

# AN ACT

To amend section 4735.05 and to enact sections 2317.023 and 4113.42 of the Revised Code to generally allow for privileged testimonial communications between a peer support team member and an individual receiving peer support services or advice from the team member.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 4735.05 be amended and sections 2317.023 and 4113.42 of the Revised Code be enacted to read as follows:

Sec. 2317.023. (A) As used in this section:

(1) "Corrections officer" means a person employed by a public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

(2) "Emergency medical worker" means a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic, certified under Chapter 4765. of the Revised Code, whether paid or volunteer.

(3) "Firefighter" means a firefighter, whether paid or volunteer, of a lawfully constituted fire department.

(4) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

(5) "Peer support services" means consultation, risk assessment, referral, or on-site intervention services provided by a peer support team member to an individual experiencing psychological or physical symptoms caused by exposure to acute or chronic high stress incidents in the course of the individual's employment. "Peer support services" includes both of the following:

(a) Providing knowledge and experience or emotional, social, or practical support to peers;

(b) Helping a peer navigate available resources, including the mental health system.

(6) "Peer support team member" means an individual who satisfies all of the following:

(a) The individual is one of the following:

(i) A peace officer, firefighter, emergency medical worker, or corrections officer;

(ii) A dispatcher for peace officers, firefighters, or emergency medical workers;

(iii) A civilian employee of an entity that employs peace officers, firefighters, emergency medical workers, or corrections officers;

(iv) A retired peace officer, firefighter, emergency medical worker, or corrections officer acting with the approval of the retired employee's former employer or the approval of the employer appointing the peer support team;

(v) A retired dispatcher for peace officers, firefighters, or emergency medical workers acting

with the approval of the retired dispatcher's former employer or the approval of the employer appointing the peer support team.

(b) The individual has received not less than sixteen hours of basic peer support training that meets the requirements of division (H) of this section.

(c) The individual, as part of a peer support team, provides peer support services to individuals with similar life experiences.

(7) "Peer support team" means an organized group that has been appointed by any of the following entities to provide peer support services to an employee or member:

(a) An employer;

(b) A labor organization as defined in section 3517.01 of the Revised Code;

(c) A charitable organization consisting of current or former peace officers, firefighters, emergency medical workers, or dispatchers of peace officers, firefighters, or emergency medical workers.

(B) Except as provided in division (C) of this section, a peer support team member shall not testify concerning either of the following:

(1) A communication received from an individual who receives peer support services from the peer support team member;

(2) The peer support team member's advice to the individual.

(C) The testimonial privilege established under division (B) of this section does not apply if any of the following are true:

(1) The communication or advice indicates clear and present danger to the individual who receives peer support services or to other persons.

(2) The individual who received peer support services expressly consents to the testimony.

(3) If the individual who received peer support services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual expressly consents.

(4) The individual who received peer support services voluntarily testifies, in which case the peer support team member may be compelled to testify on the same subject.

(5) The court in camera determines that the information communicated by the individual who received peer support services is not germane to the relationship between the individual and the peer support team member.

(6) The communication or advice pertains or is related to any criminal act.

(D) For purposes of division (C)(1) of this section, indications of past or present abuse or neglect of a child constitute a clear and present danger.

(E) To receive the testimonial privilege established under division (B) of this section, a peer support team member must complete not less than eight hours of basic peer support training every two years.

(F) For the testimonial privilege established under division (B) of this section to apply to a communication made at the scene of and immediately after an incident that involves a substantial risk of serious physical harm to persons, serious physical harm to persons, or the loss of human life, the peer support team member must have provided the peer support services at the request of the recipient and at the direction of the appointing entity listed in division (A)(7) of this section.

(G) An employer or organization that appoints a peer support team may designate any of the

following individuals as an advisor to ensure team members are appropriately trained and are providing proper peer support services:

(1) An individual licensed to practice medicine and surgery or osteopathic medicine and surgery by the state medical board, including such an individual who has satisfactorily completed a residency training program in psychiatry;

(2) An individual licensed under Chapter 4732. of the Revised Code to practice psychology;

(3) A clinical nurse specialist as defined in section 4723.01 of the Revised Code who holds a psychiatric-mental health credential issued by the American nurses credentialing center or a successor organization;

(4) A certified nurse practitioner as defined in section 4723.01 of the Revised Code who holds a psychiatric-mental health credential issued by the American nurses credentialing center or a successor organization;

(5) A licensed professional clinical counselor or licensed professional counselor authorized to practice under Chapter 4757. of the Revised Code;

(6) A licensed independent social worker or licensed social worker authorized to practice under Chapter 4757. of the Revised Code.

(H) The training required for a peer support team member under division (A)(6)(b) of this section shall include the following topics:

(1) An introduction to peer support services and basic peer support skills;

(2) Understanding and identifying the risk factors of mental health problems for the peer support team member's peers;

(3) Understanding confidentiality and privacy for privileged communications;

(4) Identifying local mental health support resources;

(5) Understanding the importance of engaged communication, listening, and conflict resolution in the context of providing peer support services.

Sec. 4113.42. (A) As used in this section, "peer support team" and "peer support team member" have the same meanings as in section 2317.023 of the Revised Code.

(B) An employer or organization that appoints a peer support team, or an advisor designated by an employer or organization under division (F) of section 2317.023 of the Revised Code, shall keep a roster of the peer support team members that make up each peer support team maintained by the employer or organization. The employer, organization, or advisor shall do both of the following in the roster:

(1) Identify each peer support team member providing services at the time the roster is created by first and last name;

(2) Identify whether the member is in compliance with the peer support training requirements necessary for the testimonial privilege described in section 2317.023 of the Revised Code.

(C) The roster shall not include the address, telephone number, or other contact information for a team member. The employer, organization, or advisor shall update the roster on a regular basis.

(D) The roster required by this section is not a public record under section 149.43 of the Revised Code. However, the employer, organization, or advisor shall make the roster available at the request of a prosecutor, investigator, or any other individual who has a legal right or duty to determine whether a peer support team member is prohibited from testifying in any proceeding to

which section 2317.023 of the Revised Code applies.

Sec. 4735.05. (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of real estate and professional licensing to act as executive officer of the commission.

The commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director.

(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter:

(1) Administer this chapter;

(2) Issue all orders necessary to implement this chapter;

(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;

(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.

(5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47, 4735.052, or 4735.18 of the Revised Code;

(6) Administer the real estate recovery fund.

(C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.

(3) Recommend the appointment of an ancillary trustee who is qualified as determined by the superintendent in any of the following instances:

(a) Upon the death of a licensed broker, if there is no other licensed broker within the brokerage, upon application by any interested party, subject to the approval by the appropriate probate court, to conclude the business transactions of the deceased broker;

(b) Upon the revocation of a licensed broker, if there is no other licensed broker within the brokerage, to conclude the business transactions of the revoked broker;

(c) Upon the incapacitation, suspension, or incarceration of a licensed broker, if there is no other licensed broker within the brokerage, to continue the business transactions of the brokerage for a period of time not to exceed the period of incapacitation, suspension, or incarceration.

(4) In conjunction with the enforcement of this chapter, when the superintendent of real estate has reasonable cause to believe that an applicant or licensee has committed a criminal offense, the

superintendent of real estate may request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant or licensee. The superintendent of the bureau of criminal identification and investigation shall obtain information from the federal bureau of investigation as part of the criminal records check of the applicant or licensee. The superintendent of real estate may assess the applicant or licensee a fee equal to the fee assessed for the criminal records check.

(5) In conjunction with the enforcement of this chapter, issue advisory letters in lieu of initiating disciplinary action under section 4735.051 or 4735.052 of the Revised Code or issuing a citation under section 4735.16 or 4735.181 of the Revised Code.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department. Notwithstanding ~~division (D) of section 2317.023~~ any provision of the Revised Code to the contrary, all information obtained by investigators or auditors from an informal mediation meeting held pursuant to section 4735.051 of the Revised Code, including but not limited to the agreement to mediate and the accommodation agreement, shall be held in confidence by the superintendent, investigators, auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of Chapter 1322. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

SECTION 2. That existing section 4735.05 of the Revised Code is hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_