1   A bill to be entitled

2   An act relating to clinical, counseling, and psychotherapy

3   professionals; amending s. 491.0147, F.S.; revising a

4   condition for waiver of communication confidentiality;

5   providing persons licensed or certified under ch. 491,

6   F.S., with criminal and civil liability from certain

7   disclosures; creating s. 491.016, F.S.; providing

8   requirements for lawful use of the title "social worker";

9   providing a penalty for unlawful use of such title;

10   providing a grandfather clause; requiring the Department

11   of Health to adopt implementing and enforcing rules;

12   deferring applicability for certain persons; providing an

13   effective date.

14

15   Be It Enacted by the Legislature of the State of Florida:

16

17   Section 1. Section 491.0147, Florida Statutes, is amended

18   to read:

19   491.0147 Confidentiality and privileged communications.--

20   (1) Any communication between any person licensed or

21   certified under this chapter and her or his patient or client

22   shall be confidential. This secrecy may be waived under the

23   following conditions:

24   (a)(1) When the person licensed or certified under this

25   chapter is a party defendant to a civil, criminal, or

26   disciplinary action arising from a complaint filed by the

27   patient or client, in which case the waiver shall be limited to

28   that action.

29   (b)~~(2)~~ When the patient or client agrees to the waiver, in
30 writing, or, when more than one person in a family is receiving
31 therapy, when each family member agrees to the waiver, in
32 writing.
33   (c)~~(3)~~ When, <u>in the clinical judgment of the person</u>
34 <u>licensed or certified under this chapter,</u> there is a clear and
35 immediate probability of physical harm to the patient or client,
36 to other individuals, or to society and the person licensed or
37 certified under this chapter communicates the information only
38 to the potential victim, appropriate family member, or law
39 enforcement or other appropriate authorities.
40   <u>(2) A person licensed or certified under this chapter who</u>
41 <u>discloses a confidential communication shall be immune from any</u>
42 <u>civil or criminal liability if the communication's</u>
43 <u>confidentiality is waived under paragraph (1)(c).</u>
44   Section 2. Section 491.016, Florida Statutes, is created
45 to read:
46   <u>491.016 Professional social work identification.--</u>
47   <u>(1) It is a misdemeanor of the first degree, punishable as</u>
48 <u>provided in s. 775.082 or s. 775.083, for a person, for or</u>
49 <u>without compensation, to hold himself or herself out to the</u>
50 <u>public as a social worker, either directly or through a</u>
51 <u>governmental or private organization, entity, or agency, unless</u>
52 <u>that person:</u>
53   <u>(a) Possesses at least a bachelor's degree in social work</u>
54 <u>from a social work program accredited by or from an institution</u>
55 <u>that is an active candidate for accreditation as a social work</u>
56 <u>program by the Council on Social Work Education; or</u>

57   (b)   Completes, at a university or college outside the

58   United States or Canada, a social work program determined by the

59   Foreign Equivalency Determination Service of the Council on

60   Social Work Education to be at least equivalent to a bachelor's

61   degree in social work.

62   (2)   This section does not apply to a person who, prior to

63   July 1, 2006, used the title "social worker" in his or her

64   employment, as long as the person continuously works for the

65   same employer and in the same capacity as before July 1, 2006.

66   (3)   The department shall adopt rules pursuant to ss.

67   120.536(1) and 120.54 to implement and enforce this section.

68   (4)   This section does not apply to salaried employees

69   providing social work services under part II, part III, or part

70   IV of chapter 400 until July 1, 2011.

71   Section 3.   This act shall take effect July 1, 2006.

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