

Handling Subpoenas

What is a subpoena? Does confidentiality take a back seat upon the receipt of a subpoena? What do you if you get one?

Chances are you will someday receive a subpoena to appear in court regarding a client or family. The realization that settles over you as you read the document will sometimes make you want to schedule a vacation during your call to court. But alas, vacations don't trump a subpoena.

What is a subpoena?

sub·poe·na [sə péénə] or sub·pena [sə péénə]

noun (*plural* sub·poe·nas) (*plural* subpenas)

legal order demanding evidence: a written legal order summoning a witness or requiring evidence to be submitted to a court or similar deliberative body

This information can be found at: <http://encarta.msn.com>

Does confidentiality take a back seat upon the receipt of a subpoena?

A subpoena does not give you the freedom to "tell all" in court. A subpoena is an invitation to attend the court meeting.

What do you if you get one?

First step is to find your supervisor or person in charge of quality assurance and inform him or her. Your agency probably has some guidelines for you to follow regarding court appearances. This will help clarify your responsibilities.

Some centers have made the following information available to their staff prior to appearing in court. This handy "cheat sheet" can serve as a reminder of what to do and helps to spell out guidelines for what can be an anxiety producing situation.

STATEMENT OF COMPLIANCE

"I am here today in compliance with the subpoena to appear (and produce certain documents) at this hearing today. I have been apprised that the laws of the State of Kansas (K.S.A. 65-5601 to 65-5605 inclusive) and Federal Regulations (42CFR) may preclude me from testifying and/or otherwise disclosing any information or documents which would be considered confidential client/patient information obtained in a confidential relationship without there being a specific statutory exception and an order on the record, from a court of competent jurisdiction."



You and your agency must comply when specifically ordered to do so by the court. In most instances, you and your agency have the right to explain your situation and / or reluctance to breach confidentiality.

For more information contact the compliance officer at your center. If you don't know who that person is, start with your supervisor.

Rule of Thumb:

Check with a supervisor or designated person before responding to any court papers.