

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A Bill

HOUSE BILL

4 **By: Representatives Thicksten and King**

5

6

7

For An Act To Be Entitled

8 "AN ACT TO AMEND RULE 503 OF THE UNIFORM RULES OF
9 EVIDENCE, COMPILED IN ARKANSAS CODE 16-41-101 TO EXTEND
10 THE DOCTOR-PATIENT PRIVILEGE TO CHIROPRACTORS AND THEIR
11 PATIENTS; AND FOR OTHER PURPOSES."

12

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

14

15 SECTION 1. Rule 503 of the Uniform Rules of Evidence, compiled in
16 Arkansas Code 16-41-101, is hereby amended to read as follows:

17 "Rule 503. Physician, psychotherapist, chiropractor-patient
18 privilege.--(a) DEFINITIONS. As used in this rule:

19 (1) A 'patient' is a person who consults or is examined or interviewed
20 by a physician or psychotherapist.

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

23 (3) A 'psychotherapist' is (i) a person authorized to practice
24 medicine in any state or nation, or reasonably believed by the patient so to
25 be, while engaged in the diagnosis or treatment of a mental or emotional
26 condition, including alcohol or drug addiction, or (ii) a person licensed or
27 certified as a psychologist under the laws of any state or nation, while
28 similarly engaged.

29 (4) A 'chiropractor' is a person authorized to practice chiropractic
30 in any state or nation, or reasonably believed by the patient so to be.

31 (5) A communication is 'confidential' if not intended to be disclosed
32 to third persons, except persons present to further the interest of the
33 patient in the consultation, examination, or interview, persons reasonably
34 necessary for the transmission of the communication, or persons who are
35 participating in the diagnosis and treatment under the direction of the

1 physician, psychotherapist or chiropractor, including members of the patient's
2 family.

3 (b) GENERAL RULE OF PRIVILEGE. A patient has a privilege to refuse to
4 disclose and to prevent any other person from disclosing confidential
5 communications made for the purpose of diagnosis or treatment of his physical,
6 mental, or emotional condition, including alcohol or drug addiction, among
7 himself, a physician, psychotherapist, or chiropractor, and persons who are
8 participating in the diagnosis or treatment under the direction of the
9 physician, psychotherapist or chiropractor, including members of the patient's
10 family.

11 (c) WHO MAY CLAIM THE PRIVILEGE. The privilege may be claimed by the
12 patient, his guardian or conservator, or the personal representative of a
13 deceased patient. The person who was the physician, psychotherapist or
14 chiropractor at the time of the communication is presumed to have authority to
15 claim the privilege but only on behalf of the patient.

16 (d) EXCEPTIONS:

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

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

26 (3) CONDITION AN ELEMENT OF CLAIM OR DEFENSE. There is no privilege
27 under this rule as to a communication relevant to an issue of the physical,
28 mental, or emotional condition of the patient in any proceeding in which he
29 relies upon the condition as an element of his claim or defense, or, after the
30 patient's death, in any proceeding in which any party relies upon the
31 condition as an element of his claim or defense."

32

33 SECTION 2. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.