



# COUNTY OF MONTEREY HEALTH DEPARTMENT

Elsa Jimenez, Director of Health

Administration  
Behavioral Health

Clinic Services  
Emergency Medical Services  
Environmental Health/Animal Services

Public Health  
Public Administrator/Public Guardian

<b>Policy Number</b>	314
<b>Policy Title</b>	Subpoenas
<b>References</b>	Code of Federal Regulations, Title 45, Section 164.506 (45 CFR 164.506) 45 CFR 164.508 45 CFR 164.510 45 CFR 164.512 42 CFR Part 2 Code of Federal Regulations, Title 45, Section 160 and 164 California Civil Code 56.10 et seq. California Welfare and Institutions Code 4515 and 5328 et seq. California Health and Safety Code 120975, 120980, 121010, 11750 et seq., 11778, 11810, and 11970
<b>Effective</b>	November 20, 2001 Revised: July 1, 2003 Revised: January 1, 2011 Revised: April 27, 2017 Revised: January 23, 2019

1 **Policy**

2 All subpoenas/court orders for Monterey County Behavioral Health (MCBH) staff shall be  
3 personally served upon the individual when the subpoena seeks the personal appearance  
4 of an individual staff member to testify in a court hearing.

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6 All subpoena/court orders seeking release of information of the health records, the  
7 subpoena/court order shall be delivered to the Quality Improvement (QI) office  
8 at 1611 Bunker Hill Way, Suite 120, Salinas, CA 93906 (831) 755-4545.

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10 All subpoenas originating from the Public Guardian's office shall be delivered to the Quality  
11 Improvement (QI) office at 1611 Bunker Hill Way, Suite 120, Salinas, CA 93906 (831) 755-  
12 4545.

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14 Subpoenas/court orders for MCBH contracted *providers*:

15

16 All subpoenas/court orders must be served at the program or provider's site. When the  
17 contracted program or provider has questions regarding subpoena/court order, the program  
18 or provider should seek its own legal counsel. MCBH Quality Improvement Records  
19 Technician will only provide technical assistance.

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## 21 **Definitions**

### 22 A) Court Order

23 A document signed by a judge of a court directing a specific action such as the  
24 disclosure of client protected health information

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### 26 B) Subpoena

27 A legal notice compelling a person to appear and testify at a deposition or trial  
28 ("testimony only") or to produce records ("records only")

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### 30 C) Subpoena Duces Tecum

31 A legal notice compelling a person to appear and testify and to bring specified  
32 records or documents that are in his/her possession or control

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34 Note: MCBH does not accept Subpoena Duces Tecum to produce health records  
35 unless it is accompanied by a current and valid authorization for disclosure that has  
36 been signed by the client.

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### 38 D) Proper Subpoena

39 A subpoena is considered valid/proper if it requires that the records be released  
40 directly to the court, unless the subpoena is also supported by either a court order  
41 or a valid written authorization

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## 43 **Procedure**

44 Monterey County Behavioral Health does not permit the disclosure of health records  
45 without a current and valid authorization for disclosure of information signed by the client.  
46 The original authorization for disclosure must contain all elements required by law,  
47 including, but not limited to, time limit, description of records requested, and informed  
48 consent. QI team will review all authorization for disclosure of information to verify that the  
49 signed authorization is valid and contains all necessary information prior to any disclosure  
50 of personal health information (PHI) and personally identifiable information (PII).

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52 Response to subpoena/court order requiring a MCBH staff to appear and testify in court.  
53 MCBH staff who are served with a subpoena/court order shall:

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- 55 1. Notify supervisor and/or manager about the subpoena as soon as possible
- 56 2. Notify QI team via telephone or by email to [415-QA@co.monterey.ca.us](mailto:415-QA@co.monterey.ca.us)
- 57 3. Collaborate with QI team member of guidance to addressing subpoena

58

59 Never ignore a subpoena/court order no matter how improper it may appear to be.  
60 Immediately, a supervisor, a program manager, and/or QI staff. If legal advice is required,  
61 county staff may contact County Counsel. Noncompliance with a subpoena/court order may  
62 constitute a contempt of court and result in a bench warrant for your arrest and/or a fine.

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64 Telephonic, electronic, and written request for information and/or testimony by MCBH staff  
65 is not permissible without proper court-order and/or subpoena in accordance with state and  
66 Federal regulations. MCBH staff shall not respond directly to the requestor without prior  
67 direction from MCBH QI and/or county counsel. MCBH shall:

68

- 69 1. Notify supervisor and/or manager about the subpoena as soon as possible
- 70 2. Notify QI team via telephone or by email to [415-QA@co.monterey.ca.us](mailto:415-QA@co.monterey.ca.us)
- 71 3. Send copy of request
  - 72 a. For verbal request, provide as much information and detail you may have
  - 73 regarding the request (name of requestor, contact information, short
  - 74 description of circumstance, etc.)
- 75 4. Collaborate with QI team member of guidance to addressing matter

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77 QI staff is responsible for responding and processing subpoenas/court orders/requests for  
78 staff testimony or participation in legal matters. QI shall address requests based on  
79 applicable regulations. QI staff take all necessary steps required to respond to and process  
80 subpoenas/court orders/staff testimony/participation in legal matters, including, but not  
81 limited to the following:

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- 83 1. Log the date of receipt, the check amount, and actions by QI team staff
- 84 2. Determine the validity of the subpoena/court order
- 85 3. Determine the validity of the authorization for disclosure of health information
- 86 4. Respond to subpoenaing parties regarding improper subpoenas/court orders
- 87 5. Notify County Counsel of subpoena, when applicable
- 88 6. Prepare medical records for court
- 89 7. Coordinate with program staff regarding proper subpoena/court orders, if applicable
- 90 8. Provide staff support to address subpoena, if applicable