

NOTE: HIPAA prohibits the disclosure of protected health information in response to a subpoena unless certain conditions are satisfied. (45 CFR § 164.512(e)) Often the easiest condition to satisfy is simply to notify the patient of the subpoena so that they can take appropriate action to protect themselves; if they fail to do so, the covered entity may disclose information pursuant to the subpoena. This sample letter provides notice to the patient. It should be reviewed and revised to fit the circumstances and any additional requirements of state or federal law.

SAMPLE LETTER TO PATIENT WHO IS THE SUBJECT OF A SUBPOENA

Re: *Subpoena for Disclosure of Protected Health Information*

Dear _____:

_____ (“PROVIDER”) strives to maintain the confidentiality of its patients’ health information. For that reason, we want you to know that PROVIDER has received the enclosed subpoena seeking disclosure of your protected health information. The subpoena requires PROVIDER to disclose the information identified in the subpoena on the date and time indicated. PROVIDER will have to disclose the information according to the subpoena unless you immediately do one of the following:

1. Contact the party who issued the subpoena and arrange to have the subpoena withdrawn or modified. The party’s name and address is on the subpoena. The party who issued the subpoena must notify us that the subpoena has been withdrawn or modified.
2. Contact the court and obtain an order canceling or modifying the subpoena. The name of the court is on the subpoena. You must provide us with a copy of the court order canceling or modifying the subpoena.

If we do not receive the confirmation or a court order canceling the subpoena at least 24 hours before the time that PROVIDER must respond, we must disclose the information according to the terms of the subpoena. We encourage you to take prompt action if you do not believe the information should be disclosed.

Thank you.

Respectfully,