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Evidence; privilege-marriage and family counselors

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counties with less than 25,000 people, Chapter 330 permits the judge or justice of the peace to extend the period of adjournment for a period not exceeding ten days.¹⁰

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1211-12 (1986) (defendants in criminal proceedings may object to the use of affidavits of person drawing blood samples, but parties seeking administrative review of driver's license revocations could not object to the use of such affidavits).

10. 1987 Nev. Stat. ch. 330, sec. 2, at ___ (amending NEV. REV. STAT. § 50.325 4) (providing that three judicial days are not sufficient time for the expert to appear).

Evidence; privilege—marriage and family counselors

NEV. REV. STAT. § 49.____ (new).

SB 379 (Committee on Judiciary); 1987 STAT. Ch 259

Existing law allows a privilege of confidentiality for legal¹ and accounting² clients, medical patients,³ confessants,⁴ and other persons.⁵ Under Chapter 259, a client⁶ has a privilege to refuse to disclose, and prevent others from disclosing, confidential communications⁷ between the client and the marriage and family counselor.⁸ The privilege⁹ may be invoked by the client, the client's

1. NEV. REV. STAT. § 49.095.

2. *Id.* § 49.185.

3. *Id.* § 49.225. *But see id.* § 49.245 (excepts from the privilege specific communications involving mentally ill patients' hospitalizations, court ordered examinations, conditions that comprise legal claims or defenses, prosecutions or mandamus proceedings regarding patients' venereal diseases, persons' efforts to obtain illegal, dangerous, or controlled substances, authorized investigations performed by the board of medical examiners, acts prohibited by the Uniform Controlled Substances Act, and medical malpractice investigations).

4. *Id.* § 49.255.

5. *Id.* §§ 49.265 (committees for review of medical care proceedings and records), 49.275 (news media members), 49.285 (public officers as witnesses), 49.290 (school counselors and pupils), 49.291 (teachers and pupils), 49.335 (law enforcement informers), 49.315 (voters in political elections), 49.325 (trade secret possessors), and 49.295 (spouses). *But see id.* § 49.305 (a sane spouse must be a witness to any fact that occurred either before or during the insane spouse's insanity).

6. 1987 Nev. Stat. ch. 259 sec. 2, at ___ (enacting NEV. REV. STAT. § 49.____) (definition of client).

7. *Id.* (definition of confidential communication).

8. *Id.* sec. 3, at ___ (enacting NEV. REV. STAT. § 49.____); *id.* sec. 2, at ___ (enacting NEV. REV. STAT. § 49.____) (definition of marriage and family counselor). *But see* NEV. REV. STAT. § 49.385 (holder of the privilege waives the privilege if the holder voluntarily discloses or consents to disclosure of any significant part of the matter).

9. NEV. REV. STAT. § 49.015 (except as otherwise required by the United States Consti-

guardian,¹⁰ or by the personal representatives of a deceased client.¹¹ A marriage and family counselor, however, may invoke the privilege only on behalf of the client.¹² Chapter 259 creates four exceptions to the privilege: (1) for communications that the client plans to commit a crime;¹³ (2) if the counselor must testify in an investigation¹⁴ or proceeding involving the client's or the client's children's welfare; (3) for communications relevant to certain issues in proceedings to hospitalize the patient for mental illness;¹⁵ or (4) for communications regarding the treatment of the client in any proceeding in which the treatment is an element of a claim or defense.¹⁶

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tution or the Nevada Constitution, and except as provided in the Nevada Revised Statutes, no person has a privilege to refuse to disclose any matter or prevent another from being a witness or disclosing any matter or producing any object or writing).

10. 1987 Nev. Stat. ch. 259, sec. 4, at ___ (enacting NEV. REV. STAT. § 49.____) (the client's conservator may also invoke the privilege).

11. *Id.* See NEV. REV. STAT. §§ 49.075 and 49.175 (definitions of representative of the client in the lawyer and client and the accountant and client contexts).

12. 1987 Nev. Stat. ch. 259, sec. 4, at ___ (enacting NEV. REV. STAT. § 49.____) (the marriage and family counselor's authority to the privilege is presumed in the absence of evidence to the contrary).

13. *Id.* at ___ (also applies where client intends to commit that which the client knows or should reasonably know is a crime).

14. *Id.* at ___ (either an administrative or a court-related investigation is included).

15. *Id.* at ___ (if the marriage and family counselor in the course of diagnosis or treatment determines that the client is in need of hospitalization).

16. *Id.*

Evidence; competency of witnesses

NEV. REV. STAT. § 50.____ (new).

AB 780 (Committee on Judiciary); 1987 STAT. Ch 406

Existing law provides that, with certain exceptions,¹ every person² is competent to be a witness.³ Under Chapter 406, a witness is not incompetent to testify solely because the witness, or a family member

1. See, e.g., NEV. REV. STAT. §§ 50.055 (competency of judge as witness), 50.065 (competency of juror as witness).

2. *Id.* § 0.039 (definition of person).

3. *Id.* § 50.015. A witness may not testify unless that person has personal knowledge of the matter or is an expert. *Id.* § 50.025.