

SAMPLE SUBPOENA

NAME OF ATTORNEY
1234 EAST 5678 SOUTH
SALT LAKE CITY, UT 84121
PHONE: 456-7890

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
DEPARTMENT OF COMMERCE, STATE OF UTAH

JOHN DOE,)	
)	
Petitioner,)	SUBPOENA DUCES TECUM
)	
vs.)	
)	
RICHARD ROE, M.D.)	
)	
Respondent.)	Case No. _____
)	

TO: Richard Roe, M.D.
000 Medical Plaza
Anytown, U.S.A. 84100

RE: John Doe
Date of Birth: 8/28/48

YOU ARE COMMANDED to produce at the offices of (Name), (Address), on or before (Date), a complete copy of your medical records, pertaining to the above-referenced individual who has requested the Division of Occupational and Professional Licensing, to conduct a prelitigation panel review of a claim of medical malpractice. Attendance is not required if records are timely forwarded to the indicated address.

DATED this _____ day of _____, 20__.

DEPARTMENT OF COMMERCE

By: _____
Dave Taylor, Prelitigation Supervisor
Division of Occupational &
Professional Licensing

SAMPLE AFFIDAVIT

NAME OF ATTORNEY
1234 EAST 5678 SOUTH
SALT LAKE CITY, UT 84121
PHONE: 456-7890

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
DEPARTMENT OF COMMERCE, STATE OF UTAH

JOHN DOE,)	
)	
Petitioner,)	AFFIDAVIT OF COUNSEL IN SUPPORT OF REQUEST TO ISSUE SUBPOENAS
vs.)	
)	
RICHARD ROE, M.D.)	
)	
Respondent.)	Case No. _____
)	

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

I, (name), being first duly sworn under oath, state the following:

1. The information contained in this Affidavit is true and is based upon my knowledge.
2. I am an attorney duly licensed to practice in the State of Utah.
3. I am counsel for (name), in the above-captioned matter.
4. I hereby certify:

(a) that the medical record subject to the requested subpoena is believed by the person requesting the subpoena (“requester”) to be directly related to the medical liability claim to which the subpoena is related;

(b) that the requester will comply with the requirements of HIPAA as set forth in 45 CFR 164.512(e), which governs the release of protected health information in the course of administrative proceedings;

(c) that more specifically with regard to the requirements of HIPAA, the requester will provide a written statement and documentation to the covered entity from whom the medical records are sought demonstrating satisfactory assurances that:

(1) the requester provided the subject of the records notice of the subpoena, information about the governing prelitigation proceedings, a time period to object to the release of the subject’s medical records, and that either no objections were filed or that objections were filed but resolved by a court of competent jurisdiction and the subpoena is consistent with the resolution, as specified in 45 CFR 164.512(e)(1)(ii)(A) and detailed in 45 CFR 614.512(e)(1)(iii); or

(2) the parties to the prelitigation proceeding have agreed to a qualified protective order and have presented it to a court of competent jurisdiction or the requestor has requested

a qualified protective order from a court of competent jurisdiction, as specified in CFE 164.512(e)(ii)(B) and detailed in 45 CFR 164.512(3)(1)(iv); and

(3) that if the recipient of the subpoena for medical records fails or refuses to comply with the subpoena, the requestor understands that resolution of the issues regarding the subpoena needs to be through a court of competent jurisdiction.

DATED this _____ day of _____, 20__.

(name of firm)

By: _____
(attorney name)
Attorney for (name)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__.

Notary Public
Residing in the State of Utah