

WHAT TO DO IF AN INVESTIGATOR COMES TO YOUR CLINIC

Health care delivery is heavily regulated. Investigators from local, state, and federal agencies may come to your organization in the course of an investigation. This document provides guidelines on how to comply with lawful requests while also protecting the rights of patients and staff.

- An investigator from one of many agencies could present at your organization ranging from local law enforcement to the Office of the Inspector General to Immigration and Customs Enforcement (ICE) or the FBI.
- If an investigator wants to see information (documents/records) about an employee or a patient, but **does not** present a subpoena or warrant, ask the investigator to return with the appropriate court issued document. The law does not require that you provide information to an investigator simply because s/he asks.
- To be valid, a subpoena or warrant must be signed by a judge.
- If an investigator appears to have a valid subpoena or warrant, signed by a judge, contact your site manager and attorney.
 - Ask to see the investigators identification
 - Write down the information on the investigators identification including name, agency, and ID number (if permitted by the investigator, make a photocopy)
 - Write down what the subpoena or warrant is about
 - Ask the investigator to wait while you contact your site manager and attorney
- HIPAA prevents health care organizations from releasing patient records or other documentation containing Personal Health Information (including patient names and addresses) without a valid court order.
 - Review the court order thoroughly. Do not provide any information that is not **specifically** required by the court order. As a health care provider, it is your legal responsibility to protect patient information.
- It is uncommon for immigration officers, law enforcement, or any other investigator to be authorized to enter patient care areas without the consent of the facility.
 - If the investigator has a valid court order that **specifically** states they are to seize certain records or a person, allow the investigator to proceed.
 - Otherwise, inform the investigator that you will comply with all lawful requests but that you cannot allow them into a patient care area without the proper court order.
- If an investigator presents a subpoena that has to do with a private matter—not a matter that pertains to your organization—you are not required to allow that subpoena to be served on your premises.
- Never lie, destroy documents, or actively interfere with law enforcement or an investigator who has proceeded to take action; even if you did not invite the investigator to proceed. Pay attention, if possible ask a colleague to document what is happening, be prepared to describe exactly what happens to your organization's management and corporate attorney.

The information contained in this document provides guidelines, but should not be considered legal advice. Consult your attorney.