

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 994

By: Sparks

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5  
6 AS INTRODUCED

7 An Act relating to civil procedure; amending 12 O.S.  
8 2001, Section 2503, as last amended by Section 5,  
9 Chapter 168, O.S.L. 2004 (12 O.S. Supp. 2008, Section  
10 2503), which relates to physician-patient privilege;  
11 adding certain exception; and providing an effective  
12 date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 12 O.S. 2001, Section 2503, as  
15 last amended by Section 5, Chapter 168, O.S.L. 2004 (12 O.S. Supp.  
16 2008, Section 2503), is amended to read as follows:

17 Section 2503. A. As used in this section:

18 1. A "patient" is a person who consults or is examined or  
19 interviewed by a physician or psychotherapist;

20 2. A "physician" is a person authorized to practice medicine in  
21 any state or nation, or reasonably believed by the patient to be so  
22 authorized;

23 3. A "psychotherapist" is:

24 a. a person authorized to practice medicine in any state  
or nation, or reasonably believed by the patient to be

1 so authorized, while engaged in the diagnosis or  
2 treatment of a mental or emotional condition,  
3 including alcohol or drug addiction, or

4 b. a person licensed or certified as a psychologist under  
5 the laws of any state or nation, or reasonably  
6 believed by the patient to be so licensed or  
7 certified, while similarly engaged; and

8 4. A communication is "confidential" if not intended to be  
9 disclosed to third persons, except persons present to further the  
10 interest of the patient in the consultation, examination or  
11 interview, persons reasonably necessary for the transmission of the  
12 communication, or persons who are participating in the diagnosis and  
13 treatment under the direction of the physician or psychotherapist,  
14 including members of the patient's family.

15 B. A patient has a privilege to refuse to disclose and to  
16 prevent any other person from disclosing confidential communications  
17 made for the purpose of diagnosis or treatment of the patient's  
18 physical, mental or emotional condition, including alcohol or drug  
19 addiction, among the patient, the patient's physician or  
20 psychotherapist, and persons who are participating in the diagnosis  
21 or treatment under the direction of the physician or  
22 psychotherapist, including members of the patient's family.

23 C. The privilege may be claimed by the patient, the patient's  
24 guardian or conservator or the personal representative of a deceased

1 patient. The person who was the physician or psychotherapist at the  
2 time of the communication is presumed to have authority to claim the  
3 privilege but only on behalf of the patient.

4 D. The following shall be exceptions to a claim of privilege:

5 1. There is no privilege under this section for communications  
6 relevant to an issue in proceedings to hospitalize the patient for  
7 mental illness, if the psychotherapist in the course of diagnosis or  
8 treatment has determined that the patient is in need of  
9 hospitalization;

10 2. Communications made in the course of a court-ordered  
11 examination of the physical, mental or emotional condition of a  
12 patient, whether a party or a witness, are not privileged under this  
13 section when they relate to the particular purpose for which the  
14 examination is ordered unless the court orders otherwise;

15 3. The privilege under this Code as to a communication relevant  
16 to the physical, mental or emotional condition of the patient in any  
17 proceeding in which the patient relies upon that condition as an  
18 element of the patient's claim or defense or, after the patient's  
19 death, in any proceeding in which any party relies upon the  
20 condition as an element of the party's claim or defense is qualified  
21 to the extent that an adverse party in the proceeding may obtain  
22 relevant information regarding the condition by statutory discovery;

23 ~~or~~

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1           4. When the patient is an inmate in the custody of the  
2 Department of Corrections or a private prison or facility under  
3 contract with the Department of Corrections, and the release of the  
4 information is necessary:

- 5           a. to prevent or lessen a serious and imminent threat to
- 6                 the health or safety of any person, or
- 7           b. for law enforcement authorities to identify or
- 8                 apprehend an individual where it appears from all the
- 9                 circumstances that the individual has escaped from a
- 10                correctional institution or from lawful custody; or

11           5. The testimonial privilege created pursuant to this section  
12 does not make communications confidential where state and federal  
13 privacy law would otherwise permit disclosure.

14           SECTION 2. This act shall become effective November 1, 2009.

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