**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 19‑11‑110, SO AS TO PROVIDE THAT SEXUAL ASSAULT CENTER PROVIDERS AND DOMESTIC VIOLENCE CENTER PROVIDERS ARE NOT REQUIRED TO DISCLOSE CONFIDENCES ACQUIRED FROM CLIENTS DURING THE PROVISION OF SERVICES TO THE CLIENTS WITH EXCEPTIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 11, Title 19 of the 1976 Code is amended by adding:

“Section 19‑11‑110. (A) For purposes of this section:

(1) ‘Center’ means a 501(c)(3) not‑for‑profit organization whose mission is at least in part to end sexual assault or domestic violence and whose core services include counseling and other services to victims of sexual assault or domestic violence;

(2) ‘Client’ means a person who consults a center for the purpose of obtaining, on behalf of themselves or someone else, advice, counseling, or other services concerning mental, physical, emotional, or other injuries suffered as a result of an alleged sexual assault or act of domestic violence, whether or not a civil or criminal action arises as a result of the allegations;

(3) ‘Confidence’ means a private communication between a client and provider, or information given to a provider in the client‑provider relationship. A communication is considered a confidence when a third person is present in the room whom is necessary for the communication’s transmission;

(4) ‘Provider’ means an employee, agent, or volunteer of a center who has completed the minimum training as required by the Department of Health and Environmental Control’s Standards and Outcomes for Rape Crisis Centers or the Department of Social Services’ Service and Administrative Standards for Domestic Violence Agencies. Employees, agents, and volunteers of Child Advocacy Centers as defined in Section 63‑11‑310, acting in their official capacity, are not considered providers;

(5) ‘Services’ means, but is not limited to, crisis hotlines, hospital accompaniment, safe homes and shelters, assessment and intake, children of violence services, individual counseling, group counseling, support in medical systems, support in administrative systems, support in judicial systems, transportation, relocation, and crisis intervention;

(6) ‘Domestic violence’ means domestic violence as defined in Section 16‑25‑20(A), domestic violence in the first degree as defined in Section 16‑25‑20(B), domestic violence in the second degree as defined in Section 16‑25‑20(C), domestic violence in the third degree as defined in Section 16‑25‑20(D), and domestic violence of a high and aggravated nature as defined in Section 16‑25‑65; and

(7) ‘Sexual Assault’ means criminal sexual conduct as defined in Section 16‑3‑651, criminal sexual conduct in the first degree as defined in Section 16‑3‑652, criminal sexual conduct in the second degree as defined in Section 16‑3‑653, criminal sexual conduct in the third degree as defined in Section 16‑3‑654, criminal sexual conduct with a minor as defined in Section 16‑3‑655, engaging a child for sexual performance as defined in Section 16‑3‑810, producing, directing, or promoting sexual performance by a child as defined in Section 16‑3‑820, trafficking in persons as defined in Section 16‑3‑2010, and trafficking in persons as defined in Section 16‑3‑2020.

(B) Except as provided in subsection (C), a provider is not required to disclose a confidence acquired from a client during the provision of services to the client.

(C) A provider may disclose a confidence acquired from a client during the provision of services to the client, if:

(1) the provider has the affected client’s written authorization, but only after disclosure to the client of what confidence will be disclosed and to whom the confidence will be disclosed;

(2) the client communicates a report of abuse or neglect of a child pursuant to Section 63‑7‑310, but only as to that portion of the communication;

(3) the client communicates a report of abuse or neglect of a vulnerable adult pursuant to Section 43‑35‑25, but only as to that portion of the communication;

(4) the disclosure is required or permitted by Section 63‑11‑310;

(5) the client’s intent is to commit a crime and the information is necessary to prevent the crime;

(6) the client’s intent is to harm himself and the information is necessary to prevent the harm;

(7) the disclosure is reasonably necessary to establish or collect the center’s fee or to defend the center or the center’s providers against an accusation of wrongful conduct;

(8) in the course of diagnosis, counseling, or treatment, the disclosure is necessary to promote care within the generally recognized and accepted standards, practices, and procedures of the provider’s profession; or

(9) the disclosure is necessary and the provider has the affected client’s written authorization for the processing of the client’s health insurance claims, but only after disclosure to the client of what confidence will be disclosed and to whom the confidence will be disclosed.

A disclosure is limited to the information and recipients necessary to accomplish the purpose of permitting the disclosure.

(D) The privilege provided pursuant to this section may be waived by a client, a client’s guardian or conservator; or a deceased client’s personal representative.

(E) The consent to disclose a confidence on behalf of a child who is less than eighteen years of age and not emancipated or an incapacitated victim may be made by a custodial parent or other custodian in a written authorization that contains the date the consent expires. Consent may not be given by a victim’s custodial parent or other custodian, if the custodial parent or custodian committed, or is alleged to have committed, an offense against the victim.

(F) Nothing in this section affects the provisions in Section 44‑22‑90.”

SECTION 2. This act takes effect upon approval by the Governor.

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