

NOTICE TO THE BAR

SUPREME COURT COMMITTEE ON THE RULES OF EVIDENCE REQUEST FOR COMMENTS ON POSSIBLE UNIFIED MENTAL HEALTH CARE PROVIDER EVIDENTIARY PRIVILEGE

In 2011, the Supreme Court authorized its Committee on the Rules of Evidence (“Committee”), chaired by Appellate Division Presiding Judge Carmen Messano, to undertake a comprehensive study of the various mental health care provider evidentiary privileges with the goal of determining whether to recommend that New Jersey replace these many privileges with one unified privilege for all mental health care providers. Judge Messano appointed a subcommittee to study the issue, chaired by Appellate Division Judge Mitchel Ostrer.

A unified privilege for mental health care providers would possibly modify or replace the current privileges found in:

- N.J.R.E. 505 (N.J.S.A. 45:14B-28), the Psychologist-Patient Privilege
- N.J.R.E. 506 (N.J.S.A. 2A:84A-22.1 to -22.7), the Patient and Physician Privilege
- N.J.R.E. 510 (N.J.S.A. 45:8B-29), the Marriage Counselor Privilege
- N.J.R.E. 511 (N.J.S.A. 2A:84A-23), the Cleric-Penitent Privilege
- N.J.R.E. 517 (N.J.S.A. 2A:84A-22.13 to -22.16), the Victim Counselor Privilege
- N.J.R.E. 518 (N.J.S.A. 45:15BB-13), the Social Worker Privilege
- N.J.S.A. 45:8B-49, the Licensed Professional Counselor Privilege

The Committee published a preliminary analysis of this issue in its 2009-2011 report to the Supreme Court, see page 9 and appendix C to that report. The report was published by Notice to the Bar dated February 3, 2011, and may be viewed online at njcourts.com/reports2011/evidence.pdf.

The Committee is now studying the possible recommendation of a unified privilege for all mental health care providers. As part of that study, the Committee would like to hear from groups and individuals with an interest in the subject. Accordingly, please send any comments on a unified mental health care provider privilege in writing by September 14, 2012 to:

Carol A. Welsch, Esq., Committee Staff
Committee on the Rules of Evidence
Hughes Justice Complex; P.O. Box 986
Trenton, New Jersey 08625

Comments may also be submitted via Internet e-mail to the following address:
Comments.Mailbox@judiciary.state.nj.us.

The Committee will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address and those submitting comments by e-mail should include their name and e-mail address. Comments submitted in response to this notice will be subject to public disclosure.

The Committee on the Rules of Evidence expects to make its recommendation to the Supreme Court on a unified mental health care provider evidentiary privilege in January 2013. Public comments on the Committee's recommendation will also be solicited at that time.

/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: June 11, 2012