STATE OF NEW YORK

9229

IN SENATE

May 7, 2024

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

AN ACT to amend the penal law, in relation to sex offenses involving mental health care providers

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

Section 1. Subdivision 13 of section 130.00 of the penal law, as amended by chapter 230 of the laws of 2004, is amended to read as follows:

13. "Mental health care provider" [~~shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker or a licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker~~] **means any person who is, or is required to be, licensed or registered or holds themself out to be licensed or registered, or provides services as if they were licensed or registered in the professions of medicine, nursing, psychology, social work, mental health counseling, marriage and family therapy, or psychoanalysis under any of the following: article one hundred thirty, one hundred thirty-one, one hundred thirty-nine, one hundred fifty-three, one hundred fifty-four, or one hundred sixty-three of the education law, or any person who otherwise provides mental health care or life coaching services**.

§ 2. Paragraph (h) of subdivision 3 of section 130.05 of the penal law, as amended by section 2 of part G of chapter 501 of the laws of 2012, is amended to read as follows:

(h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination**, or, if the treatment is continuing in nature, during the course of treatment,**

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

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whether or not the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or

§ 3. Paragraph (h) of subdivision 3 of section 130.05 of the penal law, as amended by chapter 23 of the laws of 2024, is amended to read as follows:

(h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, a crime formerly defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination**, or, if the treatment is continuing in nature, during the course of treatment, whether or not the act of sexual conduct occurs during a treatment session, consultation, interview, or examination**; or

§ 4. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that if chapter 23 of the laws of 2024 shall not have taken effect on or before such date then section three of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2024 takes effect.