STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 958 By: McIntosh

AS INTRODUCED

An Act relating to health care; amending 12 O.S. 2021, Section 2503, which relates to physician- and psychotherapist-patient privilege; excluding minor from certain privilege; conferring certain rights on parents and legal guardians subject to certain condition; amending 59 O.S. 2021, Sections 1910 and 1939, which relate to counselors; modifying conditions for disclosure of certain information; amending 63 O.S. 2021, Section 2602, which relates to minor self-consent to health services; granting certain right and protection to parent or legal guardian; modifying and removing certain conditions for minor self-consent; providing certain construction; modifying certain notice and disclosure requirements; making language gender neutral; updating statutory language and references; authorizing certain actions by the Attorney General; specifying applicability of actions; authorizing recovery of certain relief; abolishing certain immunities for specified purpose; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 2021, Section 2503, is amended to read as follows:

Section 2503. A. As used in this section:

1. A "patient" is a person who consults or is examined or interviewed by a physician or psychotherapist;

2. A "physician" is a person authorized to practice medicine in any state or nation, or reasonably believed by the patient to be so authorized;

3. A "psychotherapist" is:

a. a person authorized to practice medicine in any state or nation, or reasonably believed by the patient to be so authorized, while engaged in the diagnosis or treatment of a mental or emotional condition, including alcohol or drug addiction, or

b. a person licensed or certified as a psychologist under the laws of any state or nation, or reasonably believed by the patient to be so licensed or certified, while similarly engaged; and

4. A communication is "confidential" if not intended to be disclosed to third persons, except persons present to further the interest of the patient in the consultation, examination, or interview, persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist, including members of the patient's family.

B. A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of diagnosis or treatment of the patient's physical, mental, or emotional condition, including alcohol or drug

addiction, among the patient, the patient's physician or psychotherapist, and persons who are participating in the diagnosis or treatment under the direction of the physician or psychotherapist, including members of the patient's family, except that a minor child under eighteen (18) years of age has no privilege to refuse to disclose or to prevent any other person from disclosing such confidential communications to the minor child's parent or legal guardian.

C. The privilege may be claimed by the patient, the patient's guardian or conservator, or the personal representative of a deceased patient. The person who was the physician or psychotherapist at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the patient.

D. The following shall be exceptions to a claim of privilege:

1. There is no privilege under this section for communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

2. Communications made in the course of a court-ordered examination of the physical, mental, or emotional condition of a patient, whether a party or a witness, are not privileged under this section when they relate to the particular purpose for which the examination is ordered unless the court orders otherwise;

3. The privilege under this Code as to a communication relevant to the physical, mental, or emotional condition of the patient in any proceeding in which the patient relies upon that condition as an element of the patient's claim or defense or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of the party's claim or defense is qualified to the extent that an adverse party in the proceeding may obtain relevant information regarding the condition by statutory discovery;

4. When the patient is an inmate in the custody of the Department of Corrections or a private prison or facility under contract with the Department of Corrections, and the release of the information is necessary:

a. to prevent or lessen a serious and imminent threat to the health or safety of any person, or

b. for law enforcement authorities to identify or apprehend an individual where it appears from all the circumstances that the individual has escaped from a correctional institution or from lawful custody; ~~or~~

5. A minor child under eighteen (18) years of age has no privilege to refuse to disclose or to prevent any other person from disclosing communications otherwise confidential under this section to the minor child's parent or legal guardian; or

6. The testimonial privilege created pursuant to this section does not make communications confidential where state and federal privacy law would otherwise permit disclosure.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2006 of Title 25, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, a parent or legal guardian of a minor child under eighteen (18) years of age has a right to be present during any meeting or consultation between a health professional and the parent or legal guardian's minor child under eighteen (18) years of age and to be provided, within a reasonable time and at a reasonable cost, copies of any records of services provided by a health professional to the parent or legal guardian's minor child. Provided, however, that a parent or legal guardian shall not be entitled to be present during such a meeting or consultation, or to access such records, when the health professional has been made aware of an allegation of parental child abuse, child neglect, or battery.

SECTION 3. AMENDATORY 59 O.S. 2021, Section 1910, is amended to read as follows:

Section 1910. A. No person licensed pursuant to the provisions of the Licensed Professional Counselors Act shall knowingly and willfully disclose any information the licensee may have acquired from persons consulting the licensee in his professional capacity as

a professional counselor or be compelled to disclose such information except:

1. With the written consent of the client, or, except under the circumstances described in paragraph 2 of this subsection, if the client is less than eighteen (18) years of age, with the written consent of the client's parent or legal guardian, or in the case of death or disability of the client, the consent of his personal representative or other person authorized to sue or the beneficiary of any insurance policy on his life, health, or physical condition;

2. If the person is a child under the age of eighteen (18) years and the information acquired by the licensed person indicated that the child was the victim or subject of a crime, the licensed person may be required to testify fully in relation thereto upon an examination, trial or other proceeding in which the commission of such a crime is a subject of inquiry;

3. If the client waives the privilege by bringing charges against the licensed person;

4. When failure to disclose such information presents a danger to the health of any person; or

5. If the licensed professional counselor is a party to a civil, criminal or disciplinary action arising from such therapy, in which case any waiver of the privilege accorded by this section shall be limited to that action.

B. No information shall be treated as privileged and there shall be no privileges created by the Licensed Professional Counselors Act as to any information acquired by the person licensed pursuant to the Licensed Professional Counselors Act when such information pertains to criminal acts or violation of any law.

C. The Licensed Professional Counselors Act shall not be construed to prohibit any licensed person from testifying in court hearings concerning matters of adoption, child abuse, child neglect, battery, or matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors on behalf of this client.

SECTION 4. AMENDATORY 59 O.S. 2021, Section 1939, is amended to read as follows:

Section 1939. A. No person licensed pursuant to the provisions of the Licensed Behavioral Practitioner Act shall disclose any information the licensee may have acquired from persons consulting the licensee in the licensee's professional capacity as a behavioral practitioner or be compelled to disclose such information except:

1. With the written consent of the client, or, except under the circumstances described in paragraph 2 of this subsection, if the client is less than eighteen (18) years of age, with the written consent of the client's parent or legal guardian, or in the case of death or disability of the client, the consent of the client's personal representative or other person authorized to sue or the

beneficiary of any insurance policy on the client's life, health, or physical condition;

2. If the client is a child under the age of eighteen (18) years and the information acquired by the licensed person indicated that the child was the victim or subject of a crime, the licensed person may be required to testify fully in relation thereto upon an examination, trial, or other proceeding in which the commission of such a crime is a subject of the inquiry;

3. If the client waives the privilege by bringing charges against the licensed person;

4. When failure to disclose such information presents a danger to the health of any person; or

5. If the licensed behavioral practitioner is a party to a civil, criminal, or disciplinary action arising from such therapy, in which case any waiver of the privilege accorded by this section shall be limited to that action.

B. No information shall be treated as privileged and there shall be no privileges created by the Licensed Behavioral Practitioner Act as to any information acquired by the person licensed pursuant to the Licensed Behavioral Practitioner Act when such information pertains to criminal acts or violation of any law.

C. The Licensed Behavioral Practitioner Act shall not be construed to prohibit any licensed person from testifying in court hearings concerning matters of adoption, child abuse, child neglect,

battery, or matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors on behalf of this client.

SECTION 5. AMENDATORY 63 O.S. 2021, Section 2602, is amended to read as follows:

Section 2602. A. ~~Notwithstanding any other provision of law, the~~ Except as provided in this section:

1. Health professionals shall not provide services to a minor without the consent of a parent or legal guardian; and

2. A parent or legal guardian shall have the right to be present during any meeting or consultation with a health professional.

B. The following minors may consent to have services provided by health professionals in the following cases:

1. Any minor who is married, has a dependent child, or is emancipated;

2. ~~Any minor who is separated from his parents or legal guardian for whatever reason and is not supported by his parents or guardian;~~

~~3.~~ Any minor who is or has been pregnant, afflicted with any reportable communicable disease, drug and substance abuse, or abusive use of alcohol; provided, however, that such self-consent only applies to the prevention, diagnosis, and treatment of those conditions specified in this section. Any health professional who

accepts the responsibility of providing such health services also assumes the obligation to provide counseling for the minor by a health professional. ~~If the minor is found not to be pregnant nor suffering from a communicable disease nor drug or substance abuse nor abusive use of alcohol, the health professional shall not reveal any information whatsoever to the spouse, parent or legal guardian, without the consent of the minor~~ Provided, however, that this section shall not be construed to authorize any health professional to provide any abortion-related services to a minor, including counseling or referrals to another health professional for the purpose of procuring an abortion;

~~4.~~ 3. Any minor parent as to his or her child;

~~5.~~ 4. Any spouse of a minor when the minor is unable to give consent by reason of physical or mental incapacity;

~~6.~~ 5. Any minor who by reason of physical or mental capacity cannot give consent and has no ~~known~~ relatives or legal ~~guardian~~ guardian who is known or discoverable by the health professional through reasonably diligent inquiry, if two physicians agree on the health service to be given;

~~7.~~ 6. Any minor in need of emergency services for conditions which will ~~endanger his health or life~~ involve a substantial risk of permanent damage to his or her physical health or death if delay would result by obtaining consent from his or her spouse, parent, or legal guardian; provided, however, that the prescribing of any

medicine or device or referral to another health professional for the prevention or termination of pregnancy shall not be considered such an emergency service; or

~~8.~~ 7. Any minor who is the victim of sexual assault; provided, however, that such self-consent only applies to a forensic medical examination by a qualified licensed health care professional.

C. If any minor falsely represents facts that ~~he may~~ would authorize him or her to give consent under subsection B of this section and a health professional provides health services in reasonable good faith based upon that misrepresentation, the minor shall receive full services without the consent of the minor's parent or legal guardian and the health professional shall incur no liability except for negligence ~~or~~, intentional harm~~. Consent of the minor shall not be subject to later disaffirmance or revocation because of his minority~~, or acts inconsistent with the requirements of this section.

~~B.~~ D. The health professional shall ~~be required to~~ make a reasonable attempt to inform the spouse, parent, or legal guardian of the minor of any treatment needed or provided under paragraph 7 of subsection A of this section. In all other instances in which a minor may consent to services under this section, the health professional may, but shall not be required to, inform the spouse, parent, or legal guardian of the minor of any treatment needed or provided. The judgment of the health professional as to

notification shall be final, and his or her disclosure shall not constitute libel, slander, the breach of the right of privacy, the breach of the rule of privileged communication, or result in any other breach that would incur liability.

E. Information about the minor obtained through care by a health professional under the provisions of ~~this act~~ Section 2601 et seq. of this title shall not be disseminated to any health professional, school, law enforcement agency or official, ~~court authority,~~ non-judicial government agency, or official employer, without the consent of the minor, except through court order or specific legal requirements or if the giving of the information is necessary to the health of the minor and public. Statistical reporting may be done when the minor's identity is kept confidential.

F. The health professional shall not incur criminal liability for action under the provisions of ~~this act~~ Section 2601 et seq. of this title except for negligence or intentional harm.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 18m-3 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Whenever the Attorney General has received a complaint from a parent claiming a violation of Section 1, 2, 3, 4, or 5 of this act, the Attorney General may, at the Attorney General's discretion, bring suit for any violation of this act.

B. An action under this section may be brought, and relief may be granted, without regard to whether the person bringing the action has sought or exhausted available administrative remedies.

C. Any person who successfully asserts a claim or defense under this section may recover declaratory relief, injunctive relief, nominal damages, compensatory damages, reasonable attorney fees and costs, and any other appropriate relief.

D. Sovereign, governmental, and qualified immunities to suit and from liability are waived and abolished to the extent of liability created by this section.

SECTION 7. This act shall become effective November 1, 2025.

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