

STATE OF NEW YORK

3760--A

2025-2026 Regular Sessions

IN SENATE

January 29, 2025

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 636 of the laws of 2024, 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, licensed master social worker under the supervision of a~~
7 ~~physician, psychologist or licensed clinical social worker, licensed~~
8 ~~mental health counselor or a licensed marriage and family therapist]~~
9 means any person who is, or is required to be, licensed or registered or
10 holds themselves out to be licensed or registered, or provides services as
11 if they were licensed or registered in the professions of medicine,
12 nursing, psychology, social work, mental health counseling, marriage and
13 family therapy, creative arts therapy, or psychoanalysis under any of
14 the following: article one hundred thirty, one hundred thirty-one, one
15 hundred thirty-nine, one hundred fifty-three, one hundred fifty-four, or
16 one hundred sixty-three of the education law.

17 § 2. Paragraph (h) of subdivision 3 of section 130.05 of the penal
18 law, as amended by chapter 23 of the laws of 2024, is amended to read as
19 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, a crime formerly defined in section 130.40,

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

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1 aggravated sexual abuse in the fourth degree as defined in section
2 130.65-a, or sexual abuse in the third degree as defined in section
3 130.55, and the act of sexual conduct occurs during a treatment session,
4 consultation, interview, or examination, or, if the treatment is contin-
5 uing in nature, during the course of treatment, whether or not the act
6 of sexual conduct occurs during a treatment session, consultation,
7 interview, or examination; or

8 § 3. This act shall take effect on the ninetieth day after it shall
9 have become a law.