

PALOMAR POMERADO HEALTH SYSTEM
District Policy No. 10-411

INSPECTION AND COPYING OF PUBLIC RECORDS

POLICY: To meet the state regulations which pertain to the Public Records Act as well as the state and federal requirements which govern patient confidentiality, formal guidelines shall be formulated. Those guidelines were adopted by Resolution No. 6.23.88(01) and shall be the District policy which governs the inspection and copying of public records.

GUIDELINES: See Resolution No. 6.23.88(01), attached.

APPROVED BY:



Chairman of the Board

PREPARED BY: Rose S. Godfrey
Administrative Assistant

SOURCE: Resolution No. 06.23.88(01)

DATED: February, 1994

REVIEWED: September, 1995; January, 1999

REVISED:

DISTRIBUTION: BOD; Admin; Medical Records

RESOLUTION NO. 06.23.88(01)

RESOLUTION OF THE BOARD OF DIRECTORS
OF THE PALOMAR POMERADO HOSPITAL DISTRICT
REVISING PROCEDURES CONCERNING INSPECTION AND
COPYING PUBLIC RECORDS

WHEREAS, the District promulgated and adopted Procedures Concerning Inspection and Copying of the District's Public Records by Resolution No. 06.23.88(01);

WHEREAS, those procedures include guidelines pertaining to compliance with subpoenas duces tecum requesting copies of the District's records;

WHEREAS, recent amendments to the law pertaining to subpoenas duces tecum require some revisions in the guidelines;

RESOLVED, the District's procedures concerning inspection and copying of public records are hereby revised as indicated on Exhibit A, attached to this Resolution and incorporated herein by this reference;


RESOLVED FURTHER, that this Resolution shall supersede prior resolutions pertaining the copying of public records.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Palomar Pomerado Hospital District on June 23, 1988 by the following vote:

AYES:	Brown, Hutchings, Jaques, Lyon, Madison, Reeves, Thomas
NOES:	None
ABSENT:	None
ABSTAINING:	None


Edward H. Lyon, Chairman

ATTEST:


Pam Thomas, Secretary

PALOMAR POMERADO HOSPITAL DISTRICT APPLICATION

FOR INSPECTION OF PUBLIC RECORDS

- 1) NAME OF APPLICANT: _____
- 2) ADDRESS: _____

- 3) TELEPHONE NUMBER: _____
- 4) DATE OF APPLICATION: _____
- 5) Please indicate on the attached page, for each public record desired: (a) an exact description of the record; (b) whether you would like a copy of the record; and (c) whether you have specific authorization to inspect any records for which such authorization is required by the District's Guidelines for the Accessibility of Public Records. You may obtain a copy of the Guidelines upon request.

In the event copies are requested of any of the records you requested, you will be charged ten cents per page for standard reproduction of documents 8 1/2" by 14" or less, and actual costs for reproduction of oversized documents or documents which require special processing. Additionally, clerical costs directly incurred in duplication, billed at the rate of \$16.00 per hour for a clerical person computed on the basis of \$4.00 per quarter hour or fraction thereof, will be charged. In the event copying cannot be done by the District for technical reasons, an estimate of the cost of copying shall be obtained by the District from an available source, and you will be required to deposit the amount of such estimate with the District prior to copying. The records shall be copied by the District (or an outside source, if necessary) as soon as possible without disruption of the normal business of the District.

Further information concerning this procedure is available in the District's Procedures Concerning Inspection and Copying of Public Records. You may obtain a copy of the Procedures upon request.

1)

2)

3)

4)

5)

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

Signature of Applicant

EXHIBIT A

PROCEDURES CONCERNING INSPECTION AND
COPYING OF THE PUBLIC RECORDS OF THE
PALOMAR POMERADO HOSPITAL DISTRICT

The following procedures govern the inspection and copying of all of the Public records of the District. These procedures have been set by the Board of Directors of the District and are administered by the President/Chief Executive Officer of the District under the Guidelines adopted by the Board of Directors.

A. DEFINITIONS

"Person" includes any natural person, corporation, partnership, firm or association.

"Public records" includes any writing containing information relating to the conduct of the business of the District prepared, owned, used or retained by the District regardless of physical form or characteristics.

B. TIME OF INSPECTION

The Public records of the District subject to inspection and copying pursuant to the Guidelines for Accessibility of the Public Records of the Palomar Pomerado Hospital District may be inspected at all times during the regular office hours of the administrative main office of the District, i.e., on Monday through Friday (holidays excepted) during the hours of 9:00 a.m. until 5:00 p.m.

C. PLACE OF INSPECTION.

The Public records of the District may be inspected at the District's administrative main office in Escondido, California.

D. APPLICATION FOR INSPECTION.

Every person desiring to inspect the Public records shall first fill out an Application for Inspection or Copying of Records form, which may be obtained at the place of inspection, and which form shall state:

1. The name of the applicant.

2. The address of the applicant.
3. The telephone number of the applicant.
4. The date of inspection.
5. The exact description of the records which the applicant desires to inspect.
6. Whether the applicant desires a copy of such records.
7. Whether the applicant has specific authorization to inspect the records (when such authorization is required pursuant to District Guidelines).

When specific written authorization is required to inspect the subject records, a copy of such written authorization must accompany the application and shall be permanently affixed thereto.

E. DISTRICT'S RESPONSE TO APPLICATION FOR INSPECTION.

Upon receipt of any Application for Inspection or Copying of Records, the District shall determine within ten (10) days after the receipt of such application whether to comply with the request. The District shall immediately thereafter notify the person making the application of the District's determination and the reasons therefor.

In case of unusual circumstances, the ten (10) day time limit may be extended by written notice from the District President/Chief Executive Officer to the person making the application. Such notice shall set forth the reasons for the extension and the date on which a determination is expected to be made. Any such extension shall not exceed ten (10) working days. As used in this paragraph, "unusual circumstances" means:

- a. The need to search for and collect the requested records from field facilities;
- b. The need to search for, collect and appropriately examine a voluminous amount of separate records; or
- c. The need for consultation, which shall be conducted with practicable speed, with another agency having a substantial interest in the determination of the application or among two or more components of the District which have substantial interest in matters covered by the application.

F. FEE FOR COPYING AND CERTIFYING RECORDS.

When the applicant desires a copy of an identifiable Public record or information produced therefrom, the writing shall be copied (if it can be so done with equipment then available at the place of inspection) by the District for: (a) a charge of ten cents (\$.10) per page for standard reproduction of documents 8½ by 14 inches or less, and actual costs for reproduction of oversized documents or documents which require special processing, plus clerical costs directly incurred in duplication, billed at the rate of Sixteen Dollars (\$16) per hour per person computed on the basis of Four Dollars (\$4.50) per quarter hour or fraction thereof, or (b) statutory costs. If such copying cannot be done by the District for technical reasons, an estimate of the cost of copying the same shall be obtained by the District from any available source and the applicant shall deposit the amount of such estimate with the District prior to such copying.

The copying of such records shall be accomplished by the District as soon as possible after the request therefor without disruption of the normal business of the District. The applicant shall be informed of the time necessary to accomplish such copying.

When the applicant desires a certification of such copies of such records, a fee of \$2.00 shall be paid for such certification.

G. RECORDS NOT TO BE REMOVED.

No records of any kind may be removed by an inspecting party from the place of inspection for any purpose whatsoever without an order of a court of competent jurisdiction.

H. GUIDELINES AVAILABLE.

A copy of the District's Guidelines for the Accessibility of the Public Records of the Palomar Pomerado Hospital District is available upon request.

EXHIBIT B

GUIDELINES FOR THE ACCESSIBILITY
OF THE PUBLIC RECORDS OF THE
PALOMAR POMERADO HOSPITAL DISTRICT

The following Guidelines shall govern the accessibility for inspection and copying of all of the Public records of the District. The Guidelines have been set by the Board of Directors of the District and are to be administered by the President/Chief Executive Officer of the District.

A. PURPOSE OF GUIDELINES.

The purpose of these Guidelines is to serve as general rules to be followed by those persons charged with administration of the Procedures Concerning Inspection and Copying of the Public Records of the Palomar Pomerado Hospital District heretofore adopted by the Board of Directors. Certain requirements of law must be observed relating to disclosure of records and to the protection of the confidentiality of records. These Guidelines set forth the general rules contained in such laws.

B. DEFINITIONS.

"Person" and "Public records" are defined in the Procedures Concerning Inspection, etc., of the District and such definitions apply herein.

"Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

C. QUESTIONS OF INTERPRETATION.

In case of any question as to the accessibility of the records of the District under these Guidelines, records should not be made accessible to the Public until such question has been determined by the President/Chief Executive Officer of the District. The decision of such officer is final unless overruled by the Board of Directors.

The District shall justify the withholding of any record by demonstrating that the record requested and withheld is exempt

under Paragraph E of these Guidelines, or that on the facts of the particular case, the Public interest served by not making the record Public outweighs the Public interest served by the disclosure of such record.

In the case of any denial of an Application for Inspection or Copying of Records, the District shall notify the applicant of the decision to deny the application for records and shall set forth the names and positions of each person responsible for the denial of the request.

D. FOLLOWING PROCEDURES FOR INSPECTION AND COPYING.

The Procedures referred to hereinabove shall be followed in all of their specifics at all times. Records of inspections shall be accurately maintained.

E. RECORDS SUBJECT TO INSPECTION.

All Public records of the District are subject to inspection pursuant to these Guidelines except as follows:

1. Records set forth hereinafter in Part "F" as records subject to inspection only with authorization;
2. Records set forth hereinafter in Part "G" as not subject to inspection (unless by Court order); or
3. Records which may be withheld by exercise of discretion as set forth in Part "I".

If the District discloses a Public record which is otherwise exempt from disclosure under the California Public Records Act, the disclosure shall constitute a waiver of the exemption otherwise applicable to such record.

F. RECORDS SUBJECT TO INSPECTION ONLY WITH AUTHORIZATION.

Any records relating to patients of the District's hospitals (including but not limited to the patient's records of admission and discharge, medical treatment, diagnosis and other care and services) shall only be made available for inspection and/or copying under the following conditions:

1. Upon presentation of a written authorization which satisfies the requirements of the Confidentiality of Medical Information Act, including execution by an adult patient, by the guardian or conservator of his person or estate, or, in the case of a minor, by a parent or guardian of such minor, or, by the personal representative or heir of a deceased patient, and then only upon the presentation of the same by

such person above named or an attorney at law representing such person.

2. Upon presentation of a written order therefor issued by a Court of the State of California or of the United States of America (see references to Subpoenas Duces Tecum hereinafter) which specifically commands the District to disclose specified records.

G. RECORDS NOT SUBJECT TO INSPECTION (UNLESS BY COURT ORDER).

The following records of the District are not subject to inspection by any person without a written order therefor issued by a Court of the State of California or of the United States of America (see reference to Subpoena Duces Tecum hereinafter):

1. Records of the proceedings or other records of an organized committee of medical or medical-dental staffs in the District's hospitals having the responsibility of evaluation and improvement of the quality of care rendered in the Hospital.

2. Records pertaining to pending litigation to which the District is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code of California, until such litigation or claim has been finally adjudicated or otherwise settled.

3. Personnel, medical or similar files of nonpatients, the disclosure of which would constitute an unwarranted invasion of personal privacy of the individual or individuals concerned.

4. Records of complaints to or investigations conducted by, or investigatory or security files compiled by the District for correctional, law enforcement or licensing purposes.

5. Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment or academic examination.

6. The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the District relative to the acquisition of property, or to prospective Public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreements obtained.

7. Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law,

including, but not limited to, provisions of the Evidence Code of California relating to privilege. (Privileges are conditionally provided for all communications between lawyer and client, physician and patient, and psychotherapist and patient).

8. Preliminary drafts, notes, or interdistrict, intra-district or other memoranda, between districts, departments of the District, and/or other agencies, which are not retained by the District in the ordinary course of business, and provided that the Public interest in withholding such records outweighs the Public interest in disclosure.

9. Records in the custody of or maintained by legal counsel to the District.

10. Statements of personal worth or personal financial data required by any licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate or permit applied for.

11. Records of state agencies related to activities governed by Articles 2.6, 2.8, and 2.91 of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, pertaining to Medi-Cal provider contracting, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of healthcare services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice or training to employees.

12. A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to Subdivision (b) of Section 1282 of the Health and Safety Code.

H. RECORDS SUBMITTED TO AGENCIES WHICH ARE EXEMPTED FROM DISCLOSURE BY DISTRICT HOSPITALS.

In addition to the limitations upon disclosure of Public records otherwise set forth in these Guidelines, the District is not required to disclose Public records, or permit the inspection of Public records pertaining to financial or utilization data, other than such financial and utilization data as is filed with the California Health Facilities Commission and/or the Office of Statewide Health Planning and Development. It is sufficient compliance with the law to permit inspection of financial and utilization information reported to the Office of Statewide Health Planning and Development pursuant to Division 1, Part 1.8 of the California Health and Safety Code. In case of doubt, consult the District legal counsel.

I. DISCRETIONARY WITHHOLDING OF RECORDS.

In addition to the limitations upon disclosure of records set forth in these Guidelines, the District may, in its discretion, withhold inspection of any record when the District determines that on the facts of the particular case the Public interest served by not making the record Public clearly outweighs the Public interest served by disclosure of the record. Such discretion shall be exercised by the District by and through the President/Chief Executive Officer whose decision shall be final unless overruled by the Board of Directors.

J. COMPLIANCE WITH SUBPOENA DUCES TECUM.

While a Subpoena Duces Tecum (a notice to appear and to bring records, or to produce records without appearance) is issued by a court, it is not an order of the court declaring that the particular records are subject to disclosure. Such records may still be subject to protection against disclosure by reason of the existence of a privilege or other legal excuse. Therefore, receipt of such a subpoena does not permit disclosure of records in and of itself and the following rules should be followed:

1. Subpoena in action where District is a party:

Immediately consult with legal counsel representing the District as to the proper response.

2. Subpoena in other actions:

(a) If the records sought to be discovered fall within one of the categories in Paragraphs F, G or H above, consult with the District's counsel prior to responding to the subpoena.

(b) If the records sought to be discovered are those which can be inspected, it is sufficient compliance with the subpoena (if it seeks only records and does not specify that "testimony" or "examination upon such records" will be required) to deliver a copy by mail or otherwise, following the procedure set forth in Exhibit "1" attached hereto.

3. If only a portion of the records may be disclosed or inspected:

If only portions of any requested records may be disclosed or inspected, the disclosable portions should be segregated from the non-disclosable portions, and the segregated non-disclosable portions should be withheld unless and until a court orders their production.

HOW TO COMPLY WITH SUBPOENA DUCES TECUM
OF RECORDS WHICH ARE UNCONDITIONALLY DISCOVERABLE

A. Except as provided in Paragraphs E and F hereafter, when a Subpoena Duces Tecum is served upon the custodian of records or other qualified witness of the District in an action in which the District is neither a party, nor the place where any cause of action is alleged to have arisen, and such subpoena requires the production of all or any part of specified records of the District, it is sufficient compliance if the custodian or other qualified witness, within the time period specified by law, delivers by mail or otherwise, a true, legible, and durable copy of all the records described in such subpoena to the clerk of the court, or to the judge if there is no clerk, or to the notary Public set forth in said subpoena, or to such other persons authorized by law, together with the affidavit described in Paragraph C hereinafter. The custodian shall verify prior to delivering such records that the party serving the subpoena has complied with the Notice to Consumer requirements of Code of Civil Procedure Section 1985.3.

B. The copy of the records shall be separately enclosed in an inner envelope or wrapper, sealed, with the title and number of the action, name of witness, and date of subpoena clearly inscribed thereon; the sealed envelope or wrapper shall then be enclosed in an outer envelope or wrapper, sealed and directed as follows:

(1) If the subpoena directs attendance in court, to the clerk of such court, or to the judge thereof if there is no clerk.

(2) If the subpoena directs attendance at a deposition, to the officer before whom the deposition is to be taken, at the place designated in the subpoena for the taking of the deposition or at this place of business.

(3) In other cases, to the officer, body or tribunal conducting the hearing, at a like address.

C. Except as provided in Paragraph F hereafter, the records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

(1) The affiant is the duly authorized custodian of the records or other qualified witness and has authority to certify the records.

(2) The copy is a true copy of all the records described in the subpoena.

(3) The records were prepared by the personnel of the District in the ordinary course of business at or near the time of the act, condition, or event.

D. If the District has none of the records described, or only part thereof, the custodian or other qualified witness shall so state in the affidavit, and deliver the affidavit and such records as are available in the manner provided in Paragraph B above.

E. Notwithstanding the procedure for sending records described above, the personal attendance of the custodian or other qualified witness and the production of the original records is required at the time and place designated if the Subpoena Duces Tecum contains a clause which reads:

"The personal attendance of the custodian or other qualified witness and the production of the original records is required by this subpoena. The procedure authorized pursuant to subdivision (b) of Section 1560, and Sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena."

F. Notwithstanding the procedure for sending records described above, the records should be produced for copying at an appropriate District office by an authorized representative of the subpoenaing party if the subpoena so requires. The affidavit referred to in paragraph C above shall be revised accordingly.

G. (1) Where the business records described in a subpoena are patient records of a hospital, or of a physician and surgeon, osteopath, or dentist licensed to practice in this State, or a group of such practitioners, and the personal attendance of the custodian of such records or other qualified witness is not required, the fee for complying with such subpoena is ten cents (\$.10) per page for standard reproduction of documents of 8 $\frac{1}{2}$ by 14 inches or less, Twenty Cents (\$.20) per page for copying documents from microfilm and actual costs for reproduction of oversized documents or documents which require special processing, plus clerical costs incurred in locating and making the records available, billed at the rate of Sixteen Dollars (\$16.00) per hour per person computed on the basis of Four Dollars (\$4.00) per quarter hour or fraction thereof, actual postage costs, plus actual costs, if any, charged to the District by any third person for retrieval and return of records held by that person. Notwithstanding the foregoing, the only fee for complying with a subpoena under Sections 1560 through 1563 of the Evidence Code, where the records sought are produced for

inspection or copying at the District's place of business shall be Fifteen Dollars (\$15.00), plus actual costs, if any, charged to the hospital by a third person for the retrieval and return of records held off site.

(2) When the personal attendance of the custodian of a record or other qualified witness is required, he shall be entitled to twenty cents (\$.20) a mile for mileage actually traveled, one way only, and to Thirty-five Dollars (\$35) for each day of actual attendance, or as otherwise provided by law.

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EXHIBIT 1 to EXHIBIT B