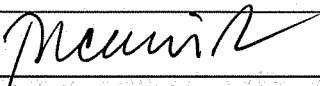


Guam Behavioral Health and Wellness Center		
TITLE: Response to Subpoenas, Search Warrants, Investigations and other Legal Actions	POLICY NO.: AD-ORG-11	Page 1 of 3
RESPONSIBILITY: Agency-Wide		
APPROVED BY:  5/1/20 THERESA C. ARRIOLA, DIRECTOR	DATE OF ORIGINAL APPROVAL: 12/5/2016	
	LAST REVIEWED/REVISED: 12/26/2019	

PURPOSE:

- A. This Policy will provide direction to Guam Behavioral Health and Wellness Center (GBHWC) Staff on how to respond to subpoenas, court orders and search warrants issued to GBHWC and or its employees.

POLICY:

- A. Guam Behavioral Health and Wellness Center will comply with legal authorities upon the presentation of a subpoena, court order and search warrants. It shall release records and information when so required by law and will cooperate with lawful searches, but will protect confidential information such as consumer information and legally privileged information, to the extent authorize by law.
- B. Staff shall not attempt to obstruct an investigation or destroy, alter or conceal documents or other evidence sought in an investigation or search warrant.
- C. Any employee of GBHWC who is served a subpoena in their capacity as an employee of GBHWC shall immediately notify the Directors Office and the Risk Manager or designee.

DEFINITIONS:

1. Subpoena: is a legal document issued by a court of law requesting for the production of documents and/or a request to appear in court or other legal proceedings.
2. Subpoena ad testificandum: An "appearance only" subpoena requires a person to appear and testify before a court or other legal authority.
3. Subpoena duces tecum: A "records only" subpoena requires the witness to bring specific records, documents and /or materials to court
4. Court Order: A legal document issued by the court of law describing the legal command made by a judge to order someone, or a party, to do something or refrain from doing something.
5. Search Warrant: A judicially enforceable order authorizing the search of specific premises for material described in the search warrant with reasonable particularity.

PROCEDURE:

A. Subpoena/Court Orders

1. Only the individual(s) named on the subpoena shall accept the subpoena.

2. Upon being served a subpoena, the employee shall immediately notify his/her immediate supervisor and the Director or designee
3. The employee served shall provide the Director or designee with a copy of the subpoena and contact addresses and telephone numbers where the employee can be reached during off duty hours.
4. The Director or designee shall contact GBHWC attorney in regards to any subpoena being served a GBHWC employee in their capacity as an agent of GBHWC for legal review as necessary.

B. Subpoena duces tecum

1. Once a subpoena for records only is served, the employee shall immediately notify his/her supervisor and the Director or designee for guidance.
2. Read the subpoena and determine which legal action is the basis of the subpoena, what kind of records are being subpoena and what party is seeking the subpoena.
3. In the event that the subpoena is directed to the health care providers/clinicians the Federal Health Insurance Portability and Accountability Acts of 1996 (HIPAA) may be applicable, requiring that before a consumer's "protected health information" may be disclosed, the requesting party must provide assurances that the consumer has been notified of the request and does not object to the disclosure.
4. The face of the subpoena will usually indicate the date, time and location for production or photocopying of medical records. If none is indicated call the court that issued the subpoena or the director's office for guidance.
5. The Director or designee shall contact GBHWC attorney for legal advice and review with regards to subpoena of consumer's medical records as necessary.

C. Search Warrants

If GBHWC staff is approached by law enforcement personnel or federal agent who wishes to search GBHWC premises, review certain documents and /or receive copies of certain documents. The staff shall

1. Inform his/her immediate supervisor, and the director's office or designee.
2. Staff shall escort the law enforcement personnel or federal agent to the director's office conference room or private office.

Director's designee

1. The Director's designee shall ask to see an official identification of the law enforcement personnel or federal agent.
2. The designee carefully read the warrant making sure it is signed by a judge, if there is a discrepancy, notify the agent in charge.
3. Determine the scope of the warrant, the area to be searched and type of evidence to be seized.
4. If there is any discrepancy between the scope of the search document and the search actually conducted by the agent, notify the agent in charge.
5. Attempt to assist the agent in retrieving those documents that are the subject of the search by identifying the essential GBHWC individuals that can assist in retrieving the documents, computer information, etc.

6. Notify the agent in charge that the key GBHWC personnel(s) are here to ease the search with minimal disruption of business.
7. Monitor the search, do not impede or obstruct.
8. Photocopy each item seized. If the agent in charge refuses to permit a photocopy, record in detail all items seized.
9. Request backup copies of all documents and disks, etc. before agents seize computers.
10. If agents attempt to seize privilege documents or other documents that are believe to be outside the scope of the warrant, notify the agent in charge. Ask that the privilege material be segregated from the other materials and marked as "privileged".
11. The agent in charge will prepare an inventory of the items seized. Ask for a copy of that inventory before the agent leaves, but do not sign anything verifying the content or accuracy.
12. Ask GBHWC personnel not to discuss the search warrant or any related events with the press or other employees.
13. Following any execution of a search warrant, the director's designee shall notify the director who will notify the advisory council or the board.
14. Complete an incident report; maintain records of seized items, and any follow up action.

REFERENCES:

SUPERSEDES:

- A. Title; Policy No.; Effective date/signature date; Approving individual's name
- B. Review dates:



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REVIEW AND ENDORSEMENT CERTIFICATION

The signatories on this document acknowledge that they have reviewed and approved the following:

Policy Title: Response to Subpoenas, Search Warrants, Investigation and other Legal Actions

Policy No: AD-ORG-10

Initiated by: Environments of Care Committee

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Quality Improvement Coordinator/Regulatory Compliance Officer

Date	Signature
2-26-2020	

Barsen Adelbai
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Date	Signature
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Date	Signature
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Date	Signature
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