handle independent medical review (IMR) requests. These networks are approved by the Division of Workers' Compensation (DWC).

This bill comes at a moment when the workers' compensation system is growing to encompass more mental health care. This is especially true in terms of providing treatment opportunities for public safety officers and first responders. The COVID-19 pandemic has also contributed to an increasing number of claims for post-traumatic stress (PTSD), anxiety, and depression.

However, California has only 16,900 psychologists and 5,934 psychiatrists in the entire state, making it difficult to meet the mental health needs of injured workers. Injured workers often encounter delays in receiving treatment from psychologists or psychiatrists.

This bill would allow LCSWs with a master's degree and 2 years of clinical experience to perform some duties within MPNs that normally would fall under the scope of practice of psychologists and psychiatrists.

Currently, LCSWs can only treat patients as an ancillary provider through a more complicated referral process. This bill does not authorize LCSWs to act as a treating physician or to make disability determinations. It merely authorizes LCSWs to evaluate and treat injured workers upon referral from a treating physician.

By including LCSWs in the MPN, HCO, JPA and Self-Insured Self-Administered Employers' Provider listings, network access can be expanded to include up to 29,636 LCSWs to help meet the mental health care needs of injured workers.

3) **Related Legislation.**

- a) SB 537 (Hill) Chapter 647, Statutes of 2019, required medical provider networks (MPNs) to list all medical providers on a public roster and prohibit MPNs from altering medical treatment plans and medical billing codes. Also prohibited any contract between a medical provider and a contracting agent, employer or insurance carrier that is less than the applicable Medicare fee schedule.
- b) SB 542 (Stern), Chapter 390, Statutes of 2019, created the PTSD industrial injury presumption for firefighters and peace officers. Existing law sunsets January 1, 2025.
- c) SB 284 (Stern) of 2021 would expand the existing PTSD industrial injury presumption to additional firefighters, public safety dispatchers, public safety telecommunicators, and emergency response communication employees. This bill is currently on the Assembly Inactive File.

REGISTERED SUPPORT / OPPOSITION:

Support

American Association of Payors Administrators and Networks (sponsor)
Board of Behavioral Sciences
California Asian Pacific Chamber of Commerce
California Association for Micro Enterprise Opportunity
California Hispanic Chambers of Commerce
California Labor Federation, Afl-cio
California Metals Coalition
California Metals Coalition/CCSOJ
California Professional Firefighters
Cameo - California Association for Micro Enterprise Opportunity
Coalition of Small & Disabled Veteran Business
Coalition of Small and Disabled Veteran Businesses
Coventry

Flasher Barricade Association

Medex Health Care, INC.

National Association of Social Workers, California Chapter

National Association of Women Business Owners - California

National Federation of Independent Business- CA

NFIB

Risk & Insurance Management Society (RIMS)

Sierra Business Council

Small Business California

Steinberg Institute

Opposition

None on file.

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