

WEST VIRGINIA CODE: §57-3-11

§57-3-11. Privileged peer support communications.

(a) A peer support team member, as defined in §21-18-1 of this code may not be compelled to testify concerning the following:

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

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

(b) The testimonial privilege does not apply if any of the following are apply:

(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.

(c) For purposes of subsection (b)(1) of this section, indications of past or present abuse or neglect of a child constitute a clear and present danger.

(d) For the testimonial privilege established under subsection (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.