

Excerpt from [Nebraska Legislature Online](#)

27-504 Rule 504. Physician-patient privilege; professional counselor-client privilege; definitions; general rule of privilege; who may claim privilege; exceptions to the privilege.

- (1) As used in this rule:
 - (a) A patient is a person who consults or is examined or interviewed by a physician for purposes of diagnosis or treatment of his or her physical, mental, or emotional condition;
 - (b) A physician is
 - i. a person authorized to practice medicine in any state or nation or who is reasonably believed by the patient so to be or
 - ii. a person licensed as a psychologist under the laws of any state or nation who devotes all or a part of his or her time to the practice of psychology;
 - (c) A client is a person who consults or is interviewed by a professional counselor for professional counseling as defined in section 71-1,310;
 - (d) A professional counselor is a person certified as a professional counselor pursuant to sections 71-1,310, 71-1,324 to 71-1,328, and 71-1,333; and
 - (e) A communication is confidential if not intended to be disclosed to third persons other than those present to further the interest of
 - i. The patient in the consultation, examination, or interview, persons reasonably necessary for the transmission of the communication, or persons who are participating in the diagnosis and treatment under the direction of the physician, including members of the patient's family, or
 - ii. The client participating in professional counseling by a professional counselor.
- (2)
 - (a) A patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purposes of diagnosis or treatment of his or her physical, mental, or emotional condition among himself or herself, his or her physician, or persons who are participating in the diagnosis or treatment under the direction of the physician, including members of the patient's family.
 - (b) A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made during counseling between himself or herself, his or her professional counselor, or persons who are participating in the counseling under the direction of the professional counselor, including members of the client's family.
- (3) The privilege may be claimed by the patient or client, by his or her guardian or conservator, or by the personal representative of a deceased patient or client. The person who was the physician or professional counselor may claim the privilege but only on behalf of the patient or client. His or her authority so to do is presumed in the absence of evidence to the contrary.
- (4)
 - (a) There is no privilege under this rule for communications relevant to an issue in proceedings to hospitalize the patient for physical, mental, or emotional illness if the physician, in the course of diagnosis or treatment, has determined that the patient is in need of hospitalization or if a professional counselor deems it necessary to refer a client to determine if there is need for hospitalization.
 - (b) If the judge orders an examination of the physical, mental, or emotional condition of the patient, 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 judge orders otherwise.

- (c) There is no privilege under this rule as to communications relevant to an issue of the physical, mental, or emotional condition of the patient in any proceeding in which he or she relies upon the condition as an element of his or her claim or defense or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of his or her claim or defense.
- (d) There is no privilege under this rule in any judicial proceedings under the Nebraska Juvenile Code regarding injuries to children, incompetents, or disabled persons or in any criminal prosecution involving injury to any such person or the willful failure to report any such injuries.
- (e) There is no privilege under this rule in any judicial proceeding regarding unlawfully obtaining or attempting to obtain
 - (i) A controlled substance,
 - (ii) A written or oral prescription for a controlled substance, or
 - (iii) The administration of a controlled substance from a practitioner. For purposes of this subdivision, the definitions found in section 28-401 shall apply.

Source:

Laws 1975, LB 279, § 24; Laws 1988, LB 273, § 1;

Laws 1988, LB 790, § 1; Laws 1990, LB 571, § 1; Laws 1992, LB 1019, § 29;

Laws 1993, LB 130, § 1; Laws 1994, LB 1210, § 2.