

(4) "WITNESS" MEANS A LICENSED CERTIFIED SOCIAL WORKER OR ANY OTHER PERSON PARTICIPATING DIRECTLY OR VITALLY WITH A LICENSED CERTIFIED SOCIAL WORKER IN RENDERING SERVICES TO A CLIENT, IN CONSULTATION WITH OR UNDER DIRECT SUPERVISION OF A LICENSED CERTIFIED SOCIAL WORKER.

(B) UNLESS OTHERWISE PROVIDED, IN ALL JUDICIAL, LEGISLATIVE, OR ADMINISTRATIVE PROCEEDINGS, A CLIENT HAS A PRIVILEGE TO REFUSE TO DISCLOSE, AND TO PREVENT A WITNESS FROM DISCLOSING, COMMUNICATIONS MADE TO A LICENSED, CERTIFIED SOCIAL WORKER WHILE THE CLIENT WAS RECEIVING COUNSELING.

(C) IF A CLIENT IS INCOMPETENT TO ASSERT OR WAIVE THIS PRIVILEGE, A GUARDIAN SHALL BE APPOINTED AND SHALL ACT FOR THE CLIENT. A PREVIOUSLY APPOINTED GUARDIAN HAS THE SAME AUTHORITY.

(D) THERE IS NO PRIVILEGE IF:

(1) A DISCLOSURE IS NECESSARY FOR THE PURPOSE OF PLACING THE CLIENT IN A FACILITY FOR MENTAL ILLNESS;

(2) A JUDGE FINDS THAT THE CLIENT, AFTER BEING INFORMED THERE WILL BE NO PRIVILEGE, MAKES COMMUNICATIONS IN THE COURSE OF AN EXAMINATION ORDERED BY THE COURT AND THE ISSUE AT TRIAL INVOLVES THE CLIENT'S MENTAL OR EMOTIONAL CONDITION;

(3) IN A CIVIL OR CRIMINAL PROCEEDING:

(I) THE CLIENT INTRODUCES HIS MENTAL CONDITION AS AN ELEMENT OF HIS CLAIM OR DEFENSE; OR

(II) AFTER THE CLIENT'S DEATH, HIS MENTAL CONDITION IS INTRODUCED BY ANY PARTY CLAIMING OR DEFENDING THROUGH OR AS A BENEFICIARY OF THE CLIENT;

(4) THE CLIENT OR THE PERSONAL REPRESENTATIVE OF THE CLIENT MAKES A CLAIM AGAINST THE LICENSED CERTIFIED SOCIAL WORKER FOR MALPRACTICE;

(5) THE CLIENT EXPRESSLY CONSENTS TO WAIVE THE PRIVILEGE, OR IN THE CASE OF DEATH OR DISABILITY, HIS PERSONAL REPRESENTATIVE WAIVES THE PRIVILEGE FOR PURPOSE OF MAKING CLAIM OR BRINGING SUIT ON A POLICY OF INSURANCE ON LIFE, HEALTH, OR PHYSICAL CONDITION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1982.

June 1, 1982

The Honorable James Clark, Jr.