

1991 Assembly Bill 119

Date of enactment: **April 22, 1992**

Date of publication\*: **May 6, 1992**

# 1991 WISCONSIN ACT 217

AN ACT to renumber and amend 895.70 (2); and to create 146.38 (3) (dm), 895.70 (2) (b) and (c) and 895.70 (5) of the statutes, relating to: sexual exploitation by therapists.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 146.38 (3) (dm) of the statutes is created to read:

146.38 (3) (dm) With regard to an action under s. 895.70, to a court of record after issuance of a subpoena;

**SECTION 2m.** 895.70 (2) of the statutes is renumbered 895.70 (2) (a) and amended to read:

895.70 (2) (a) Any person who suffers, directly or indirectly, a physical, mental or emotional injury caused by, resulting from or arising out of sexual contact with a therapist who is rendering or has rendered to that person psychotherapy, counseling or other assessment or treatment of or involving any mental or emotional illness, symptom or condition has a civil cause of action against the psychotherapist for all damages resulting from, arising out of or caused by that sexual contact. Consent is not an issue in an action under this section, unless the sexual contact that is the subject of the action occurred more than 6 months after the psychotherapy, counseling, assessment or treatment ended.

**SECTION 3.** 895.70 (2) (b) and (c) of the statutes are created to read:

895.70 (2) (b) Notwithstanding ss. 801.09 (1), 801.095, 802.04 (1) and 815.05 (intro.), in an action brought under this section, the plaintiff may substitute his or her initials, or fictitious initials, and his or her age and county of residence for his or her name and address on the summons and complaint. The plaintiff's attorney shall supply the court the name and other necessary identifying information of the plaintiff. The court shall maintain the

name and other identifying information, and supply the information to other parties to the action, in a manner which reasonably protects the information from being disclosed to the public.

(c) Upon motion by the plaintiff, and for good cause shown, or upon its own motion, the court may make any order that justice requires to protect:

1. A plaintiff who is using initials in an action under this section from annoyance, embarrassment, oppression or undue burden that would arise if any information identifying the plaintiff were made public.

2. A plaintiff in an action under this section from unreasonably long, repetitive or burdensome physical or mental examinations.

3. The confidentiality of information which under law is confidential, until the information is provided in open court in an action under this section.

**SECTION 4.** 895.70 (5) of the statutes is created to read:

895.70 (5) SILENCE AGREEMENTS. Any provision in a contract or agreement relating to the settlement of any claim by a patient against a therapist that limits or eliminates the right of the patient to disclose sexual contact by the therapist to a subsequent therapist, the department of regulation and licensing, the department of health and social services, the patients compensation fund peer review council or a district attorney is void.

**SECTION 5. Initial applicability.** (1) Except as provided in subsection (2), this act first applies to actions commenced or pending on the effective date of this subsection.

– 2 –

**1991 Assembly Bill 119**

(2) The treatment of section 895.70 (5) of the statutes first applies to agreements entered into on the effective date of this subsection.

---