

## **Charleston County Coroner's Office Policy #42**

**Title:** Subpoenas

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### **42.1 POLICY**

Subpoenas are an important investigative tool for obtaining an accurate medical history and other information pertinent to death investigations. Subpoenas shall only be issued for legitimate death investigation purposes.

### **42.2 PROCEDURE**

1. A subpoena shall include a request for records such as physician's notes and orders, nurse's notes, discharge notes, progress notes, and admission notes. Subpoenas may be issued in person, by fax, or via the case management system. If a subpoena is issued in person, the original subpoena is given to the facility served and a copy is placed in the case record. If a subpoena is issued via fax, the original subpoena is kept in the case record. If the subpoena is sent via the case management system, it is done so that is time-stamped and dated in the case management system.

2. A subpoena can also be issued to an individual for a personal appearance before the Coroner. A subpoena for a personal appearance must be approved and signed by the Coroner.

3. Some facilities may state that due to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), they cannot release any records. HIPAA states under the section titled "Permitted Uses and Disclosures," part 5-Public Interest and

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Benefit Activities-The Privacy rule permits use and disclosure of protected health information, without an individual's authorization or permission, for twelve national purposes:

- a) Required by law
- b) Public health activities
- c) Victims of abuse, neglect, or domestic violence
- d) Health oversight activities
- e) Judicial and administrative proceedings
- f) Law enforcement purposes
- g) Decedents: Covered entities may disclose protected health information to funeral directors as needed and to coroners or medical examiners to identify a deceased person, determine the cause of death, and perform other functions authorized by law.
- h) Cadaveric organ, eye, or tissue donation
- i) Research
- j) Serious threat to health or safety
- k) Essential government functions
- l) Workers' Compensation

4. When issuing a subpoena, the Deputy Coroner should make appropriate efforts to allow the facility adequate time to produce the records.

### 42.3 STATE CODE REGARDING SUBPOENAS

***SC Code of Laws, Book 17, Chapter 7, Section 17-7-175: Coroner's powers to issue subpoena duces tecum***

*A coroner also may issue subpoenas duces tecum to compel individuals to produce copies of documents or other materials which are relevant to a death investigation. Any law enforcement officer with appropriate*

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*jurisdiction is empowered to serve these subpoenas and receive copies of documents and other materials for return to the coroner. In the alternative, the coroner may require the individual subpoenaed to appear at the inquest or proceeding in order to produce copies of the documents or materials subpoenaed. Reasonable costs incurred to comply with this section must be paid by the court. Any person violating a subpoena duces tecum issued pursuant to this section may be punished for contempt as provided by Section 17-7-190.*

### ***Section 17-7-190: Coroner may punish for contempt***

*Whenever any person shall willfully disturb or impede the proceedings to of a jury of inquest while inquiring into the cause of any death or shall offer any contempt to the person or authority of the coroner while so engaged the coroner may commit such person to the common jail of the county for a time not exceeding twenty-four hours.*

*Any person who shall have been at any time duly summoned to attend and serve upon a coroner's jury who shall neglect or refuse to so attend and serve without proper excuse shall be liable to be punished for contempt and the coroner may punish such contempt by fine not exceeding twenty dollars or imprisonment not more than twenty-four hours, or both, at his discretion.*