

Alabama Act 2018-416

Upon receiving training from RCTA, ICISF, NOVA, or the American Red Cross, after certification by the Alabama Law Enforcement Agency (ALEA) and appointed in writing by the Chief/Sheriff any peer support intervention by a certified peer support member has with another officer is confidential and privileged.

1) CERTIFIED PEER SUPPORT MEMBER. A law enforcement officer, firefighter, paramedic, emergency dispatcher, emergency medical technician of an emergency service agency or entity, or a person who is assigned to be a chaplain by an emergency service agency, who has received training in critical incident stress management and who is certified as a peer support member by the Alabama State Law Enforcement Agency (ALEA) to provide emotional and moral support to an emergency responder who needs emotional or moral support as a result of job-related stress or an incident in which the emergency responder was involved while acting in his or her official capacity.

The following are essential for the implementation of Peer Support:

- Follow the established standard of care as outlined by each of the training programs.
- There is no written documentation during the Peer Support intervention.
- Peer support is not therapy and is not intended to take the place of therapy.

Alabama Act 2018-416 states explicitly:

(c) Any communication made by an emergency responder to a certified peer support member during a peer support event is privileged. The emergency responder may waive the privilege. The certified peer support member may not be compelled to testify or otherwise disclose the contents of any privileged communication under this act.

- Rule 503 even adds to this aspect of privileged and confidential communication. There is no criminal penalty for violation of the privilege, but Rule 503 would undoubtedly provide civil remedies. With the appointment of the Peer Support member by their respective agency (Chief/Sheriff) and by ALEA a comprehensive understanding the rules of Confidentially and Privileged communication as outlined in the Peer Support law, the possibility of needing a criminal penalty is negligible.

The Peer Support person must be designated in writing by a sheriff, police chief, fire chief, or other head of a law enforcement agency, fire department, rescue agency, or a public safety agency to provide peer support services to an emergency responder or the spouse of an emergency responder. Only one certified peer support person may be assigned per any specific peer support event.

The following exceptions apply to this Law, and there is no privilege if:

1. You are the Peer Support (LEAPS) person, but you are involved in the same incident with the person you are talking to;

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2. The conversation reveals a future threat to public safety ("I'm going to kill..."); and,
3. The person admits to a crime that was committed to the Peer Support (LEAPS) member.
4. A court determines the communications are not privileged under the exceptions provided in Rule 503 (d), Alabama Rules of Evidence:

(d) *Exceptions.*

(1) **PROCEEDINGS FOR HOSPITALIZATION:** There is no privilege under this rule for communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the psychotherapist has determined, in the course of diagnosis or treatment, that the patient is in need of hospitalization.

(2) **EXAMINATION BY ORDER OF COURT:** If the court orders an examination of the mental or emotional condition of a patient, whether a party or a witness, communications made in the course thereof are not privileged under this rule with respect to the particular purpose for which the examination is ordered unless the court orders otherwise.

(3) **ACCUSED IN CRIMINAL CASE:** There is no privilege under this rule as to an accused in a criminal case who raises the defense of insanity.

(4) **BREACH OF DUTY ARISING OUT OF PSYCHOTHERAPIST-PATIENT RELATIONSHIP:** There is no privilege under this rule as to an issue of breach of duty by the psychotherapist to the patient or by the patient to the psychotherapist.

(5) **CHILD CUSTODY CASES:** There is no privilege under this rule for relevant communications offered in a child custody case in which the mental state of a party is

1. Clearly, an issue and a proper resolution of the custody question requires disclosure.