

MOBILE COUNTY PROBATE COURT'S NON-PARTY SUBPOENA PROCESS

1. File the notice of intent with a copy of the unsigned subpoena. (Serve parties)
2. After the 15 days, if there is no objection, file the signed subpoena and indicate how you want the subpoena served.
3. If subpoenas are to be served via Mobile County Sheriff Department, the Court will send the subpoenas. Any other means of service, once the subpoena has been processed, you will receive an email that the subpoena is ready to be picked up at the Clerk's Office for you/your office/runner/private process server to serve (please note P.O. Boxes cannot be served via sheriff)

For your convenience, the notice and subpoena can be filed electronically via Benchmark.

IN THE PROBATE COURT OF MOBILE COUNTY ALABAMA

_____,)
[Petitioner/Respondent].)
) CASE NO.: _____
)
)
)
)
)

NOTICE OF INTENT TO SERVE SUBPOENA ON NON-PARTY

Take notice that upon the expiration of fifteen (15) days (or such other time as the Court has allowed) from the date of service of this notice, _____ will apply to the Clerk of the Court for issuance of the attached subpoena directed to _____, who is not a party and whose address is _____, to produce the documents or things at the time and place specified in the subpoena.

Attorney for

Address/Phone:

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon counsel for all parties to this proceeding by mailing the same by United States Mail, first class postage prepaid, on this ____ day of _____, 20__.

Attorney

IN THE PROBATE COURT OF MOBILE COUNTY ALABAMA

_____,)
[Petitioner/Respondent].)
) CASE NO.: _____
)
)
)
)
)

CIVIL SUBPOENA FOR PRODUCTION OF DOCUMENTS UNDER RULE 45

TO: CUSTODIAN OF RECORDS

[PHYSICIAN'S NAME]

[ADDRESS]

[CITY, STATE, ZIP]

You are hereby commanded to do each of the following acts at the instance of _____ within fifteen (15) days after service of this subpoena:

That the Records Custodian for _____ produce and permit the _____, to inspect and copy each of the following documents:
Any and all records pertaining to _____, date of birth _____, Social Security number _____.

Records include, but are not limited to, the following:

Patient history, medical charts, notes, correspondence, memoranda, medical reports, written results of any laboratory tests, x-ray reports and/or pathology reports, summaries, statements of account, payment histories, account detail, insurance records, claims for benefits.

Such production and inspection is to take place at the location where the documents or things are regularly kept or at some other reasonable location designated by you.

You are further advised that other parties to the action in which this subpoena has been issued have the right to be present at the time of such production or inspection.

You have the option to deliver or mail legible copies of said documents or things, on or before the date shown on the subpoena, to the requesting attorney (& address), _____, but you may condition such activity on your part upon the payment in advance by the party causing the issuance of this subpoena of the reasonable costs of the making of such copies.

You have the right to object at any time prior to the date set forth in this subpoena for compliance. Should you choose to object, you should communicate such objection in writing to the party causing the issuance of this subpoena, and stating, with respect to any item or category to which objection is made, your reasons for such objection.

HIPAA PRIVACY RULES ASSURANCES

In accordance with the Federal privacy rules issued pursuant to the Health Insurance Portability and Accountability Act ("HIPAA Privacy Rules"), we are providing you with the following satisfactory assurances:

1. We have made a good faith attempt to provide the Patient, either through his or her counsel or directly, with a copy of this Civil Subpoena.
2. The Civil Subpoena includes sufficient information about the litigation proceeding in which the medical and/or billing information is request to permit the Patient, either through his or her counsel or directly, to raise an objection.
3. As the Court has issued this subpoena, the time for the Patient to raise any objection has lapsed, and no objections were filed, or all objections filed by the Patient have been resolved.

Accordingly, following service of this Civil Subpoena, you may disclose the requested information in compliance with HIPAA Privacy Rules.

The text of Alabama Rules of Civil Procedure, Rule 45(c) and (d), is set forth in this subpoena as "Attachment A."

Dated this ____ day of _____, 20 ____.

Attorney for

Address/Phone:

ISSUED BY:

DATE

Melissa L. King, Chief Clerk

RETURN OF SERVICE

Received the subpoena at _____ on this the ____ day of _____,
20____, and I served it on the within named _____, on the ____ day of
_____, 20____, by delivering the subpoena to _____.

Dated this ____ day of _____, 20 ____.

PROCESS SERVER

ATTACHMENT A

Alabama Rules of Civil Procedure Rule 45, subdivisions (c) and (d)

(c) Protection of person subject to subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court from which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty on appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, document or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying at any time before the time specified was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expenses resulting from the inspection and copying commanded. For compliance may serve upon the party or attorney designed in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. "Serve" as used herein means mailing to the party or attorney. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a resident of this state who is not a party or an officer of a party to travel to place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, or requires a nonresident of this state who is not a party or an officer of a party to travel to a place within this state more than one hundred (100) miles from the place of service or, where separate from the place of service, more than one hundred (100) miles from the place where that person is employed or regularly transacts business in person, except that, subject to the provision of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expenses to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in responding to subpoena.

(1) A Person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(3) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(4) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(5) A person responding to a subpoena need not provide discovery of electronically stored information from sources the person identifies to the requesting party as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(B). The court may specify conditions regarding the production of the discovery.

(6) If information is produced in discovery that is subject to a claim of privilege or of protection as trial-preparation material, the person or party making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. Any party or the producing person may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

Case No.: _____

CERTIFICATE

I hereby certify that the attached is a true and complete copy of the records pertaining to _____, kept in our office in my custody, and I am the legal custodian and keeper of said records. I further certify that said records were made in the regular course of business, and that it was in the regular course of said office for such records to be made at the time of the events, transactions, or occurrences to which they refer or within a reasonable time thereafter.

Signed this _____ day of _____, 20____.

CUSTODIAN OF RECORDS

Subscribed and sworn to before me

this ____ day of _____, 20____.

NOTARY PUBLIC

My Commission Expires:

Note to responding party: You are entitled to a fee for copying these documents. At your option, please return a statement/invoice for copying service (not to exceed \$1.00 per page for the first twenty-five (25) pages, no more than \$.50 for each page in excess of twenty-five (25) pages, and a \$5.00 search fee) to the Court along with the copies and certificate. Such fee will be taxed as cost in this proceeding and remitted to you upon receipt.