

**SUBPOENAS, COURT ORDERS, DISCOVERY REQUESTS, OR OTHER LEGAL
PROCESSES, AND THE DISCLOSURE OF PROTECTED HEALTH
INFORMATION PROCEDURE**

1. Any court order, any subpoena issued by a court, and subpoenas, discovery requests and other legal processes that are not accompanied by a court order, will be directed to the Designated Attorney or Designee(s). A copy of the order will be filed in the patient's medical record, and the original will be sent by fax or interoffice mail to the Designated Attorney or Designee(s).
2. The Designated Attorney or Designee(s) will review and respond to all such orders in accordance with the requirements of this policy.
3. In accordance with BHHF policy limiting disclosures of PHI to the minimum necessary to accomplish the purpose of a disclosure, the Designated Attorney or Designee(s) may take appropriate legal action to have the amount of information that is requested reduced, or justified. In determining whether to take such action, the legal counsel will apply the following criteria:
 - 3.1. Is the information sought relevant and material to a legitimate law enforcement inquiry? See, also, the BHHF policy: DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR LAW ENFORCEMENT PURPOSES.
 - 3.2. Is the request specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought?
 - 3.3. Could de-identified information reasonably be used?
 - 3.4. Specific justification is required if the patient's entire medical record is requested, unless the disclosure is required by law (for instance, under the terms of a court order).
4. The Designated Attorney or Designee(s) will direct the member of the workforce who has custody of the requested PHI to make the appropriate disclosure. In order to permit a subsequent accounting for the disclosure, the following information will be recorded in the patient's medical record:
 - 4.1. Date of disclosure
 - 4.2. Reason for disclosure
 - 4.3. Identify of recipient of the PHI (including address if available)
 - 4.4. General description of the PHI disclosed
5. Records of disclosures made under this policy must be retained for at least six years or longer if required by state law or regulation.
6. Most disclosures made under this policy must be recorded for inclusion in any accounting of disclosures. See ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION.

REFERENCE: 45 CFR § 164.512(e)

See also:

DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR LAW
ENFORCEMENT PURPOSES

ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

Effective Date: 4/14/03

Dates Revised:



Jerome E. Lovrien, Commissioner, Bureau for Behavioral Health and Health Facilities