IN THE COURT OF APPEALS OF MARYLAND

SEPTEMBER TERM, 1999
NO. 134

IN RE ADOPTION/GUARDIANSHIP NO. CCJ14746
IN THE CIRCUIT COURT FOR WASHINGTON COUNTY

ON WRIT OF CERTIORARI TO THE
COURT OF SPECIAL APPEALS OF MARYLAND

BRIEF OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS AND THE MARYLAND CHAPTER OF THE NATIONAL ASSOCIATION OF SOCIAL WORKERS, THE AMERICAN BOARD OF EXAMINERS IN CLINICAL SOCIAL WORK, THE CLINICAL SOCIAL WORK FEDERATION AND ITS MEMBER MARYLAND AND GREATER WASHINGTON SOCIETIES, THE FAMILY THERAPY PRACTICE ACADEMY OF THE CLINICAL SOCIAL WORK FEDERATION, THE CLINICAL SOCIAL WORK GUILD AND THE NATIONAL MEMBERSHIP COMMITTEE ON PSYCHOANALYSIS IN CLINICAL SOCIAL WORK, INC., AND CLINICAL SOCIAL WORK GUILD NO. 49 OF THE OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, AFL-CIO, CLC, AS AMICI CURIAE

Carolyn Jacobs
BLANK ROME COMISKY
& McCAULEY, LLP
250 West Pratt Street, Suite 1100
Baltimore, Maryland 21201
(410) 659-1400

Carolyn I. Polowy
National Association of Social Workers
750 First Street, N.E., Suite 700
Washington, D.C. 20002
(202) 336-8217

Counsel for Amicus Curiae the National Association of Social Workers and the Maryland Chapter of the National Association of Social Workers

Peter M. Brody
ROPES & GRAY
One Franklin Square
Suite 800 East, 1301 K Street, N.W.
Washington, D.C. 20005-3333
(202) 626-3912

Counsel for Amicus Curiae American Board of Examiners In Clinical Social Work

Howard N. Feldman
DICKSTEIN SHAPIRO MORIN &
OSHINSKY, LLP
2101 L Street, NW
Washington, D.C. 20037-1526
(202) 785-9700

Counsel for Amici Curiae the Clinical Social Work Federation, the Maryland Society for Clinical Social Work, Inc. the Greater Washington Society for Clinical Social Work, Inc., the Family Therapy Practice Academy of the Clinical Social Work Federation, the Clinical Social Work Guild and The National Membership Committee on Psychoanalysis in Clinical Social Work, Inc., and Clinical Social Work Guild No. 49 of the Office and Professional Employees International Union, AFL-CIO, CLC

Melvin S. Schwarzwald

SCHWARZWALD, ROCK & McNAIR
616 Bond Court Building
1300 East Ninth Street
Cleveland, OH 44114-1503
(216) 566-1600

Counsel for Clinical Social Work Guild No. 49 of the Office and Professional Employees International Union, AFL-CIO, CLC

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Administrative Opinion

Federal Statutes

State Statutes

Rules and Regulations

Texts, Treatises, and Legislative Materials

INTEREST OF THE AMICI CURIAE

A. The National Association of Social Workers and the Maryland Chapter of the National Association of Social Workers (collectively "NASW").

NASW is a professional membership organization comprised of over 155,000 social workers, with chapters both internationally and in every state and the District of Columbia. The Maryland chapter of NASW has over 4,300 members, one of whom is Carlton Munson, PhD, the licensed clinical social worker whose testimony as a witness in this termination-of-parental-rights action is the subject of the issues on which certiorari was granted. Created in 1955 by the merger of seven predecessor social work organizations, the purposes of NASW include improving the quality and effectiveness of social work practice in the United States and developing and disseminating high standards of social work practice, concomitant with the strengthening and unification of the social work profession as a whole.

In furtherance of these purposes, NASW promulgates professional standards and criteria, including STANDARDS FOR THE PRACTICE OF CLINICAL SOCIAL WORK and GUIDELINES FOR CLINICAL SOCIAL WORK SUPERVISION. Additionally, NASW conducts research, prepares studies of interest to the profession, sponsors the NASW press, provides opportunities for continuing education, and enforces the NASW CODE OF ETHICS, which NASW members are required to honor. NASW also offers a credentialing program to enhance the professional standing of social workers. The credentials offered include the NASW Diplomate in Clinical Social Work and the Qualified Clinical Social Worker credential.

B. The American Board of Examiners in Clinical Social Work ("ABE").

ABE is an independent, nonprofit, national credentialing board founded in 1987 to provide diplomate-level board certification for advanced practitioners of clinical social work. Since its inception, ABE has certified approximately 23,800 clinical social workers as Board Certified Diplomates ("BCDs"), of whom some 12,400 are currently certified. Some 650 Maryland clinical social workers have been certified as BCDs; some 400 are current certificants, including Carlton Munson.

Criteria for diplomate status include a graduate degree in clinical social work from an accredited institution, at least 7,500 hours of direct clinical practice over a five-year period (including 3,000 hours of supervised clinical practice), state licensure at the highest available level, and completion of a rigorous application process including peer evaluation of clinical competence and credential verification. All BCDs must be recertified annually to maintain currency of the credential; recertification requires a minimum of 20 hours of continuing clinical education and maintenance of an active practice.

In addition to administering and promoting the BCD, ABE actively encourages the development of advanced clinical theory and practice through its support of a variety of activities. ABE publishes a Code of Ethics that sets forth ethical principles which are intended to guide clinical social workers in their professional roles, relationships, and responsibilities; adherence to the Code is a requirement of continuing certification.

The BCD is recognized by many third-party payors and agencies as demonstrating entitlement to participate in the panel of mental health care providers and to be reimbursed for mental health care services. It is used as a referral source by many managed-care organizations.

BCDs frequently appear as court experts, often appointed by the courts themselves, including in proceedings involving the rights and interests of children and parents.

C. The Clinical Social Work Federation and its Member Maryland and Greater Washington State Societies, the Family Therapy Practice Academy of the Clinical Social Work Federation, the Clinical Social Work Guild, and The National Membership Committee on Psychoanalysis in Clinical Social Work, Inc. (collectively "CSWF").

Founded in 1973, CSWF is a federation of state societies (including Maryland and Greater Washington) whose members, numbering approximately 11,000, are all licensed or certified clinical social workers engaged in the diagnosis and treatment of mental and emotional disorders.[1] Carlton Munson is a member of the Greater Washington Society.

The primary mission of CSWF and its member state societies is to enhance the quality and availability of clinical social work services throughout the United States by promulgating and enforcing its STANDARDS OF PRACTICE FOR CLINICAL SOCIAL WORK and its CODE OF ETHICS, advocating the enactment of state and federal legislation to regulate the practice of clinical social work to protect the interest of clients, providing continuing education to members of the profession, encouraging educational institutions to provide the highest level of clinical social

---

[1] Three CSWF affiliates also are participating with CSWF as amici: the Clinical Social Work Guild, the Family Therapy Practice Academy of the Clinical Social Work Federation (the "Academy"), and The National Membership Committee on Psychoanalysis in Clinical Social Work, Inc. ("COP"). The Clinical Social Work Guild counts among its members clinical social workers licensed by the State of Maryland, has a mission similar to the CSWF, and has interests parallel to those of amicus Clinical Social Work Guild No. 49. The Academy focuses on family therapy issues within the context of clinical social work; COP focuses on psychoanalytic and psychodynamic social work issues, including the emotional development of children and adults. The challenged expert testimony of Carlton Munson dealt directly with these family therapy and emotional development issues.

work education and training, and advocating the inclusion of clinical social workers as reimbursable providers in public and private health insurance programs.

D. Clinical Social Work Guild No. 49 of the Office and Professional Employees International Union, AFL-CIO, CLC (the "Guild").

The Guild's membership consists of approximately 3,400 licensed or certified clinical social workers, all of whom diagnose and treat mental and emotional disorders on a daily basis. The Guild's membership includes clinical social workers licensed by the State of Maryland.

The Guild concentrates its efforts upon obtaining and maintaining statutory and administrative standards and requirements that assure the treatment of mental illness by competent, fully-trained, and accredited professionals. Interpretations of clinical social workers' scope of practice statutes, such as are at issue in this case, are of major concern to the Guild. The Guild also advocates for the greatest possible coverage of the treatment of mental illness by third-party payers to further assure the highest quality of assistance to those who suffer from mental illness. Judicial interpretation of scope of practice issues may affect the scope of coverage of treatment for mental illness by third-party payers and is therefore also of great concern to the Guild.

STATEMENT OF THE CASE

Amici adopt the Statement of the Case filed by the Respondent, the Washington County Department of Social Services.

QUESTION PRESENTED

WHETHER THE CIRCUIT COURT DECIDED CORRECTLY THAT A WITNESS QUALFIED AS AN EXPERT IN CLINICAL SOCIAL WORK COULD

RENDER TESTIMONY IN A TERMINATION-OF-PARENTAL-RIGHTS CASE AS TO A DIAGNOSIS OF MENTAL AND EMOTIONAL DISORDERS IN ACCORDANCE WITH A RECOGNIZED DIAGNOSTIC MANUAL.

STATEMENT OF FACTS

Amici adopt the Statement of Facts filed by the Respondent. In addition, amici invite the Court to consider that Carlton Munson, PhD, the witness whose expert testimony is the subject on which certiorari was granted, testified that he received a Bachelor of Arts degree; that he held a Master of Social Work degree from the University of Maryland School of Social Work; that he received a PhD from the University of Maryland School of Social Work; that he is a licensed clinical social worker in the State of Maryland; that he holds a BCD in clinical social work; and that he has been employed as professor and director of the Doctoral program at the University of Maryland School of Social Work. E. 50-51. Carlton Munson also testified that, under Maryland law, licensed clinical social workers may render diagnoses based on "a standardized, recognized diagnostic system of mental disorders," and that the Diagnostic and Statistical Manual, DSM-IV, is the diagnostic system in common use. E. 52-53. Carlton Munson also indicated that he was "familiar with the components [and] the various tools to make those diagnoses." E. 53.

With respect to his experience, Carlton Munson testified that he performed, on average, four or five evaluations per month; of which two-thirds are of children and one-third are of adults. E. 51. In the ten years preceding his testimony in the case sub curia, Carlton Munson explained that he has performed three hundred to four hundred evaluations. *Id.* He also

indicated that he had been accepted as an expert in the field of social work nine times in the Circuit Court for Washington County. *Id.*

ARGUMENT

LICENSED CERTIFIED CLINICAL SOCIAL WORKERS PRACTICING WITHIN THE SCOPE OF THEIR LICENSES ARE QUALIFIED BY THEIR KNOWLEDGE, TRAINING, AND EXPERIENCE TO DIAGNOSE MENTAL AND EMOTIONAL DISORDERS USING A RECOGNIZED MANUAL LIKE THE DIAGNOSTIC AND STATICAL MANUAL, FOURTH EDITION, AND, CONSEQUENTLY, AN EXPERT IN CLINICAL SOCIAL WORK IS QUALIFIED TO PROVIDE DIAGNOSTIC EXPERT TESTIMONY.

I. INTRODUCTION

A. Summary of Content and Purpose.

Amici focus their Brief on the general question of whether an expert in clinical social work is authorized to render diagnoses and give opinions in court as to an individual's mental and emotional conditions and disorders based on a recognized manual of mental and emotional disorders. Inasmuch as it is beyond reasonable debate that diagnosing mental or emotional conditions, disorders, and illness in accordance with a recognized manual may be the proper subject of expert testimony, *see generally, e.g., Thanos v. State,* 330 Md. 77, 94-96, 622 A.2d 727, 735-36 (1993) (no error in admitting testimony from a witness who was both a psychologist and a lawyer about the relationship between terms used to described Anti-social Personality Disorder in the Diagnostic and Statistical Manual of psychiatric disorders and those same terms as used in the legal system), the focus of the amici in the sections that follow is on the qualifications of licensed certified social workers - clinical to provide such testimony.[2] Thus, the purpose of this

[2] Amici use the term "licensed certified social worker-clinical" in light of the Maryland statute. Some states do not have such a licensing system for clinical social workers, but instead, provide for their certification.

brief is to inform the Court about the authority, education, training, and standing of clinical social workers as mental health care providers in general and, in particular, in Maryland. The information provided hopefully will assist this Court in affirming the lower courts' holdings that social workers to whom the license of a "certified social worker-clinical" has been issued are authorized under Maryland law to render diagnoses of mental and emotional disorders, and therefore, may be qualified as an expert to provide testimony in court of such diagnoses.

B. General Framework For The Admissibility Of Expert Testimony.

Maryland Rule 5-702 provides:

> Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education, (2) by appropriateness of the expert testimony on the particular subject, and (3) whether a significant factual basis exists to support the expert testimony.

Under Rule 5-702, which codified the modern common-law rule regarding expert testimony when this Court adopted it in 1994, a trial court must determine whether the evidence to be presented is a proper subject of expert testimony. This determination is based upon "whether the trier of fact will receive appreciable help from the expert testimony in order to understand the evidence or to determine a fact in this issue." *Sippio v. State*, 350 Md. 633, 649, 714 A.2d 864, 872 (1998) (citing *Simmons v. State*, 313 Md. 33, 41, 542 A.2d 1258, 1262 (1988); *Bloodsworth v. State*, 307 Md. 164, 184-85, 512 A.2d. 1056, 1066 (1986) (quoting *Shivers v. Carnaggio*, 223 Md. 585, 588-89, 165 A.2d 898, 900 (1960)). It is unnecessary that the trial court consider whether it

would be possible for the trier of fact to decide the issue without the expert testimony, nor is it a requirement that the subject of the proposed expert testimony be so far beyond the level of skill and comprehension of the average layperson that the trier of fact would have no understanding of the subject matter absent the testimony. *Nizer v. Phelps*, 252 Md. 185, 193, 249 A.2d 112, 117 (1969); L. MCLAIN, MARYLAND EVIDENCE § 702.1, at 212-13 (1987). Rather, provided that: (1) the proposed witness is qualified to testify as an expert; (2) the subject matter about which the witness will testify is appropriate for expert testimony; and (3) there is a legally sufficient factual basis to support the expert's testimony, the trial court has wide discretion to admit such testimony. *Sippio, supra*, 350 Md. at 649, 714 A.2d at 872 (citations omitted); *Franch v. Ankney*, 341 Md. 350, 364, 670 A.2d 951, 957 (1996); *State v. Allewalt*, 308 Md. 89, 101, 517 A.2d 741, 747 (1986); *Radman v. Harold*, 279 Md. 167, 173, 367 A.2d 472, 476 (1977) (trial court's ruling either admitting or excluding expert testimony "will seldom constitute a ground for reversal").

To determine whether a proposed witness is qualified to render expert testimony, the trial court must examine whether the witness has sufficient knowledge, skill, experience, training, or education pertinent to the subject of the testimony. *See* Md. Rule 5-702(1); *see also Simmons, supra*, 313 Md. at 41, 542 A.2d at 1262; *Radman v. Harold, supra*, 279 Md. at 169, 367 A.2d at 474; *Crews v. Director*, 245 Md. 174, 179, 225 A.2d 436, 439 (1967). The trial court is at liberty to consider any aspect of the proposed expert's background in determining whether the witness is sufficiently familiar with the subject to render an expert opinion, including the witness's formal education, professional training, personal observations, and actual experience. *Massie v. State*, 349 Md. 834, 850, 709 A.2d 1316, 1324 (1998) (citing *Manuel v. State*, 85 Md. App. 1, 22-23, 581 A.2d

1287, 1297 (1990); *Armstrong v. State*, 69 Md. App. 23, 29, 515 A.2d 1190, 1193-94 (1986); *Fitzwater v. State*, 57 Md. App. 274, 281, 469 A.2d 909, 913 (1984)). As demonstrated below, licensed clinical social workers possess more than sufficient knowledge, skill, training, and experience to render diagnostic expert testimony.

II. THE PROFESSION OF SOCIAL WORK

A. Clinical Social Work Is A Distinct Profession With Rigorous and Specialized Education and Training Requirements, State Licensing And Certification Controls, and Ethical Rules.

(1) Licensure Requirements

Under Maryland's Social Workers Act, only a "licensed certified social worker-clinical" ("LCSW-clinical") is authorized to practice clinical social work. Md. Health Occ. Code Ann. ("HO") §§ 19-101 et seq. To qualify for a LCSW-clinical license in Maryland, an applicant must meet specified educational and supervision requirements. First, the applicant must have "a *master's* degree in social work and documentation of clinical course work from an accredited college or university and based on a graduate social worker program accredited by the Council on Social Work Education." HO § 19-302(d)(2)(i) (emphasis supplied). In addition, the applicant must have "2 years of supervised clinical social work experience of at least 3,000 hours after receiving the master's degree with a minimum of 144 hours of periodic face-to-face supervision . . . where the supervision is part of the employment contract and the supervisor is a

[LCSW-clinical] and is provided by and accountable to the employer." *Id.* The applicant also must pass a licensing examination. *See* HO § 19-304.

The requisite clinical course work prepares and trains the social worker to practice clinical social work, *i.e.*, to apply "social work principles and methods to alleviate social, mental, and emotional conditions through treatment designed to provide psychotherapy for a mental disorder." HO § 19-101(f). As explained below, because clinical social workers are authorized to practice their profession independently and without the need for a physician referral, it is axiomatic that appropriate *treatment* cannot be provided without first rendering a *diagnosis*. Moreover, the authority to diagnose is explicitly authorized under Maryland's Social Workers Act. HO § 19-101(f)(2).

(2) Educational Standards

In concluding that a psychotherapist-patient privilege applies with equal force to communications made to licensed social workers in the course of psychotherapy, the United States Supreme Court recognized that licensed clinical social workers, like psychiatrists and clinical psychologists, are educated and trained to diagnose and treat mental and emotional disorders. *Jaffee v. Redmond*, 518 U.S. 1, 15-17 (1996). Furthermore, the practice of clinical social work has its own educational and regulatory standards.

At present, one hundred twenty-four (124) accredited master's level programs in clinical social work are offered by colleges and universities throughout the United States to prepare students for clinical social work practice and other careers. The typical master's level clinical social worker has completed graduate courses in cognitive, psychological, and bio-psychosocial

development and major theoretical explanations of personality development and human behavior, and has completed nine hundred (900) hours of clinical training in the field before graduating. And, while many of the fifty-three (53) doctoral-level programs are oriented towards research and teaching, a growing number prepare post-master's degree students for advanced levels of clinical social work practice.[3]

The Master of Social Work curriculum at the University of Maryland School of Social Work and Community Planning ("UMSSWCP") – the only such master's program available in Maryland -- has two levels. The master's candidate must complete a thirty (30) credit foundation curriculum as well as a twenty-eight (28) to thirty-one (31) credit advanced practice curriculum. The advanced practice curriculum includes a clinical concentration. Within the clinical concentration, two required classes -- Paradigms of Clinical Social Work Practice and Psychopathology – focus on understanding and using the DSM-IV to diagnose and treat. *See* Course syllabi appended hereto.

In addition, to provide the Court with more detailed information as to the educational requirements for social work licensure in Maryland, the amici also have appended hereto portions of the UMSSWCP curriculum catalog, which demonstrates that the foundation

---

[3] *See* Frumkin & Lloyd, "Social Work Education," in 2 ENCYCLOPEDIA OF SOCIAL WORK 2238, 2242 (19th ed. 1995). Clinical social workers may also attain certification in advanced clinical practice through the Diplomate in Clinical Social Work offered by Amicus NASW and the Board Certified Diplomate in Clinical Social Work administered by Amicus ABE. Either Diplomate enhances a clinical social worker's status. In this case, Carlton Munson is a BCD.

curriculum includes course work on human behavior, and the clinical concentration includes a variety of courses studying the diagnosis of mental and emotional conditions and disorders.

(3) Ethical Rules

The social work codes of ethics requires social workers to practice within the scope of their authorized practice. Social workers also must engage in conduct that is consistent with generally accepted professional standards, or risk suspension or revocation of their license by the State Board of Social Work Examiners. HO § 19-311(6). And, as discussed in more detail below, practice within generally accepted standards requires the ability to perform a differential and accurate diagnosis of mental disorders. *See* PRUDENT PRACTICE: A GUIDE FOR MANAGING MALPRACTICE RISK 56 (NASW Press).

B. The Scope Of Authority Granted To Clinical Social Workers Includes The Authority to Diagnose and Treat Mental and Emotional Disorders.

(1) Maryland Licensure as a Clinical Social Worker

Under Maryland law, the State Board of Social Work Examiners is authorized to issue licenses to practice social work in a variety of licensure categories. The licensure relevant to this case is that of a LCSW-clinical. Licensed social workers are authorized "to practice social work" and a LCSW-clinical more specifically also is authorized to "practice clinical social work." To "practice clinical social work" means: (1) "to engage professionally and for compensation in the application of social work principles and methods for the alleviation of social, mental, and emotional conditions through treatment designed to provide psychotherapy for a mental disorder"; and (2) "*includes rendering a diagnosis based on a recognized manual of mental and emotional*

disorders." HO § 19-101(f) (emphasis supplied). Importantly, the statute sets forth a distinction regarding licensed certified social workers, master's degree holders who are expressly authorized to render diagnoses, and licensed social work "associates," who are required only to hold a baccalaureate degree, and who "may not make a clinical diagnosis of mental and emotional disorders or engage in the practice of psychotherapy." *Id.* at § 19-307(b). No such restriction exists for LCSWs-clinical.

It is clear that the scope of clinical social work defined by statute for certified social workers includes the authority to render a diagnosis based on a recognized manual of mental and emotional disorders.

(2) Laws of Other States

Significantly, Maryland is not alone in recognizing statutorily the ability of licensed or certified clinical social workers to diagnose mental and emotional disorders. In most states, by virtue of their educational background, training, experience, and professional accreditation, clinical social workers with master's degrees are authorized under practice acts to render diagnoses of psychiatric, psychosocial, and psychological disorders. *See* Alabama Code Ann. § 34-30-1 & Ala. Admin. Code r. 850-X-2-.01(b)(ii) (diagnostic impression of emotional and mental illness); Alaska Stat. § 08.95.990(2) ("diagnosis of psychiatric disorders"); Ariz. Rev. Stat. Ann. § 32-3251(7)(a) (practice of social work "includes the use of psychotherapy for the purpose of diagnosis"); Colo. Rev. Stat. Ann. § 12-43-403 (diagnosis of "societal problems"); Conn. Gen. Stat. Ann. § 20-195m(4) (diagnosis of "biopsychosocial dysfunction, disability and impairment"); Del. Code Ann. tit. 24, § 3902(2) (same); D.C. Code Ann. § 2-3301.2(18)(A) (diagnosis of

psychosocial problems); Fla. St. Ann. § 491.003(7) ("practice of clinical social work includes methods of a psychological nature used to evaluate, assess, diagnose . . . emotional and mental disorders and dysfunctions"); Ga. Code Ann. §43-10A-3(13) (psychosocial evaluations, in-depth analyses and determinations of the nature of emotional, cognitive, mental, behavioral, and interpersonal problems or conditions); Haw. Rev. Stat. § 467D-2 (diagnosis of psychosocial dysfunction, disability, or impairment); Ill. Ann. Stat. ch. 225, para. 20/3(5) (evaluation of mental and emotional disorders based on psychopathology); Iowa Code Ann. § 154C.1(3)(b) (psychosocial diagnosis); Kan. Stat. Ann. § 65-6319 (diagnosis of mental disorders "classified in the diagnostic manuals commonly used as part of accepted social work practice"); La. Rev. State. Ann. § 2708 (diagnosis of mental, emotional, behavior, and addiction disorders); Mass. Gen. Laws Ann. ch. 112, § 130 (psychosocial evaluation); Minn. Stat. Ann. § 148B.18 (diagnosis of mental and emotional disorders); Miss. Code Ann. § 73-53-3(c); Mo. Ann. Stat. § 337.600(1) (diagnosis of mental and emotional conditions); Nev. Rev. Stat. § 641B.030(3) (same); N.H. Rev. Stat. Ann. §§ 330-A:2 and A:18 (diagnosis of mental and emotional disorders); N.J. Stat. Ann. § 45:15BB-3 (assessment of mental disorders and psychosocial stress); N.M. Stat. Ann. § 61-31-6(B)(1) (diagnosis of psychosocial dysfunction, disability, or impairment); N.C. Gen. Stat. § 90B-3(6) (diagnosis of emotional and mental disorders); Ohio Rev. Code Ann. § 4757.01(C) (same); Or. Rev. Stat. § 675.510(2)(a) (providing diagnostic services of a psychosocial nature); Pa. St. Ann. § 1903 (assessment of psychosocial disability and impairment); R.I. Gen. Laws. § 5-39.1-2(2) (diagnosis of "cognitive, affective, and behavioral disorders arising from physical, environmental, or emotional conditions"); S.D. Codified Laws Ann. § 36-26-45 (diagnosis of

psychosocial dysfunction, disability, or impairment); Tenn. Code. Ann. § 63-23-103 (diagnosis of social and psychological stress or health impairment); Utah Code Ann. § 58-60-202(2)(a) (evaluation of mental or emotional illness or dysfunction); Vt. Stat. Ann. tit. 26, § 3201 (diagnosis of adjustment problems and emotional and mental disorders); Va. Code. Ann. § 54.1-3700 (diagnosis of social and psychological stress or health impairment); Wash. Rev. Code Ann. § 18.19.110(3) (psychopathologic assessment and evaluation); W.V. Code § 30-30-2(e) (diagnosis of psychological dysfunction, disability, or impairment); Wis. Stat. Ann. § 457.01(9) (diagnosis of social, psychosocial, emotional or mental disorder); Wyo. Stat. § 33-38-102(a)(v) (diagnosis of psychosocial dysfunction, disability, or impairment).

This overwhelming recognition in state laws of the ability of clinical social workers to diagnose and treat reflects a "consistent body of policy determinations by state legislatures" that social workers are an integral part of the provision of clinical mental health treatment in the United States. *See Jaffee*, *supra*, 518 U.S. at 13 (citing *Funk v. United States*, 290 U.S. 371, 376-81 (1933)). This broad acceptance of licensed clinical social workers as qualified providers of diagnostic services speaks volumes about the reliability and effectiveness of those services.

(3) State Licensure is Linked to Scope of Practice under Federal Law

Clinical social workers licensed or certified under state law meet the definition of a clinical social worker under federal law for Medicare reimbursement purposes. Of particular significance, "clinical social worker services" means services performed by a clinical social worker "for the diagnosis and treatment of mental illness . . . which the clinical social worker is legally authorized to perform under state law." 42 U.S.C. § 1395x(hh)(2) (emphasis supplied).

C. Recognition Of Clinical Social Workers By Governmental Health Programs, State Insurance Laws, And Private Insurance Contracts Supports The Authority Of Clinical Social Workers To Render Diagnoses.

The expanded role of clinical social workers in the provision of mental health care in the United States is in large part the result of federal and state government policies that recognize the effectiveness and professional capabilities of these providers. Clinical social workers are recognized as independent providers of mental health services by public and private third party payers. Thus, payment for clinical social work services occurs through mandated recognition by federal or state legislation; as well as voluntary recognition by a commercial third party payer.

As described below, both Maryland and federal law mandate coverage of clinical social work services. Again, it is axiomatic that clinicians are unable to treat unless they first diagnose. In fact, most insurance forms require diagnosis, using DSM-IV, as a condition of payment. Thus, recognition by payers supports the proposition that social workers are qualified to diagnose.

(1) Federal Health Care Programs

Every major federal health care program includes coverage of mental health services by licensed or certified clinical social workers, including:

- The Federal Employees Health Benefits Program ("FEHBP") -- the largest health benefits program in the United States -- in which private insurance plans contract to serve Federal employees, retirees, and their dependents[4];

[4] *See* 5 U.S.C. § 8902(k)(1) (1986) (requiring all participating insurance companies to include

- The Civilian Health and Medical Program of the Uniformed Services ("CHAMPUS") -- the program providing health care services to approximately 6.2 million members of the armed services, military retirees, dependents, veterans, and employees of the United States Public Health Service and the National Oceanographic and Atmospheric Administration[5];
- Medicare, the federal program serving the needs of the elderly;[6]
- Medicaid, the program serving low income families and other needy individuals;[7]
- The Family and Medical Leave Act.[8]

(2) Commercial Insurance

In addition to governmental payers, private health insurance plans almost universally recognize clinical social workers as directly reimbursable providers of diagnosis and treatment for emotional and mental illness and substance abuse.[9] Legislation in many jurisdictions

---

clinical social workers as reimbursable providers of mental health services without physician supervision).

[5]*See* 32 C.F.R. § 199.12(f) (recognizing clinical social workers as independent providers of outpatient psychotherapy, and mandating reimbursement for covered services provided by clinical social workers).

[6]*See* 42 U.S.C. §§ 1395(a)(1)(F), 1395x(s)(2)(N) (expanding Medicare coverage to include all independent clinical social work services).

[7]*See* 42 U.S.C. § 1396d(a)(6) (mandating coverage of clinical social work services).

[8]*See* 29 C.F.R. § 825.118(b)(2) (designating clinical social workers as covered providers under the Act).

[9]Nationally, 63% of all employees are enrolled in a managed care insurance plan; clinical social workers are recognized as reimbursable providers by all of the major managed care companies. The other 37% are enrolled in indemnity or self-insured plans; a survey of large companies in New York shows that these plans also recognize clinical social workers as reimbursable providers of mental health

including Maryland requires that, if health insurance provides mental health coverage, the beneficiary must be given freedom to choose any qualified mental health provider, including clinical social workers.

(3) Maryland Insurance Law

Under Maryland's insurance law, if an insurance policy covers mental health services and such services are within the lawful scope of practice of a clinical social worker, the insurer must cover services performed by a LCSW-clinical. Md. Insurance Code Ann. § 15-707. Section 15-707 provides a marked change from prior law, which required a physician referral to the social worker before insurance coverage was required. *See* Former Md. Ann. Code, art. 48A, §§ 354L, 470K, 477-O. Curiously, Petitioner devotes four pages of her brief (pp. 14-18) to argue that, based upon the Attorney General's 1988 interpretation of the predecessor to HO § 19-101, which, unlike the present statute, did not contain an express grant of the authority to diagnose, somehow a physician referral requirement should be judicially engrafted onto the statute. *See* 73 Op. Att'y Gen. 208 (1988). Even a cursory reading of the Attorney General's opinion, however, reveals that the requirement of a physician referral was based upon the provisions of the now superseded insurance code requiring a physician referral. Since the 1988 opinion was issued, both the insurance code and the Social Work Practice Act have eliminated any referral

---

care. *See* MCO PANEL MAKE-UP BY DISCIPLINE, PRACTICE STRATEGIES 9 (September 1995); ELISE S.Y. YOUNG, THIRD-PARTY REIMBURSEMENT FOR CLINICAL SOCIAL WORK SERVICES 6 (1995); NATIONAL FEDERATION OF SOCIETIES FOR CLINICAL SOCIAL WORK, COMPANIES UTILIZING CLINICAL SOCIAL WORKERS (unpublished 1995); FOSTER HIGGINS, NATIONAL SURVEY OF EMPLOYER-SPONSORED HEALTH PLANS (1994).

requirement and have granted LCSWs-clinical the right to diagnose based on a recognized manual like the DSM-IV.

Thus, licensure and third party reimbursement reflect the recognition of clinical social workers as fully qualified mental health professionals trained to diagnose DSM-IV identified mental and emotional disorders. In this regard, the clinical social worker's knowledge base, which includes: expertise in family theory; clinical understanding of how early trauma effects an individual in later life; training and experience in development; understanding of human behavior as purposeful and goal oriented; ability to see the client as a human being with complex forms of adaptation; and behavioral development, is both relevant and highly skilled. In fact, as described in part III, *infra*, clinical social workers have become the predominant providers of mental health services.

D. The DSM-IV Is A Standard Recognized Diagnostic Manual Used By Mental Health Professionals Including Licensed Clinical Social Workers.

The fourth edition of the American Psychiatric Association's ("APA") DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS ("DSM-IV") is a standard diagnostic reference tool used by mental health professionals and was used by Carlton Munson in this case. The DSM-IV states that it was designed for use by skilled mental health professionals, including clinical social workers, in clinical practice for the classification and diagnostic assessment of mental disorders across various practice settings. DSM-IV at xv (1994). Use of the DSM-IV to classify and diagnose mental disorders is an important component of clinical social work practice, offering clinical social workers a common language with which to communicate about

clients' symptoms and providing the basis for clinical management. *See* JANET B.W. WILLIAMS AND KATHLEEN ELL, CLASSIFICATION AND DIAGNOSTIC ASSESSMENT, IN ADVANCES IN MENTAL HEALTH RESEARCH: IMPLICATIONS FOR PRACTICE 26 (NASW Press 1998) (hereinafter CLASSIFICATION AND DIAGNOSTIC ASSESSMENT).[10] In addition, when clinical social workers use diagnoses and diagnostic information appropriately, such information may assist the decision-maker in making forensic determinations. *See* DSM-IV, at xxiv. When formulating their diagnoses, clinical social workers should have current information on the basics of psychopharmacology, classes of medications, frequently-prescribed drugs and their effectiveness across cultures. *See* KIA J. BENTLEY AND JOSEPH WALSH, ADVANCES IN PSYCHOPHARMACOLOGY AND PSYCHOSOCIAL ASPECTS OF MEDICATION MANAGEMENT: A REVIEW FOR SOCIAL WORKERS, IN ADVANCES IN MENTAL HEALTH RESEARCH IMPLICATIONS FOR PRACTICE (NASW Press 1998).

DSM-IV is a categorical classification tool that separates mental disorders into various types based on criteria sets with particular characteristics. *See* DSM-IV, at xxii. Mental disorders as defined in DSM-IV are grouped into 16 major diagnostic classes (e.g., substance-related disorders, mood disorders, anxiety disorders) and one additional section for conditions that may be a focus of clinical attention. *Id.* at 9.

---

[10] *See id*. at 38 ("Treatment selection, goal setting, and psychoeducation all depend on the accuracy of the diagnostic formulation; therefore, the determination of an accurate psychiatric diagnosis is the first step in clinical management. A thorough and accurate assessment is more likely to result in a feasible and helpful treatment plan.").

DSM-IV is a multiaxial classification system with five axes, the first three of which are diagnostic. *See* CLASSIFICATION AND DIAGNOSTIC ASSESSMENT, at 32. Each mental disorder is incorporated in the first two axes: Axis I includes clinical disorders and other conditions. Axis II includes personality disorders and mental retardation. *See id.* at 32-33. Axis III is meant for cataloguing present general medical conditions that the clinical social worker (or other clinician) might find relevant to the understanding or clinical management of the client's case. *Id.* at 33. A general medical condition may be etiologic (the cause) of the development or exacerbation of a mental disorder; alternatively, it may not appear to be etiologic, but is important to the overall management of the case. *Id.* Although a medical diagnosis must be made by a medical professional, when a clinical social worker (or other non-medical mental health professional) engages in a multi-axial evaluation, this area of functioning may have significant prognostic or treatment implications for the mental disorder. *Id.*

The fourth axis in DSM-IV offers a checklist for documenting psychosocial and environmental problems that may have an impact on the diagnosis, treatment planning, and prognosis of the individual's mental disorders (i.e., on Axes I and II). Finally, Axis V includes a Global Assessment of Functioning ("GAF") Scale that encapsulates a person's psychological, social and occupation functioning on a continuum of mental health and illness, capturing current functioning at the time of evaluation and generally reflecting the need for treatment or care. *Id.*

DSM-IV provides for its use by clinical social workers to diagnose mental and emotional disorders[11] and never was meant to be the sole province of physicians and psychiatrists. *See* CLASSIFICATION AND DIAGNOSTIC ASSESSMENT, at 26. The terms "physician" and "psychiatrist" are not even utilized; instead, DSM-IV uses the terms "clinicians" or "mental health professionals." *Id.*

The use of DSM-IV in classifying and diagnosing mental and emotional disorders is viewed as legitimately within the scope of clinical social work practice by the social work profession itself. *See* CLASSIFICATION AND DIAGNOSTIC ASSESSMENT, at 44-45. According to Dr. Janet Williams, DSW, who played a pivotal role in developing DSM-III, DSM-III-R, and DSM-IV, "[i]t is important for social workers to be familiar with the diagnostic criteria and multiaxial system of DSM-IV because of its universality as a tool for communication among mental health professionals, its contribution to effective evaluation and treatment planning, its usefulness for teaching psychopathology, and its potential as a basis for research." *Id.* In fact, the clinical social work profession has recognized that the failure of a clinical social worker to make an accurate diagnosis of a mental disorder or to refer a client to a physician for a medical diagnosis when needed poses a real malpractice risk. *See* MARY KAY HOUSTON-VEGA AND ELANE M. NUEHRING, PRUDENT PRACTICE: A GUIDE FOR MANAGING MALPRACTICE RISK 57 (NASW Press); HELEN NORTHEN, CLINICAL SOCIAL WORK: KNOWLEDGE AND SKILLS 81

---

[11] See DSM-IV, at xxiii ("[DSM-IV] diagnostic categories, criteria, and textual descriptions are meant to be employed by individuals [including social workers] with appropriate clinical training and experience in diagnosis.").

(1995). The competent practice of clinical social workers "is predicated upon an accurate, differential, multi-dimensional, and individualized assessment," which includes the diagnosis of mental disorders. *See id*. at 58.

Thus, Carlton Munson's DSM-IV diagnoses of the Petitioner mother and the minor child were entirely appropriate, not only by the express language of Maryland law, but by his extensive training, credentialing, and background as a licensed clinical social worker and his experience in using the DSM-IV as the APA intended.

III. THIS CASE IMPLICATES IMPORTANT PUBLIC POLICY CONSIDERATIONS BECAUSE CLINICAL SOCIAL WORKERS ARE THE PREDOMINANT PROVIDER OF MENTAL HEALTH SERVICES, PARTICULARLY IN RURAL AND OTHER UNDERSERVED AREAS.

The profession of clinical social work has grown in both numbers and stature over the past several decades so that now it is recognized by legislative authority, mental health consumers, other mental health providers, and public and private payers as a fully qualified mental health profession. As described below, clinical social workers are the predominant mental health providers, particularly with respect to children, poor, rural, and other underserved populations. Any diminution of the role or scope of practice of clinical social workers could have a devastating impact on mental health services provided to those in need.

Years ago, the delivery of psychotherapy to persons with mental illness and emotional disorders was the province of a small number of medical doctors. Today, psychotherapy employs a wide variety of modalities and theoretical orientations and is provided by a much

greater number and broader range of mental health professionals. Clinical social workers constitute, by far, the largest group of mental health care providers in the United States. *Jaffee, supra*, 518 U.S. at 15-16. There are at least 192,814 clinically trained social workers nationwide -- more than the combined total of the other three core mental health professions, which number 123,822, divided into 88,486 psychiatrists, 73,018 psychologists, and 17,318 psychiatric nurses.[12] For the less economically advantaged and those living in many inner-city or rural areas, clinical social workers constitute an even higher percentage of mental health care providers. *Jaffee, supra*, 518 U.S. at 16.

The greatest proportion of psychotherapeutic services is now delivered by clinical social workers working in various settings including independent private practice.[13] For example, a study of professional patient care staff in mental health organizations and general hospital psychiatric services in 1990 found that the number of social workers providing mental health services in such facilities (53,375) was more than the combined number of psychiatrists (18,818) and psychologists (22,825).[14] Clinical social workers are the predominant mental health professionals in facilities serving less privileged patients such as state and county mental hospitals, residential treatment centers for emotionally disturbed children, freestanding

---

[12]NASW News, Vol 44, No. 6 (June 1999).

[13]For a general description of the practice of clinical social work, *see* SWENSON, CLINICAL SOCIAL WORK, IN 1 ENCYCLOPEDIA OF SOCIAL WORK 502-12 (19th ed. 1995).

[14]*See* U.S. Department of Health and Human Services, Center for Mental Health Services, MENTAL HEALTH , United States, at 107 (1994).

outpatient clinics, and freestanding partial care and multi-service organizations.[15] Clinical social workers are also predominant and often exclusive providers of mental health services in rural areas which tend to have lower per-capita incomes than the state average.

The expanded role of clinical social workers in the provision of mental health care in the United States is in large part the result of federal and state government policies described above that recognize the valuable role of clinical social workers. Since their emergence in the 1960s, the major federal health care programs have all been expanded to include coverage of mental health services by independent clinical social workers. In 1980, for example, Congress directed CHAMPUS to conduct a two-year demonstration project in which licensed and certified clinical social workers would be reimbursed as mental health care providers without supervision by a physician. *See* Department of Defense Appropriation Act of 1981, Pub. L. No. 96-527 (1980). The Senate Report which reviewed the results of the demonstration project stated: "No quality of care problems have arisen, and reimbursement of clinical social workers costs less than the traditional physician gate-keeper approach." S. Rep. No. 580, 97th Cong., 2d Sess. 32 (1982). As a result of these findings, CHAMPUS has since recognized clinical social workers as independent providers of outpatient psychotherapy.

As such, LCSWs-clinical are explicitly authorized by statute to diagnosis mental and emotional disorders in accordance with recognized manuals such as DSM IV. Clinical social

---

[15] *See id.* at 108, 112, 113, 114. The ratio of clinical social workers to psychiatrists and psychologists is lower in private psychiatric hospitals and the separate psychiatric services of non-federal general hospitals. *See id.* at 109, 110.

workers frequently are called to testify as experts on behalf of the State, as well as by private parties, in connection with Child in Need of Assistance, Child in Need of Supervision, Termination-of-Parental Rights, custody and other important family related matters. If the Court were to hold that clinical social work experts are not qualified to give expert testimony based on their clinical diagnoses in connection with these matters, the result would be that there would be a smaller and more expensive group of experts available for this critical role.

Moreover, the indirect effect on the profession of social work and on society should also be considered. If this Court were to hold that a clinical LCSW expert is not permitted to give expert testimony on such diagnosis, it would call into question and undermine the ability of a clinical LCSW to diagnose and consequently treat their clients for mental and emotional disorders.

IV. Courts In Other Jurisdictions Have Concluded That Clinical Social Workers Are Qualified To Provide Expert Testimony Regarding The Diagnoses Of Mental and Emotional Disorders.

In light of their extensive knowledge, training, and experience in diagnosing and treating mental and emotional disorders, it is no surprise that the lower courts concluded that clinical social workers are qualified to diagnose mental and emotional disorders, and are competent to provide expert testimony in courts regarding such diagnoses. Indeed, as the Supreme Court of Washington recently concluded, "[t]his view is consistent with the law in other jurisdictions." *In re Detention of A.S.*, 982 P.2d 1156, 1167 (Wash. 1999) (clinical social worker was qualified to diagnose and give expert testimony regarding subject's mental disorders). Courts across the United States routinely have found clinical social workers qualified as expert witnesses to testify

about the diagnosis of mental illness. *See, e.g., Dang Vang v. Vang Xiong X. Toyed,* 944 F.2d 476 (9th Cir. 1991) (clinical social worker was qualified to testify as expert about plaintiffs' psychological condition and the general reactions of women to rape); *America West Airlines, Inc. v. Tope*, 935 S.W.2d 908 (Tex. Ct. App. 1996) (in civil action, clinical social worker was qualified to give expert testimony about her diagnosis of plaintiff's mental condition); *State v. Wood*, 460 S.E.2d 771 (W. Va. 1995) (clinical social worker qualified to testify as to whether a child fit the psychological and behavioral profile of an abuse victim and was an abuse victim); *State v. Schumpert*, 435 S.E.2d 859 (S.C. 1993) (clinical social worker was qualified as an expert in the field of sexual abuse and that a child's behavior was typical for victims of sexual abuse); *State v. Bordelon*, 597 So.2d 147 (La. 1992) (clinical social worker was competent to testify as to defendant's mental state prior to his confession); *United States v. Johnson*, 35 M.J. 17 (C.M.A. 1992) (clinical social worker was competent to testify regarding characteristics of post-traumatic stress disorder and whether complaining child sex abuse victim's behavior was in conformance); *State v. Eldridge*, 773 P.2d 29 (Utah 1989) (clinical social worker qualified as an expert in the diagnosis and treatment of child sexual abuse); *United States v. Peel*, 29 M.J. 235 (C.M.A. 1989) (clinical social worker was qualified to testify about typical behavior of rape victims and whether complainant's behavior was consistent with pattern); *Wheat v. Delaware*, 527 A.2d 269 (Del. 1987) (clinical social worker was qualified as an expert to testify about intrafamily child sexual abuse, typical behaviors of victims, and whether complainant's behaviors and statements were consistent); *People v. Scala*, 491 N.Y.S.2d 555 (Sup. Ct. 1985) (clinical social workers may be qualified as experts providing psychiatric evidence, including diagnoses of mental disorders);

People v. Gans, 465 N.Y.S.2d 147, 149-50 (Sup. Ct. 1983) (clinical social worker is qualified to give expert testimony about the defendant's diagnosis of mental illness, his prognosis, his competency to proceed with trial, and whether he is likely to become competent to proceed).

Petitioner cites four cases from other jurisdictions that she claims support her position. They do not. In *United States v. Eastman*, 20 M.J. 948 (A.F.C.M.R. 1984), the court overturned a rape conviction because of erroneously admitted expert testimony on rape trauma syndrome. The witness, however, was *not* a clinical social worker and had no psychological training or work experience. Indeed, the court expressly contrasted the witness's expertise with that of clinical social workers and clinical psychologists, whom, the court noted, were authorized to perform clinical evaluations for official medical use under Air Force regulations. *Id.* at 953. Perhaps more importantly, the Court of Appeals for the Armed Forces in 1996 held that an experienced social worker who routinely diagnosed posttraumatic stress disorder, many of which included rape accommodation syndrome, was permitted to testify as an expert on rape victim's mental condition). *United States v. Raya*, 45 M.J. 251 (C.M.A. 1996).

In *United States v. Crosby*, 713 F.2d 1066, 1076 (5th Cir.), *cert. denied*, 464 U.S. 1001 (1983), the court refused to qualify a social worker as an expert on posttraumatic stress disorder, but there is no indication that the social worker was licensed as a clinical specialist. *Id.* at 1076. Finally, in *State v. Willis*, 888 P.2d 839 (Kan. 1995), the Kansas court held that, "for a person to testify as an expert in the field of post-traumatic stress disorder and its variation known as rape trauma syndrome requires the witness to be specially trained in *that* field of psychiatry." *Id.* at 844 (emphasis added). The court held that the particular expert proffered by the state, although a

clinical social worker, did not have that specialized expertise. The court certainly did not hold that clinical social workers are, as a class, unqualified to testify about the diagnosis of mental disorders in Kansas, and, as cited above, Kansas, by statute, authorizes licensed clinical social workers to diagnose mental disorders in accordance with the DSM-IV. Kan. Stat. Ann. § 65-6319.

In sum, the courts that have considered the issue before this Court have concluded that there are no per se bars to clinical social workers rendering expert testimony as to diagnoses of mental and emotional disorders. Rather, consistent with the broad scope of Rule 5-702, provided the trial court is satisfied that an individual clinical social worker's knowledge, skill, experience, training, or education in making DSM-IV diagnoses will assist the trier of fact, the trial court should have wide discretion to admit the proffered testimony.

CONCLUSION

For the reasons stated herein and in the Brief of the Respondent, amici respectfully request that this Court AFFIRM the rulings of the courts below.

Respectfully submitted,

BLANK ROME COMISKY & McCAULEY, LLP
Carolyn Jacobs
250 West Pratt Street, Suite 1100
Baltimore, Maryland 21201
(410) 659-1400

Carolyn I. Polowy
National Association of Social Workers
Suite 700
750 First Street, NE
Washington, DC 20002

Counsel for the National Association of Social Workers and the Maryland Chapter of the National Association of Social Workers

ROPES & GRAY
Peter M. Brody
One Franklin Square
Suite 800 East
1301 K Street, N.W.
Washington, D.C. 20005-3333
(202) 626-3912

Counsel for American Board of Examiners In Clinical Social Work

DICKSTEIN SHAPIRO MORIN & OSHINSKY, LLP
Howard N. Feldman
Lynne Celander DeSarbo
2101 L Street, NW
Washington, DC 20037-1526
(202) 785-9700

Attorneys for the Clinical Social Work Federation, the Maryland Society for Clinical Social Work, Inc. the Greater Washington Society for Clinical Social Work, Inc., the Family Therapy Practice Academy of the Clinical Social

Work Federation, the Clinical Social Work Guild, The National Membership Committee on Psychoanalysis in Clinical Social Work, Inc., and Clinical Social Work Guild No. 49 of the Office and Professional Employees International Union, AFL-CIO, CLC

SCHWARZWALD, ROCK & McNAIR
A Legal Professional Association
Melvin S. Schwarzwald
James G. Porcaro
616 Bond Court Building
1300 East Ninth Street
Cleveland, OH 44114-1503
(216) 566-1600

Counsel for Clinical Social Work Guild No. 49 of the Office and Professional Employees International Union, AFL-CIO, CLC

(Font: Garamond 13 pt.)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 31st day of March, 2000, I caused copies of the foregoing Brief to be sent by first class mail to:

Sherrie B. Glasser
Assistant Public Defender
Office of the Public Defender
Appellate Division
Six Saint Paul Street, Suite 1302
Baltimore, Maryland 21202-1608

Counsel for Petitioner

Patricia Patton, Esquire
21 Summit Avenue
Hagerstown, Maryland 21740-3506

Counsel for the Minor Child

Carol Ann Smith
Assistant Attorney General
Saratoga State Center
Suite 1015
311 West Saratoga Street
Baltimore, Maryland 21201

Counsel for Respondent

_____
Carolyn Jacobs