

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:

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

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

17 § 2. Paragraph (h) of subdivision 3 of section 130.05 of the penal
18 law, as amended by section 2 of part G of chapter 501 of the laws of
19 2012, is amended to read as follows:

20 (h) a client or patient and the actor is a health care provider or
21 mental health care provider charged with rape in the third degree as
22 defined in section 130.25, criminal sexual act in the third degree as
23 defined in section 130.40, aggravated sexual abuse in the fourth degree
24 as defined in section 130.65-a, or sexual abuse in the third degree as
25 defined in section 130.55, and the act of sexual conduct occurs during a
26 treatment session, consultation, interview, or examination, or, if the
27 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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1 whether or not the act of sexual conduct occurs during a treatment
2 session, consultation, interview, or examination; or

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

6 (h) a client or patient and the actor is a health care provider or
7 mental health care provider charged with rape in the third degree as
8 defined in section 130.25, a crime formerly defined in section 130.40,
9 aggravated sexual abuse in the fourth degree as defined in section
10 130.65-a, or sexual abuse in the third degree as defined in section
11 130.55, and the act of sexual conduct occurs during a treatment session,
12 consultation, interview, or examination, or, if the treatment is contin-
13 uing in nature, during the course of treatment, whether or not the act
14 of sexual conduct occurs during a treatment session, consultation,
15 interview, or examination; or

16 § 4. This act shall take effect on the ninetieth day after it shall
17 have become a law; provided, however, that if chapter 23 of the laws of
18 2024 shall not have taken effect on or before such date then section
19 three of this act shall take effect on the same date and in the same
20 manner as such chapter of the laws of 2024 takes effect.