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POLICY: 200-050385-032

Summons and Subpoenas (HUMC Policy #613)

Policy

The Director of Human Resources/designee is the designated Custodian of Records for employee records. The Medical Records Director/designee is the designated Custodian of Records for patient records, and other documents, and/or items of production. Either the Department of Human Resources or the Department of Medical Records will process the subpoena depending on the type of records requested. The purpose of the policy is to establish guidelines regarding the delivery and acceptance of subpoenas and subpoenas duces tecum by the Medical Center.

Definitions

- **Subpoena:** A document which requests either the appearance of an individual and/or the production of documents with a due date.
- **Personal Subpoena:** A legal document issued by a court of law instructing appearance of an individual as a witness.
- **Subpoena Duces T'ecum:** A legal document issued by a court of law in order to obtain access to records and/or documents. A subpoena duces tecum may also request the appearance of an employee along with records.
- **Employment Records:** A document containing information regarding an employee's pay, benefits, work schedule, department supervisor, or date of employment.
- **Summons and Complaints:** A complaint is the first document filed with the court by a person claiming legal rights against another. When a complaint is filed, the court clerk will issue a summons, which notifies the defendant that an action has been commenced against him/her/it and that the defendant has a specific time to file an answer or other response. The complaint together with the summons, is required to be served on the defendant.
- **Deposition:** A pre-trial discovery device by which one party (through his or her attorney) asks oral questions of the other party or of a witness for the other party.

Procedure

Conditions for Receiving and Accepting Subpoenas:

The Medical Records Department will accept subpoenas for patient records and summons and complaints where Harbor-UCLA Medical Center is the party to be served. The Medical Records Department will accept subpoenas or summons and complaints between the hours of 8:00 am and 4:30 pm, Monday through Friday in Building B-3.

The Summons and Complaint will be taken to the Head Clerk in Building N-9 for processing. The Head Clerk will immediately inform Harbor's Risk Management staff at extension 2168, and forward them a copy of the Summons for their reporting to Octagon Risk Services, Inc. then a Referral Letter will be sent to the attorney or Person Acting

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in Pro per notifying them of the need to either serve or file with the Clerk of the Board of Supervisor's Office as follows:

Clerk of the Board of Supervisor's 500 W. Temple Street, Room 383 Los Angeles, CA 90002

Harbor-UCLA Medical Center is only authorized to accept the Summons and Complaint on behalf of the facility for appropriate referral to the Board of Supervisor's Office.

If the subpoena is not related to patient records, documents and/or items of production, or is not a summons or complaint, the subpoena will not be accepted by the Medical Records Department.

If a subpoena is delivered to the Medical Records Department related to employment records, the process server must be directed to serve the subpoena in Building L-3. If a subpoena is mailed to the Medical Records Legal Office, it will be date stamped and immediately forwarded to the Human Resources Department, Building L-3 with a written description of the circumstances of the "services".

The Department of Human Resources will accept subpoenas that are employment-related between the hours of 8:00 am and 4:40 pm, Monday through Friday in Building L-3.

The Human Resources Department representative will determine if the subpoena is employment related. If the subpoena is not employment related, the subpoena will not be accepted by the Human Resources Department.

If a subpoena is delivered to Human Resources related to patient records, or is a summons and complaint, the process server must be directed to serve the subpoena in Building B-3. If the subpoena is mailed to Human Resources, it will be date stamped and immediately forwarded to the Medical Records Legal Office, Building B-3 with a written description of the circumstances of the "service".

If employment-related, the Human Resources representative will receive the subpoena, date stamp the document and identify if the employee is employed with Harbor-UCLA Medical Center.

The Human Resources representative will attempt to contact the employee immediately and request that he/she go directly to the Human Resources Office to receive the document. The server may not enter any Medical Center business or patient care area for the purpose of serving a subpoena.

If it is determined that the employee has terminated employment from Harbor-UCLA Medical Center, the server will be so informed and the Human Resources representative will not receive or allow the subpoena to be left in the Human Resources department.

If a Summons and Complaint is accepted for a physician, and the County of Los Angeles or Harbor-UCLA is a party to the case, the physician should be instructed to contact Risk Management at extension 2168, if they have any questions or need assistance.

Subpoenas for Employment Records:

Subpoenas for employment records must be presented to the Human Resources Director/designee.

The Human Resources representative will verify that the employee has been employed within the last five years or is currently employed at Harbor-UCLA Medical Center and that the requested records are available.

The Human Resources department representative will provide employment records or related information as stated on the subpoena for no more than five years prior to the date of the request.

The subpoena must be served ten (10) working days before the records are needed to allow time for copying and processing.

A valid check of \$35.00 made out to Harbor-UCLA Medical Center to cover the processing fees and copying of the employment records must be presented to the Cashier's Office at the time of the request. The process server must present a receipt for copying fees from the Cashier's Office to the Human Resources representative.

The Human Resources representative will provide a copy of the employment records as requested to the server at a later date so identified at that time, and record all fees paid for the purpose of obtaining employment records, Human Resources will contact the appropriate party when the records are ready for copying or pick-up.

Summons and Complaints: HR will immediately inform Harbor's Risk Management staff at extension 2168, and forward them a copy of the Summons for their reporting to Octagon Risk Services, Inc. Then a Referral Letter will be sent to the attorney or Person Acting in Pro Per notifying them of the need to either serve or file with the Clerk of the Board of Supervisor's Office as follows:

Clerk of the Board of Supervisor's 500 W. Temple Street, Room 383 Los Angeles, CA 90002

Harbor-UCLA Medical Center is only authorized to accept the Summons and Complaint on behalf of the facility for appropriate referral to the Board of Supervisor's Office.

Subpoena for Appearances/Depositions in the Scope of Employment:

When an employee is identified to appear personally in any proceeding arising out of his/her scope of employment, he/she will be permitted to appear if it is during regularly scheduled work hours. He/she must provide valid proof of appearance at the proceeding including the date, location, purpose and length of time present at the proceeding to his/her supervisor on his/her next scheduled workday.

If an employee is subpoenaed to attend a civil action related to the scope of his/her duties, to which the County of Los Angeles is not a party, the subpoenaing party must pay \$150.00 for each day the employee is scheduled to remain in attendance at the action or proceeding. The check for that payment should be made payable to the "Treasurer and Tax Collector of the County of Los Angeles" and must be paid at the Cashier's Office on the same day the subpoena is served.

If an employee is identified to appear personally in a proceeding unrelated to his/her scope of employment, the employee may appear with prior approval from his/her immediate supervisor and must use his/her own time.

Subpoena for Arrests and Questioning:

If members of a law enforcement agency present a subpoena for the purpose of making an arrest or questioning an employee, the law enforcement officer/representative and the Human Resources Director/Designee should follow the above procedures for serving subpoenas, restraining orders or warrants and gaining access to speak to the employee.

Members of the law enforcement agency must show proper identification, which will consist of a photo ID and a badge prior to serving the subpoena. If the Human Resources representative determines that the identification presented by the law enforcement agency representative is not satisfactory, he/she will contact the County Police Department representative at Harbor-UCLA Medical Center for assistance.

For any situations not referenced above, the Human Resources department representative will contact the Department Manager to identify if the employee is at work and available to report to the County Police Department. If so, the Manager will direct the employee to report to the County Police Department. The employee will then be directed to County Police Officer/representative for arrest or questioning.

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Summons, Suits, Subpoenas, Notice of Depositions Relating to Incidents, and Telephone Calls or Other Contacts by Outside Investigators, Attorneys, Etc.

Any employee named in or served a summons and complaint should contact the hospital's Risk Manager at extension 2168 and/or Octagon Risk Services, Inc.

Employees named in or served a summons and complaint should not file a deposition, discuss incidents, or patient care- treatment with any representative of a plaintiff (patient) without advice and/or other attending professional staff within the context of the usual physician/patient relationship.