

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1717

S.P. 593

In Senate, March 9, 1999

**An Act to Make Privileged Communication Between a Licensed
Counseling Professional and a Patient.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ABROMSON of Cumberland.
Cosponsored by Representative BRENNAN of Portland and
Senators: BENOIT of Franklin, HARRIMAN of Cumberland, MILLS of Somerset,
MURRAY of Penobscot, Representatives: NORBERT of Portland, QUINT of Portland.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 16 MRSA §53-C** is enacted to read:

6 1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

8 A. "Licensed counseling professional" means a counseling professional licensed pursuant to Title 32, chapter 119.

10 B. "Patient" means a person, couple, family or group who consults or is examined or interviewed by a licensed counseling professional.

12 2. Privileged communication. Except at the request or consent of the patient, a patient or licensed counseling professional may not be required to testify in any civil or criminal action, suit or proceeding at law or in equity about any information that the licensed counseling professional may have acquired from a patient during the course of providing professional counseling services to the patient. A licensed counseling professional may not be required to disclose to a court any records, notes, documents or memoranda containing confidential communications.

16 3. Exceptions. A patient or licensed counseling professional may not be required to disclose communication privileged under this section except in the following cases:

18 A. In proceedings to hospitalize a patient when a licensed counseling professional determines that the patient requires hospitalization due to mental illness;

20 B. When a court orders the examination of a patient to determine the mental or emotional condition of the patient;

22 C. When a patient raises the patient's mental or emotional condition as a defense in a proceeding at law or in equity;

24 D. When the communication is to a person who is present or participating in the professional service, including 3rd party reimbursors and clinical or peer supervisors; or

26 E. When the communication is necessary to further the best interests of the patient or is reasonably necessary for the transmission of the communication.

28 **Sec. 2. 32 MRSA §13862**, as amended by PL 1989, c. 895, §18 and affected by PL 1991, c. 263, §§5 and 6, is repealed.

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SUMMARY

4 This bill makes communication between a licensed
6 professional counselor and a patient privileged if the
8 communication was received during the course of professional
10 counseling services. A patient can be a person, couple, family
12 or group who consults or is examined or interviewed by a licensed
14 counseling professional.

16 This bill makes an exception from this privilege for an
18 instance in a proceeding:

- 20 1. When the licensed counseling professional determines the
22 patient needs to be hospitalized due to mental illness;
- 24 2. When a court orders the examination of a patient to
26 determine the emotional or mental condition of the patient;
- 28 3. When a patient raises the patient's mental or emotional
condition as a defense in a proceeding at law or in equity;
4. When the communication is to a person who is present or
participating in the professional service, including 3rd
party reimbursors and clinical or peer supervisors; or
5. When the communication is necessary to further the best
interest of the patient or is reasonably necessary for the
transmission of the communication.