

#### **422.305 Subpoena of records -- Certification of copies -- Personal delivery.**

- (1) When a subpoena duces tecum is served upon any employee of any hospital, requiring the production of any such medical charts or records at any action or proceeding, it is sufficient if the employee of the hospital charged with the responsibility of being custodian of the original thereof promptly notifies, in writing, the attorney for the party causing service of the subpoena, of the hospital's election to proceed under the provisions of KRS 422.300 to 422.330 and of the estimated actual and reasonable expenses of reproducing such charts or records. Upon such notification, the attorney causing the service of the subpoena shall notify all other attorneys of record or other parties if they are not represented by attorneys of the hospital's election. Following such election, the employee of the hospital charged with the responsibility of being custodian of the original charts or records specified in the subpoena shall hold the originals available at the hospital, and upon payment to the hospital of the estimated reproduction expenses by the party causing service of the subpoena, or by any other party, shall promptly deliver, by certified mail or by personal delivery, legible and durable copies, certified by said hospital employee, of all medical charts or records specified in such subpoena to the person specified in the subpoena.
- (2) The certification shall be signed before a notary public by the employee of the hospital charged with the responsibility of being custodian of the records and shall include the full name of the patient, the patient's medical record number, the number of pages in the medical record, and a legend substantially to the following effect: "The copies of records for which this certification is made are true and complete reproductions of the original or microfilmed medical records which are housed in (name of hospital). The original records were made in the regular course of business, and it was the regular course of (name of hospital) to make such records at or near the time of the matter recorded. This certification is given pursuant to KRS .... by the custodian of the records in lieu of his or her personal appearance." Such copies shall be separately enclosed and sealed in an inner envelope or wrapper bearing the legend "Copies of Medical Records," and the title and number of the action or proceeding, the date of the subpoena, the name of the hospital, the full name of the patient, the patient's medical record number and the name and business telephone number of the employee making the certification, and the sealed envelope or wrapper, together with the certification, shall then be enclosed and sealed in an outer envelope or wrapper, and delivered to the requesting party.
- (3) When the copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his signature and shall be immediately signed and returned to the person delivering the records. The receipt shall contain the name of the hospital, the full name of the patient, the medical record number of the patient, the date the copies of records were received, and the signature of the person receiving the records. When the copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the copies of records.

- (4) If the hospital has none of the charts or records specified in the subpoena, or only part thereof, the employee of the hospital charged with the responsibility of being custodian of original hospital charts or records shall so state in a notarized affidavit and, following notice and payment of expenses shall hold available the original charts or records which are in the hospital's custody and specified in the subpoena and shall deliver certified the copies together with the affidavit.

**Effective:** June 17, 1978

**History:** Created 1978 Ky. Acts ch. 109, sec. 2, effective June 17, 1978.