CAN A STATEMENT TO A NURSE SURROUNDING A DRIVER'S USE OF A CONTROLLED SUBSTANCE BE RELEASED UNDER THE STATE'S WITNESS TESTIMONY STATUTE?

written by Nancy Brent | August 5, 2026

Avoiding Liability Bulletin – August 2026

Confidentiality and privacy in health care requires that when a patient shares information with a health care provider, including a nurse, that the information will not be disclosed to those not involved in his or her care.

This protection is both a legal and ethical mandate. If patient confidentiality and privacy is breached, a patient can file a lawsuit in court.

The patient can also file a complaint with the state board that administers and enforces practice acts in that state because the protection of patient confidentiality and privacy is also rooted in professional practice acts.

For a nurse, this would be the state nurse practice act and the state board of nursing.

Regardless of these confidentiality protections, who is authorized to release medical treatment information, whether in the form of actual court testimony or through medical records documentation, also has an important role in the confidentiality of medical information.

In the following case, State v. Smeby, 32 N.W.3 560 (Minn. 2026), the Minnesota Supreme Court evaluated whether medical information released pursuant to a search warrant was inconsistent with a patient's right to confidentiality

For the purposes of this blog, the focus is on the nurse's obligations to maintain nurse-patient confidentiality under the state's witness testimony statute.

FACTS LEADING UP TO COURT PROCEEDINGS

Police investigated a multi car accident. One driver's car had "smashed" into another vehicle, causing that vehicle to crash into the car in front of it.

The driver of the car that smashed into one of the other vehicles was found unconscious by the police. The car's airbags were deployed, the engine was running, and the car was in drive.

The driver did not respond to the police officer's attempts to wake him, so the officer administered Narcan. After two doses, the driver regained consciousness.

Paramedics at the scene noted he seemed to be under the influence of something because he had "pinpoint pupils, was displaying erratic behavior, and was sweating profusely."

While in transit to the hospital, the driver told one of the paramedics that he had been using "too much" heroin.

At the hospital, he told his girlfriend he had taken heroin and the girlfriend told a nurse about that statement.

About a month and a half later, a district court issues a search warrant for the medical records and ambulance report for the driver. Included in the records were notations about the driver's statements to the paramedic and the girlfriend's sharing the driver's statement with the nurse.

State Proceedings After the Accident

The state charged the driver with driving under the influence of a controlled substance. The driver filed a Motion to Suppress the medical records and ambulance report, alleging that their release violated the physician-patient privilege statute and that the search warrant was overly broad.

After a hearing, the district court held that some of the driver's medical records were inadmissible under the state physician-patient privilege statute that protects physician-patient confidentiality, but the statute did not prohibit his statements to the paramedics, his statements made in the presence of his girlfriend, and his girlfriend's statements.

The case then continued to a jury trial. The jury found the driver guilty as charged.

The driver appealed that decision, again arguing that the statute prohibited disclosure of the information and that the search warrant was overly broad.

The court of appeals affirmed the decision of the district court.

The driver appealed that decision to the state supreme court.

State Supreme Court Proceedings and Decision

The state supreme court analyzed state law and previous decisions surrounding the physician-patient confidentiality statute and its relevance to paramedics. It held there was no bar to the release of the paramedics and ambulance records because there was not an "agency relationship" between the

treating physician and those paramedics under the state statute.

The court then analyzed the driver's statements to his girlfriend who then shared the statements with a nurse providing care to him.

Under the state's statute governing the testimony of witnesses (at a hearing or trial), a nurse cannot release information that is necessary in treating a patient in his or her professional capacity.

In this case, the court continued, the girlfriend was not necessary to the driver's treatment. As a result, her presence when she shared the information with the nurse rendered that statement nonprivileged under the statute governing the testimony of witnesses.

The court also stated that if the driver wanted his heroin use to be confidential, he should not have shared it with his girlfriend.

The court of appeals also held the search warrant was not overly broad and the warrant's authorization for the driver's medical records where the driver was injured at the scene of a traffic accident was not prohibited under the physician-patient privilege statute.

What This Court Decision Might Mean for Your Nursing Practice

This is an interesting case in that it involves a criminal case and medical confidentiality that I do not usually report in my blog. However, it seemed important to share because often times the importance of maintaining nurse-patient confidentiality may be confined to your obligation under the state nurse practice act and its rules and regulations or by the allegation of a breach of confidentiality in a civil matter.

Here, however, the case at hand is a criminal one, and it invoked the issue of physician and nurse-patient confidentiality in a DUI lawsuit under the state's witness testifying statute.

In this case, in this state, a nurse is unable to share information obtained in his or her professional capacity if the information is vital to treating the patient under the witness testifying statute.

The state supreme court held that because the patient was alert in the hospital and could speak about his treatment, the girlfriend's statement to the nurse was not essential for the driver, as he could speak for himself.

As a result, the statement about his heroin use was not privileged, and the nurse's testimony and notations in his medical record could be released without his permission.

The state's mandate in the state nurse practice act that obligates a licensed nurse to maintain nurse-patient confidentiality under its nurse practice act also exists.

That mandate prohibits the release communications from or relating to a patient except when required by law.

Although extremely important to the nurse in terms of her ability to avoid a professional licensure discipline by the state board of nursing if confidentiality is breached, it did not initially determine whether the nurse's testimony or nursing notes can be released, which the state obtained through its warrant.

As a result, a legal opinion as to what was allowed or prohibited under the state's witness statute had to be legally determined by the court.

Had the supreme court held differently, the nurse could have faced a professional licensure action by the state board of nursing had she testified and/or her notations in the medical record were released without the protection of a court order determining the existence or lack thereof of the protection of the nurse-patient confidentiality requirement (for continued licensure).

If you are involved in *any* court or administrative proceedings, it is important to notify your professional liability insurance carrier immediately in order to obtain the specific legal advice you need to protect your professional nursing license and the confidentiality of your patient's medical information.

In short, nurse-patient confidentiality and privacy must be protected at all times unless ordered by a court or other lawful means to disclose such information.

This information is for educational purposes only and is not to be taken as specific legal or other advice by the reader. Nor does it create an attorney-client relationship. If legal or other advice is needed, the reader is encouraged to seek such information from a nurse attorney, attorney or other professional.