

I.R.E. 517. Licensed Counselor-Client Privilege.

Idaho Rules of Evidence Rule 517. Licensed Counselor-Client Privilege.

(a) Definitions. As used in this rule:

(1) Client. A "client" is a person who is rendered licensed counselor services.

(2) Licensed counselor. A "licensed counselor" is any person licensed to be a licensed professional counselor or a licensed counselor in the State of Idaho pursuant to Title 54, Chapter 34, Idaho Code, or reasonably believed by the client so to be.

(3) Confidential communication. A communication is "confidential" if not intended to be disclosed to third persons except persons present to further the interest of the client in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are participating in the rendition of counseling services to the client under the direction of the licensed counselor, including members of the client's family.

(b) General rule of privilege. A client has a privilege in any civil or criminal action to which the client is a party to refuse to disclose and to prevent any other person from disclosing confidential communications made in the furtherance of the rendition of licensed counseling services to the client, among the client, the client's licensed counselor, and persons who are participating in the licensed counseling under the direction of the licensed counselor including members of the client's family.

(c) Who may claim the privilege. The privilege may be claimed by the client, or for the client through the client's licensed counselor, lawyer, guardian or conservator, or the personal representative of a deceased client. The authority of the licensed counselor, lawyer, guardian, conservator or personal representative to do so is presumed in the absence of evidence to the contrary.

(d) Exceptions. There is no privilege under this rule:

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(1) Civil action. In a civil action, case or proceeding by one of the parties to the confidential communication against the other.

(2) Proceedings for guardianship, conservatorship or hospitalization. As to a communication relevant to an issue in proceedings for the appointment of a guardian or conservator for a client for mental illness or to hospitalize the client for mental illness.

(3) Child related communications. In a criminal or civil action or proceeding as to a communication relevant to an issue concerning the physical, mental or emotional condition, of or injury to a child, or concerning the welfare of a child including, but not limited to the abuse, abandonment or neglect of a child.

(4) Licensing board proceedings. In an action, case or proceeding under Idaho Code § 54-3404.

(5) Contemplation of crime or harmful act. If the communication reveals the contemplation of a crime or harmful act.

(Adopted January 8, 1985, effective July 1, 1985; amended June 15, 1987, effective November 1, 1987.)

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