



COUNTY OF SAN BERNARDINO
STANDARD PRACTICE

NO 2-2.10

Revised issue 10/99

Page 1 of 2

Effective 7/98

BY Lee Russell

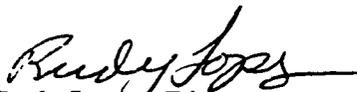
APPROVED

DEPARTMENT

BEHAVIORAL HEALTH

SUBJECT

SUBPOENA OF MEDICAL RECORDS


Rudy Lopez, Director

I. PURPOSE

To comply with the law which states that psychiatric records will be released to the Courts as necessary for the administering of justice. {CA W&I Code Sections 4514(f), 4515, and 5328(f).}

II. POLICY

- A. The Correspondence Clerks in the DBH Medical Record Section, BHRC, 850 E. Foothill Blvd., Rialto, CA 92376 should handle all subpoenas requesting DBH medical records.
- B. DBH satellite clinics should direct the server of a subpoena for medical records to Medical Records at BHRC. *If a DBH clinic accepts the subpoena, they also accept the responsibility to insure the subpoena is processed correctly and within the time period specified by law.*

III. PROCEDURE

- A. If the subpoena for medical records is accepted, verify the following information: (See Policy B. above)
 1. Has the subpoena been properly served?
 - a. A subpoena to testify in a civil matter should be given to the witness personally, not by mail or facsimile.
 - b. A subpoena for records must designate the facility (SBDBH) or DBH Custodian of Records.
 2. Subpoena should clearly state what specific information is required, the client's name and a birth date or social security number for proper identification.
 3. Subpoena must be dated.
 4. Subpoena *should* be served at least five working days prior to date information is requested. (See procedure D.)
 5. Subpoena must show name and address of court, department, and date and time of proceedings.
 6. Type of case must be stated, criminal or civil.
 7. Case number and names of parties involved must be stated.

8. An affidavit is required for a state administrative proceeding, for a personal attendance at a trial, or for personal attendance at a deposition to give testimony.
9. "Proof of Notice to Patient" is required in state civil proceedings, unless; the party responsible for subpoena is a government agency, a valid written authorization is presented, or a client is a party to the suit.

B. Who Should Accept a Subpoena for Medical Records: All DBH clinics will direct the server of a subpoena for medical records to the Medical Record office, BHRC, 850 E. Foothill Blvd., Rialto, CA 92374.

If the subpoena is accepted at the clinic it should be immediately hand delivered to the main Medical Record Section with any charting in the clinic's possession.

C. If an "improper" subpoena for records is accepted: The Department will not be in violation if the person issuing the subpoena is notified promptly that we are not going to respond with the information requested and give the specific reason. This will be done through the Correspondence Clerks or Supervisor in the DBH Medical Record Section.

D. Subpoena of DBH Staff Member on DBH Patient Records: If called to testify as a witness regarding a patient of this facility, the employee receiving the subpoena will then appear in court as ordered. See also in this SPM, "Billing an Attorney for DBH Clinician services". Your clinic supervisor will give procedures.

E. Subpoenas of Non-Departmental Business Nature: If the Court calls a DBH employee to testify as an expert witness in a case that is not related to a patient of DBH, the employee will collect the fees her/himself and take appropriate time off to appear in Court.

If the Court issues a subpoena that is not related to DBH business, it will be the responsibility of the individual served to comply.

F. Subpoena of Employee's records: If a subpoena is issued for an employee's personnel or payroll records, direct the Server to the County Personnel Office, 175 West Fifth Street, San Bernardino.

It is the responsibility of the subpoena Server to locate any individual for whom he/she has a subpoena. The Medical Record Section will not accept subpoenas of a business or personal nature for staff members.

G. Unusual Circumstances: If there is any question or doubt about a subpoena, the office of the County Counsel will be consulted by request through your Behavioral Health Deputy Director via your Clinic Supervisor and Program Manager.