



NEW YORK

N.Y. C.P.L.R. 4510

Type of Privilege: Absolute

Note:

- Because rape crisis counselors must work or volunteer at a rape crisis program approved by the New York Department of Public Health in order for this privilege to apply, communication between RAINN's Online Hotline counselors and victims would most likely not be privileged under the New York confidentiality statute

Privilege:

- A rape crisis counselor or victim shall not be required to disclose a communication made by a victim or advice given by the rape crisis counselor in the course of the counselor's services
- A rape crisis counselor or victim shall not be required to disclose any records made in the course of the services given to the client N.Y. C.P.L.R. 4510 (b)

Statutory Exceptions to Privilege:

- Victim reveals the intent to commit a crime or harmful act in the course of counseling
- Victim institutes charges against the rape crisis counselor or rape crisis program for malpractice which concern the confidential communications N.Y. C.P.L.R. 4510 (b) (2)-(3)

In Camera Review: Prohibited

Holder of Privilege:

- Only victim, the personal representative of a deceased victim, or the conservator of an incompetent victim may waive the privilege N.Y. C.P.L.R. 4510 (c)

Waiver of Privilege:

- A victim who authorizes disclosure of any privileged communication in order to obtain compensation from an insurance company or from the Crime Victims Compensation Board has not waived the rape crisis counselor-victim privilege provided in this statute N.Y. C.P.L.R. 4510 (d)

DEFINITIONS:

Confidential Communication:

- Any communication made by a victim to a rape crisis counselor, any advice given by a rape crisis counselor to a victim, and any records made in the course of the services given to the victim N.Y. C.P.L.R. 4510 (b)

Rape Crisis Program:

- Any office or center that offers counseling and assistance to clients concerning sexual offenses, sexual abuses, or incest
- In order to fall under this statute, a rape crisis program must be approved pursuant to subdivision 15, section 206 of New York's Public Health Law, which means that it must provide the requisite training for its rape crisis counselors (see below for details) N.Y. C.P.L.R. 4510 (a) (1)

Rape Crisis Counselor:

- A person who has been certified by an approved rape crisis program as having satisfied the training standards specified in subdivision 15, section 206 of New York's Public Health Law



(see below for details), and who works under the supervision of an approved rape crisis program N.Y. C.P.L.R. 4510 (a) (2)

Training Requirements for Rape Crisis Counselors:

- At least 30 hours of pre-service training
 - Within the first year of service, at least 10 hours of in-service training
 - Training shall include, but not be limited to, instruction on the following topics:
 - The dynamics of sexual offenses, sexual abuse, and incest
 - Crisis intervention techniques
 - Client-counselor confidentiality requirements
 - Communication skills
 - An overview of the state's criminal justice system
 - An update and review of state laws on sexual offenses
 - Availability of state and community resources for clients
 - Working with diverse populations
 - An overview of child abuse and maltreatment identification and reporting responsibilities
 - Information on the availability of medical and legal assistance for victims of sexual crimes
- N.Y. PUB. HEALTH LAW § 206 (15) (b) (i)-(x)