STATE OF NEW YORK

9565

IN SENATE

May 16, 2024

Introduced by Sen. BROUK -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the civil practice law and rules, in relation to extending confidentiality privileges to certain communications to or from a licensed mental health counselor

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The civil practice law and rules is amended by adding a new section 4508-a to read as follows:

§ 4508-a. Licensed mental health counselor. (a) Confidential information privileged. A person licensed as a licensed mental health counselor under the provisions of article one hundred sixty-three of the education law shall not be required to disclose a communication made by a client, or his or her advice given thereon, in the course of his or her professional employment, nor shall any clerk, stenographer or other person working for the same employer as such licensed mental health counselor or for such licensed mental health counselor be allowed to disclose any such communication or advice given thereon; except

1. that such licensed mental health counselor may disclose such information as the client may authorize;

2. that such licensed mental health counselor shall not be required to treat as confidential a communication by a client which reveals the contemplation of a crime or harmful act;

3. where the client is a child under the age of sixteen and the information acquired by such licensed mental health counselor indicates that the client has been the victim or subject of a crime, the licensed mental health counselor may be required to testify fully in relation thereto upon any examination, trial or other proceeding in which the commission of such crime is a subject of inquiry;

4. where the client waives the privilege by bringing charges against such licensed mental health counselor and such charges involve confidential communications between the client and the licensed mental health counselor.

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

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(b) Limitations on waiver. A client 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 section. 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, 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.

§ 2. This act shall take effect immediately.