S T A T E O F N E W Y O R K

10344

I N A S S E M B L Y

May 23, 2012

Introduced by M. of A. WEINSTEIN -- (at request of the Office of Court Administration) -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to waiver of privileged confidential information

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision (a) of section 4504 of the civil practice law and rules, as amended by chapter 555 of the laws of 1993, is amended to read as follows:

(a) Confidential information privileged. Unless the patient waives the privilege, a person authorized to practice medicine, registered professional nursing, licensed practical nursing, dentistry, podiatry or chiropractic shall not be allowed to disclose any information which he OR SHE acquired in attending a patient in a professional capacity, and which was necessary to enable him OR HER to act in that capacity. The relationship of a physician and patient shall exist between a medical corporation, as defined in article forty-four of the public health law, a professional service corporation organized under article fifteen of the business corporation law to practice medicine, a university faculty practice corporation organized under section fourteen hundred twelve of the not-for-profit corporation law to practice medicine or dentistry, and the patients to whom they respectively render professional medical services.

FOR THE EXCLUSIVE PURPOSE OF USE IN A CIVIL ACTION, AN OPERATOR OF A MOTOR VEHICLE IN THIS STATE SHALL BE DEEMED TO HAVE WAIVED THIS PRIVILEGE IN REGARD TO THE RESULTS OF ANY TESTS ADMINISTERED FOLLOWING A MOTOR VEHICLE ACCIDENT WHICH REVEAL THE ALCOHOL OR DRUG CONTENTS IN SUCH OPERATOR'S BODY. A patient who, for the purpose of obtaining insurance benefits, authorizes the disclosure of any such privileged communication to any person shall not be deemed to have waived the privilege created by this subdivision. For purposes of this subdivision:

1. "person" shall mean any individual, insurer or agent thereof, peer review committee, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality,

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever; and

2. "insurance benefits" shall include payments under a self-insured plan.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to any action commenced on or after that date.