

1977 Assembly Bill 160

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## CHAPTER 61, Laws of 1977

AN ACT to amend 51.30 (3), 905.04 (title), (1) (a) and (c), (2), (3) and (4) (a); and to create 905.04 (1) (d) of the statutes, relating to privileged communications between psychologists and patients.

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

SECTION 1. 51.30 (3) of the statutes is amended to read:

51.30 (3) PRIVILEGES. Sections 905.03 and 905.04 supersede this section with respect to communications between physicians and patients, psychologists and patients, and between attorneys and clients.

SECTION 2. 905.04 (title) and (1) (a) and (c) of the statutes are amended to read:

**905.04 (title) Physician-patient or psychologist-patient privilege.** (1) (a) A "patient" is a person who consults or is examined or interviewed by a physician or psychologist.

(c) A communication or information is “confidential” if not intended to be disclosed to 3rd persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication or information or persons who are participating in the diagnosis and treatment under the direction of the physician or psychologist, including the members of the patient’s family.

SECTION 3. 905.04 (1) (d) of the statutes is created to read:

905.04 (1) (d) A “psychologist” means a licensed psychologist, as that term is defined in s. 455.01 (3), or a person reasonably believed by the patient to be a psychologist.

SECTION 4. 905.04 (2), (3) and (4) (a) of the statutes are amended to read:

905.04 (2) GENERAL RULE OF PRIVILEGE. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made or information obtained or disseminated for purposes of diagnosis or treatment of ~~his~~ the patient’s physical, mental or emotional condition, among ~~himself, his~~ the patient, the patient’s physician, the patient’s psychologist or persons, including members of the patient’s family, who are participating in the diagnosis or treatment under the direction of the physician or psychologist.

(3) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the patient, by ~~his~~ the patient’s guardian or conservator, or by the personal representative of a deceased patient. The person who was the physician or psychologist may claim the privilege but only on behalf of the patient. ~~His~~ The authority so to do is presumed in the absence of evidence to the contrary.

(4) (a) *Proceedings for hospitalization*. There is no privilege under this rule as to communications and information relevant to an issue in proceedings to hospitalize the patient for mental illness, if the physician or psychologist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization.

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