

AN ACT

ENTITLED, An Act to revise certain provisions regarding the waiver of a patient's privilege on communications with a physician or psychotherapist.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 19-13-11 be amended to read as follows:

19-13-11. The privilege under § 19-13-7 as to a communication relevant to an issue of the physical, mental, or emotional condition of the patient is waived in any proceeding in which the condition is 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 a claim or defense.

Section 2. That § 19-2-3 be amended to read as follows:

19-2-3. In any action or proceeding or quasi-judicial administrative proceeding, if the physical or mental health of any person is in issue, any privilege under § 19-13-7 is waived at trial or for the purpose of discovery under chapter 15-6 if such action or proceeding is civil in nature. However, the waiver of the privilege shall be narrow in scope, closely tailored to the time period or subject matter of the claim. If any party or the holder of the privileged records objects to the discovery of the privileged communication on the grounds that disclosure of the communication would subject the party to annoyance, embarrassment, oppression, or undue burden or expense and that the disclosure of the privileged communication is not likely to lead to the discovery of relevant evidence, the court shall conduct an in camera review of the privileged communication to determine whether the communication is discoverable.

An Act to revise certain provisions regarding the waiver of a patient's privilege on communications with a physician or psychotherapist.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1002

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1002
File No. _____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

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STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State