

ABE Acts Swiftly to Protect

Evaluation, Diagnosis, and Expert Testimony



In a case before Maryland's highest court, in the year 2000, it was contended that clinical social workers did not have the right to assess and diagnose mental/emotional disorders or to serve as expert witnesses. ABE filed a joint brief to the contrary.

In this legal proceeding, first heard as an adoption/guardianship case in Washington County, Maryland, clinical social workers' status as evaluators, diagnosticians, and expert witnesses was affirmed twice in lower courts, but in each instance was appealed. The appellant disputed the standing of Dr. Munson, a clinical social worker in private practice. A full professor at the University of Maryland at Baltimore School of Social Work and the author of books on supervision and other topics, he is also a member of the ABE subcommittee studying the development of a specialty credential in Supervision. The initial case revolved around a child custody evaluation, in which Dr. Munson was retained by the county social services department to evaluate a child and to provide a diagnosis of the custodial parent, and to offer his expert opinion on parent-child issues to the court. His right to do so, as a clinical social worker, was challenged repeatedly, and became the subject of a brief written by the appellant's lawyer, a public defender.

While it may seem obvious that clinical social workers provide the services that were in dispute in this case, none of these aspects of practice are guaranteed solely by the wording of statutes, for they are subject to the interpretation of the courts. The courts, which are interested in both specifics of an individual case as well as the larger context of case law and precedents as well as statutes and rules, may draw conclusions quite different from the intent of legislatures. And, at the highest appeal level, most state courts are aware of and influenced by the decisions made by their fellow jurists in other states, meaning that there are national implications in a case heard by the Court of Appeals.

In an opinion that is certain to influence other high courts throughout the nation, the ***Maryland Court of Appeals found in favor of clinical social workers*** and upheld their right to perform these services. ABE has placed the joint amicus curiae brief from this case on our website www.abecsw.org for your reference and for teaching purposes. The ABE et al joint brief complemented a brief by the Attorney General of Maryland, who argued for full recognition of clinical social workers' rights to evaluate, diagnose, and offer expert-witness testimony, based on case law and the Maryland clinical licensure law, one of the strongest and most specific such statutes in the nation.

Visit www.abecsw.org or www.centercsw.org for additional case documents.