

IN THE SUPREME COURT OF TEXAS

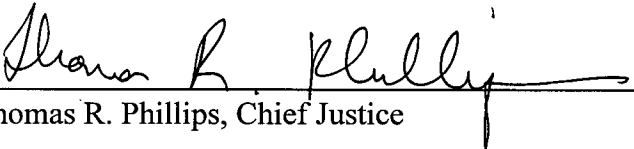
Misc. Docket No. 98- 9045

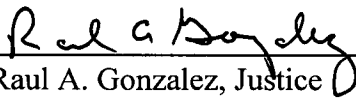
TECHNICAL CORRECTIONS TO THE TEXAS RULES OF EVIDENCE

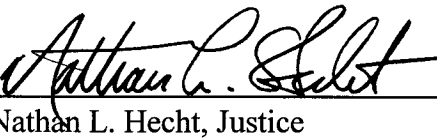
ORDERED that:

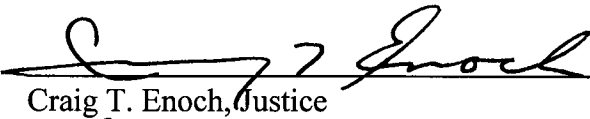
1. A technical correction to the notes and comments to Rule 509 is made as follows.
2. The correction is effective as of March 1, 1998, and applies to all proceedings on or after that date.
3. The Clerk is directed to file a copy of this Order with the Secretary of State forthwith, and to cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*.

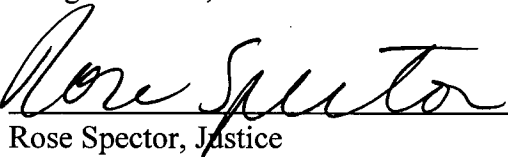
SIGNED AND ENTERED this 4th day of March, 1998.


Thomas R. Phillips, Chief Justice

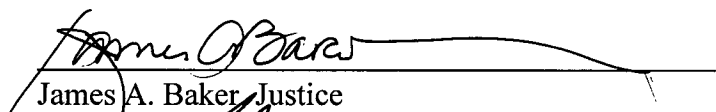

Raul A. Gonzalez, Justice

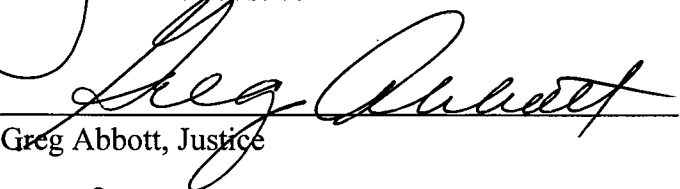

Nathan L. Hecht, Justice

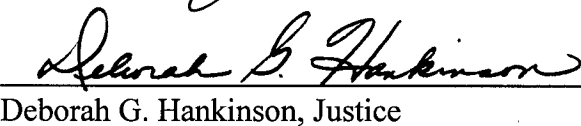

Craig T. Enoch, Justice


Rose Spector, Justice


Priscilla R. Owen, Justice


James A. Baker, Justice


Greg Abbott, Justice


Deborah G. Hankinson, Justice

RULE 509. PHYSICIAN-PATIENT PRIVILEGE

[No change in the rule.]

Notes and Comments

Comment to 1998 change: This comment is intended to inform the construction and application of this rule. Prior Criminal Rules of Evidence 509 and 510 are now in subparagraph (b) of this Rule. This rule governs disclosures of patient-physician communications only in judicial or administrative proceedings. Whether a physician may or must disclose such communications in other circumstances is governed by TEX. REV. CIV. STAT. ANN. art. 4495b, § 5.08. Former subparagraph (d)(6) of the Civil Evidence Rules, regarding disclosures in a suit affecting the parent-child relationship, is omitted, not because there should be no exception to the privilege in suits affecting the parent-child relationship, but because the exception in such suits is properly considered under subparagraph (e)(4) of the new rule (formerly subparagraph (d)(4)), as construed in *R.K. v. Ramirez*, 887 S.W.2d 836 (Tex. 1994). In determining the proper application of an exception in such suits, the trial court must ensure that the precise need for the information is not outweighed by legitimate privacy interests protected by the privilege. Subparagraph (e) of the new rule does not except from the privilege information relating to a nonparty patient who is or may be a consulting or testifying expert in the suit.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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CLERK
JOHN T. ADAMS

JUSTICES
RAUL A. GONZALEZ
NATHAN L. HECHT
CRAIG ENOCH
ROSE SPECTOR
PRICILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON

EXECUTIVE ASS'T
WILLIAM L. WILLIS

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

March 5, 1998

Office of the Secretary of State
Statutory Filings Section
Room 214 Rudder Building
1019 Brazos Street
Austin, Texas 78701

By order of the Supreme Court of Texas, the enclosed orders are forwarded for appropriate filing. Please contact this office if you have questions in this matter.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.



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NADINE SCHNEIDER

March 5, 1998

Mr. Antonio Alvarado
Executive Director
State Bar of Texas
1414 Colorado Street
Austin, Texas 78701

Dear Mr. Alvarado,

Please find enclosed, copies of orders of the Supreme Court of Texas. Per these orders, copies are to be published as soon as possible in the Texas Bar Journal. You may contact the undersigned if there are any questions in this matter.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Ms. Kelley King