§18393. Confidentiality

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Confidential communication" means a communication 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 who are participating in the diagnosis and treatment under the direction of the dentist, including members of the patient's family. [PL 2015, c. 429, §21 (NEW).]

B. "Patient" means a person who consults or is examined or interviewed by a dentist or dental auxiliary. [PL 2015, c. 429, §21 (NEW).]

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2. General rule of privilege. A patient has a privilege to refuse to disclose and to prevent another person from disclosing confidential communications made for the purpose of diagnosis or treatment of the patient's physical, mental or emotional conditions, including substance use disorder, among the patient, the patient's dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

[PL 2017, c. 407, Pt. A, §149 (AMD).]

3. Who may claim the privilege. The privilege under subsection 2 may be claimed by the patient, by the patient's guardian or conservator or by the personal representative of a deceased patient. The dentist or dental auxiliary at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the patient.

[PL 2015, c. 429, §21 (NEW).]

4. Exceptions. Notwithstanding any other provision of law, the following are exceptions to the privilege under subsection 2.

A. If the court orders an examination of the physical, mental or emotional condition of a patient, whether a party or a witness, communications made in the course of the examination are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the court orders otherwise. [PL 2015, c. 429, §21 (NEW).]

B. There is not any privilege under this section as to communications relevant to an issue of the physical, mental or emotional condition of a patient in a proceeding in which the condition of the patient is an element of the claim or defense of the patient or of a party claiming through or under the patient or because of the patient's condition or claiming as a beneficiary of the patient through a contract to which the patient is or was a party or, after the patient's death, in a proceeding in which a party puts the condition in issue. [PL 2015, c. 429, §21 (NEW).]

C. There is not any privilege under this section as to information regarding a patient that is sought by the Chief Medical Examiner or the Chief Medical Examiner's designee in a medical examiner case, as defined by Title 22, section 3025, in which the Chief Medical Examiner or the Chief Medical Examiner's designee has reason to believe that information relating to dental treatment may assist in determining the identity of a deceased person. [PL 2015, c. 429, §21 (NEW).]

D. There is not any privilege under this section as to disclosure of information concerning a patient when that disclosure is required by law, and nothing in this section may modify or affect the provisions of Title 22, sections 4011-A to 4015 and Title 29-A, section 2405. [PL 2015, c. 429, §21 (NEW).]

[PL 2015, c. 429, §21 (NEW).]

SECTION HISTORY

PL 2015, c. 429, §21 (NEW). PL 2017, c. 407, Pt. A, §149 (AMD).

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