KOOTENAI COUNTY
EMERGENCY MEDICAL SERVICES SYSTEM

OFFICE OF COMPLIANCE & PRIVACY

CERTIFICATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

Court order, law enforcement process, subpoena without a court order, and law enforcement requests for a victim's records

45 C.F.R. § 164.512(e) • 45 C.F.R. § 164.512(f)

A subpoena signed only by an attorney, or issued by the clerk of court, does not by itself permit Kootenai County EMS System to release protected health information. KCEMSS must first receive satisfactory assurances that the patient's interests have been protected.

HOW TO COMPLETE THIS FORM

1. Complete Section 1.
2. If the request is a court order signed by a judge, or law enforcement process listed in Section 2, complete Section 2 and skip to Section 5.
3. Attorneys requesting information under a subpoena without a court order complete Section 3.
4. Law enforcement officials requesting a victim's records complete Section 4.
5. Attach the documentation listed in Section 5, then sign Section 6.

A request that does not establish a valid basis will be held and the requesting party notified until the deficiency is cured. KCEMSS produces responsive records within ten (10) business days after receiving a complete certification together with all documentation identified in Section 5.

SECTION 1: REQUEST IDENTIFICATION

☐ The case caption, court or tribunal, case number, date of service, date of the request, and response deadline all appear on the subpoena, court order, or written request attached to this form.

Patient name (as it appears on the record)

Records requested. Describe with specificity; KCEMSS releases only the minimum necessary to satisfy the request.

SECTION 2: COURT ORDER OR OTHER PROCESS SUFFICIENT ON ITS OWN

The process described in this section requires no satisfactory assurances. KCEMSS releases only the protected health information that the order or process expressly authorizes or requests.

Option 1: Court order — § 164.512(e)(1)(i)

☐ The document attached to this form is an order of a court or administrative tribunal signed by a judge or magistrate, and the records described in Section 1 are the records that order expressly authorizes.

Option 2: Law enforcement process — § 164.512(f)(1)(ii)

☐ The requester is a law enforcement official, and the document attached to this form is one of the following:

- ☐ A grand jury subpoena.
- ☐ A court-ordered warrant, or a subpoena or summons issued by a judicial officer.
- ☐ An administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law. If this box is checked, all four boxes below are also required.
  - ☐ Response to the request is required by law.
  - ☐ The information sought is relevant and material to a legitimate law enforcement inquiry.
  - ☐ The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.
  - ☐ De-identified information could not reasonably be used.

If this section is completed, skip Sections 3 and 4, attach the order or process under Section 5, and sign Section 6. A subpoena signed only by an attorney, or issued by the clerk of court, is not a court order and is not law enforcement process under § 164.512(f)(1)(ii).

SECTION 3: SUBPOENA WITHOUT A COURT ORDER

SELECT ONE OPTION; ALL OF ITS BOXES ARE REQUIRED

Option A: Notice to the individual

☐ The requesting party has made a good faith effort to provide written notice to the individual whose records are sought, or, if the individual's location is unknown, has mailed notice to the last known address.

☐ The notice included sufficient information about the litigation or proceeding to permit the individual to raise an objection with the court or tribunal.

☐ The time for the individual to raise objections has elapsed, and either no objections were filed, or all objections filed have been resolved by the court or tribunal in a manner that permits the disclosure.

Written notice given to the individual's own attorney counts as notice to the individual.

Option B: Qualified protective order

☐ The parties have agreed to a qualified protective order and have presented it to the court or tribunal, OR the requesting party has asked the court or tribunal to enter one.

☐ The order prohibits the parties from using or disclosing the protected health information for any purpose other than the litigation or proceeding for which it was requested.

☐ The order requires the protected health information, including all copies, to be returned to KCEMSS or destroyed at the end of the litigation or proceeding.

Option C: Assurances shown on the face of the subpoena

☐ The subpoena or other request states on its face that the individual is a party to the proceeding.

☐ It states on its face that notice of the request has been given to the individual or the individual's attorney.

☐ It states on its face that the time to object has elapsed and no objection was filed.

Where all three facts are evident from the face of the subpoena, the subpoena itself serves as the accompanying documentation and the certification signed in Section 6 serves as the written statement required by § 164.512(e)(1)(iii). No separate notice documentation is required.

SECTION 4: LAW ENFORCEMENT REQUEST FOR A VICTIM'S RECORDS

SELECT ONE OPTION; ALL OF ITS BOXES ARE REQUIRED

Complete this section instead of Section 3 only when a law enforcement official is requesting protected health information about an individual who is, or is suspected to be, the victim of a crime, under 45 C.F.R. § 164.512(f)(3), and the request is not made through process listed in Section 2. If a victim's records are being sought by subpoena, discovery request, or court order in litigation, the victim's status does not change the analysis and Section 3 applies instead.

Option D: The victim agrees to the disclosure

☐ The individual has agreed to the disclosure. State below how and when agreement was obtained, and attach any written agreement.

How and when the individual's agreement was obtained

Option E: Agreement cannot be obtained (incapacity or other emergency)

☐ The individual is incapacitated, or another emergency circumstance exists, and the individual's agreement to the disclosure cannot be obtained.

☐ The law enforcement official represents that the information is needed to determine whether a violation of law by a person other than the victim has occurred, and that the information is not intended to be used against the victim.

☐ The law enforcement official represents that immediate law enforcement activity depending on the disclosure would be materially and adversely affected by waiting until the individual is able to agree.

The third requirement of § 164.512(f)(3)(ii), that the disclosure be in the individual's best interest, is a determination KCEMSS makes in the exercise of professional judgment. It is recorded in the KCEMSS use block at the end of this form and is not certified by the requester.

SECTION 5: DOCUMENTATION ATTACHED

CHECK ALL THAT APPLY

☐ Copy of the court order signed by a judge or magistrate.

☐ Copy of the grand jury subpoena, warrant, judicial subpoena or summons, or administrative request described in Section 2.

☐ Copy of the subpoena, discovery request, or other lawful process.

☐ Copy of the written notice provided to the individual or the individual's attorney, with proof of service or mailing.

☐ Copy of the qualified protective order entered by the court, or the stipulation or motion asking the court to enter one.

☐ Authorization signed by the individual or personal representative under 45 C.F.R. § 164.508.

☐ Written request from the law enforcement official, on agency letterhead, stating the representations checked in Section 2 or Section 4.

☐ Other (describe):_____

KCEMSS Form CP-02 may be used for that authorization. If the request seeks substance use disorder treatment records (42 C.F.R. Part 2), or mental health, HIV/AIDS, or genetic information records protected under Idaho law, satisfactory assurances alone may not be enough. Those categories may require a specific patient authorization or a court order, and KCEMSS follows the stricter requirement.

SECTION 6: CERTIFICATION OF THE REQUESTING PARTY

☐ I am the attorney of record in the matter identified in Section 1 and I have completed Section 2 or Section 3.
☐ I am the law enforcement official making the request described in Section 2 or Section 4.

I certify that each statement I have checked above is true and correct, and that the documentation identified in Section 5 is attached. I understand that Kootenai County EMS System is relying on this certification as the satisfactory assurances required by 45 C.F.R. § 164.512(e)(1)(ii), as the representations required by 45 C.F.R. § 164.512(f)(1)(ii) or § 164.512(f)(3), or as confirmation that the attached order qualifies under 45 C.F.R. § 164.512(e)(1)(i), before releasing protected health information.

☐ My name, bar or agency number, firm or agency, contact information, and the party I represent all appear on the printed subpoena or written request attached to this form.

If that box is checked, sign and date below and leave the remaining fields blank. A signature is still required in every case.

Signature	Date
Printed name	Bar number, or agency and badge number
Firm or agency	Party represented, or agency case number
Email	Telephone

Mailing address

HIPAA permits these disclosures; it does not require them. A complete certification establishes the legal basis for release. KCEMSS retains the discretion to require a signed patient authorization, to object, or to move to quash or for a protective order, and may decline to release records where release would not be appropriate.

FOR KCEMSS USE ONLY

Date received	Date responded

☐ Assurances accepted, records released ☐ Held; deficiency noted and requester notified
☐ § 164.512(f)(3)(ii)(C): disclosure determined to be in the individual's best interest, in the exercise of professional judgment.

Deficiency / notes

Reviewed by (Compliance & Privacy Officer)	Date