



Protecting children, healing lives.

## **Provider Court Billing Information Sheet**

Revised March 2022

*If you would like one of our providers to testify, you must serve the provider in-person. We recommend scheduling a specific time to serve the provider, due to varying schedules around patient care. To schedule a time, please call the main line at: 503-276-9000. \*\*\* Due to Covid restrictions, copies of the provider subpoenas may be faxed to the main number at 503-276-9010 or sent to [CaresNWAdmin@LHS.ORG](mailto:CaresNWAdmin@LHS.ORG). \*\*\**

CARES NW (CNW) can provide witness testimony on cases in which a member of the CNW staff has evaluated the child.

The following activities are billed in quarter-hour increments:

Preparation time:

- a. Review of chart.
- b. Review of video-recorded interview.
- c. Review of case with supervisor.
- d. Case discussion with attorneys, by phone or in person.
- e. Review of pertinent material for court purposes.

Witness time:

- a. Court testimony time.
- b. Time with attorneys or waiting time at court. This includes court time even if staff member does not testify.

Charges:

- a. Within Multnomah and Washington Counties OR case involving Randall Children's Hospital inpatient, regardless of jurisdiction:
  - i. \$110.00 per hour – medical provider.
  - ii. \$ 90.00 per hour – interviewer/social worker.
- b. Outside Multnomah and Washington Counties:
  - i. \$250.00 per hour – medical provider.
  - ii. \$150.00 per hour – interviewer/social worker.

### **Invoicing/Pre-Payment**

We invoice after the court appearance and do not require pre-payment as the total varies from case to case depending on the amount of prep time and testimony time. If you submit a witness check with the subpoena, we will deduct it from the invoice total. The hourly rate varies for different counties and the level of training of the provider.



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## Subpoena for Testimony

Any employee receiving a subpoena for appearance at a trial or other proceeding is required to follow the 'Guidelines on Testimony Involving PHI.' The patient's PHI may not be disclosed at a trial, deposition, or other legal proceeding without the patient's written authorization or an order from the court. (45 CFR Part 164.512 (f))

The fact that an attorney has issued a subpoena for the testimony of a witness or noticed the deposition of a witness does **not** authorize that witness to have pre-trial/deposition discussions with the attorney, their staff, or investigators.

When called to the witness stand at the trial or other proceeding and asked to testify regarding PHI, the witness is required to state the following:

***"My testimony will disclose protected health information which is protected under privacy laws and may be privileged. I am prohibited by law from disclosing this information without the patient's authorization or an order of this Court. I will do as the Court orders."***

## Discussing Patient Information

Under federal and state privacy laws, Legacy/CNW, its employees, and workforce members cannot disclose the protected health information (PHI) of its patients unless the patient authorizes the disclosure, a court/judge orders the disclosure, a state law requires the disclosure, or another exception applies to allow disclosure. This is true for testimony and other oral disclosures as well as documents. Before a Legacy/CNW employee or workforce member discloses PHI through testimony or oral conversation with attorneys, one of the following must occur:

- a HIPAA compliant Authorization is signed by the patient who is the subject of the PHI or by the patient's legal representative; or
- a Court or Administrative Law judge (or other like authority) issues an order (this can be written or verbal) that directs the witness to testify; or
- the testimony is required by law (for example if a witness is asked to provide oral testimony to a licensure Board that is acting as a health care oversight agency such as the Oregon Medical Board, Board of Nursing, or Board of Pharmacy).

Individuals, including attorneys and investigators, seeking to speak to employees regarding patients, former patients, or patient care shall be required to provide a valid HIPAA authorization to use and disclosed protected health information before PHI may be disclosed.

Release of protected health information pursuant to civil and criminal subpoenas shall follow Oregon Rules of Civil Procedure (ORCP) 55H.

## Remote Testimony

Remote testimony is an available option (via telephone or video) so long as whatever program or telephone line being used is HIPAA-compliant and secure (Zoom, WebEx, GoToMeeting etc.).



## **Out of State Subpoenas**

For staff to be compelled to appear for testimony, we require an Oregon-issued subpoena. CNW/Legacy does not accept service of out-of-state subpoenas for testimony to Legacy-employed providers at CNW, unless the provider agrees to acceptance of service where telephonic/remote attendance is permitted and it is served through an Oregon court. Service of out-of-state subpoenas to contracted providers at CNW should be redirected to the provider's employer for service where they can receive direction from their company's legal department. Exceptions to accepting service of out-of-state subpoenas/in-person testimony may be made for locations convenient to the provider (i.e., Vancouver, WA, etc.).

## **Records/Subpoena Duces Tecum**

We do not allow charts to leave CNW or for providers to take charts or records with them when they testify in court. If records are required, the records must be requested separately through the Custodian of Records with a Subpoena Duces Tecum (records in lieu of appearance) and our signed Protective Order.

## **CARES Northwest/Legacy Policies and Requests**

We appreciate your assistance and cooperation with the following requests:

Provider schedules are typically booked 2-3 weeks out and subpoenas should be issued in a timely manner to allow for necessary schedule changes. CNW requests that sufficient notice is given, as far in advance of testimony, whenever possible. The more notice we can be given and the shorter the testimony window that is assigned to us can be, the easier it is for us to accommodate all court appearances.

CNW/Legacy providers are not permitted to testify on a non-workday. However, we would like to be as helpful as possible and find solutions to meet your needs. In the instance of a scheduling conflict (vacation, other court appearance, etc.), there are several alternative options we can offer:

1. You may subpoena the other provider who took part in the evaluation or a provider who can speak to the contents of the report. In most situations, another person can testify to the same things as their evaluation teammate who is unavailable.
2. You may subpoena the certified records (subpoena duces tecum/records in lieu of appearance, with our protective order). A notarized affidavit is included with these records.
3. You may request a reset for when the provider returns and is available again.
4. If the provider will have internet access and will not be attending another court hearing, they may be able to testify remotely. As we would like to protect our employees' right to time off (vacation, maternity leave, medical leave etc.), it is preferred that this is the last choice and only used in emergency situations.

