

1 AN ACT relating to the production of medical records.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 422.305 is amended to read as follows:

4 (1) (a) When a subpoena duces tecum is served upon any employee of any ***medical***  
5 ***provider***~~[hospital]~~, requiring the production of any~~[-such]~~ medical charts or  
6 records at any action or proceeding, it is sufficient if the employee of the  
7 ***medical provider***~~[hospital]~~ charged with the responsibility of being custodian  
8 of the original ***charts or records***~~[thereof]~~ promptly notifies, in writing, the  
9 attorney for the party causing service of the subpoena, of the ***medical***  
10 ***provider's***~~[hospital's]~~ election to proceed under the provisions of KRS  
11 422.300 to 422.330 and of the estimated actual and reasonable expenses of  
12 reproducing ***the requested***~~[such]~~ charts or records.

13 (b) Upon ***receipt of the***~~[such]~~ notification, the attorney causing the service of the  
14 subpoena shall notify all other attorneys of record, or other parties if they are  
15 not represented by attorneys, of the ***medical provider's***~~[hospital's]~~ election.

16 (c) Following ***the medical provider's***~~[such]~~ election, the employee of the ***medical***  
17 ***provider***~~[hospital]~~ charged with the responsibility of being custodian of the  
18 original charts or records specified in the subpoena shall hold the originals  
19 available at the ***medical provider's facility***~~[hospital]~~, and upon payment to the  
20 ***medical provider***~~[hospital]~~ of the estimated reproduction expenses by the  
21 party causing service of the subpoena, or by any other party, shall promptly  
22 deliver, by certified mail or by personal delivery, legible and durable copies,  
23 certified by ***the medical provider's***~~[said hospital]~~ employee, of all medical  
24 charts or records specified in ***the***~~[such]~~ subpoena to the person specified in the  
25 subpoena.

26 (2) (a) The certification shall be signed before a notary public by the employee of the  
27 ***medical facility***~~[hospital]~~ charged with~~[-the responsibility of]~~ being ***the***

1           custodian of the records and shall include the full name of the patient, the  
 2           patient's medical record number, the number of pages in the medical record,  
 3           and a legend substantially to the following effect: "The copies of records for  
 4           which this certification is made are true and complete reproductions of the  
 5           original or microfilmed medical records which are housed in (name of  
 6           medical provider~~[hospital]~~). The original records were made in the regular  
 7           course of business, and it was the regular course of (name of medical  
 8           provider~~[hospital]~~) to make the~~[such]~~ records at or near the time of the matter  
 9           recorded. This certification is given pursuant to KRS .... by the custodian of  
 10          the records in lieu of his or her personal appearance."

11          **(b) 1.** ~~The~~~~[Such]~~ copies shall be separately enclosed and sealed in an inner  
 12          envelope or wrapper bearing the legend "Copies of Medical Records,~~[,]~~"

13          **2.** ~~[and]~~ The title and number of the action or proceeding, the date of the  
 14          subpoena, the name of the medical provider~~[hospital]~~, the full name of  
 15          the patient, the patient's medical record number, and the name and  
 16          business telephone number of the employee making the certification,  
 17          together with~~[and]~~ the sealed envelope or wrapper and~~[, together with]~~  
 18          the certification, shall then be enclosed and sealed in an outer envelope  
 19          or wrapper, and delivered to the requesting party.

20          (3) **(a)** When the copies of records are personally delivered, a receipt shall be  
 21          presented to the person receiving the records for his or her signature and shall  
 22          be immediately signed and returned to the person delivering the records. The  
 23          receipt shall contain the name of the medical provider~~[hospital]~~, the full name  
 24          of the patient, the medical record number of the patient, the date the copies of  
 25          records were received, and the signature of the person receiving the records.

26          **(b)** When the copies of records are sent via certified mail, the receipt used by the  
 27          postal authorities shall be sufficient to prove delivery and receipt of the copies

1 of records.

2 (4) If the medical provider<sup>[hospital]</sup> has none of the charts or records specified in the  
3 subpoena, or only part of the charts or records<sup>[thereof]</sup>, the employee of the  
4 medical provider<sup>[hospital]</sup> charged with<sup>[the responsibility of]</sup> being the custodian  
5 of the original medical provider's<sup>[hospital]</sup> charts or records shall<sup>[so]</sup> state that  
6 fact in a notarized affidavit and, following notice and payment of expenses shall  
7 hold available the original charts or records which are in the medical  
8 provider's<sup>[hospital's]</sup> custody and specified in the subpoena, and shall deliver the  
9 certified<sup>[the]</sup> copies together with the affidavit.

10 (5) A subpoena duces tecum under subsection (1) of this section shall be served no  
11 later than fourteen (14) days prior to the date and time set in the subpoena  
12 commanding the appearance and production of the requested charts or records  
13 for inspection and copying.