Show-Me My Rights:
Protecting My TGNCI Patients' Private Medical Information

Responding to a Subpoena *(Last Updated: September 2026)*



This Q&A is designed for medical and mental health professionals practicing in Missouri who have received (or would like to be prepared in the event they receive) a subpoena seeking their TGNCI (transgender, nonbinary, gender non-conforming, and intersex) patients' private medical information and records.

We understand this can be a stressful situation, but remember, you have rights! The ACLU is here to support you and your patients.

This information is not intended as legal advice. If you receive a subpoena requesting your patient's medical information, you should contact a health law attorney immediately to discuss your specific situation. Please also be aware that the law in this area changes frequently, so it is very important to consult a knowledgeable attorney.

What is "a subpoena"?

A subpoena is a legal document used by attorneys to gain access to information critical to a legal case or to compel an individual or entity to testify in court. Courts can issue a HIPAA subpoena for medical records, which could require the recipient to produce evidence or testify at a court hearing.

Does receiving a subpoena mean I am in legal trouble?

No. A subpoena is not an accusation against you or a sign that you're in trouble. Rather, it's our legal system's way of requesting that you provide significant, missing information needed for a legal case. Subpoenas are typically used in litigation to obtain information from third parties who are not directly involved in the case but may have relevant information related to the case.

What should I do if I receive a subpoena demanding my patient's private medical information and records?

- Do not ignore it!
  - ***If the subpoena is issued in Missouri state court:*** a provider receiving a subpoena for patient records must serve any written objection on all parties to the action within **10 days** after service of the subpoena or before the time specified for compliance (whichever is earlier).[1]
  - ***If the subpoena is issued in a federal court:*** a provider receiving a subpoena for patient records must serve any written objections within **14 days** after service of the subpoena or before the compliance date (whichever is earlier).[2]
- Immediately seek counsel from an attorney experienced in these issues. **You can start by contacting your professional/ malpractice insurance provider.**
- Work with your attorney to confirm that the subpoena is valid and to understand what the subpoena is requesting of you. For example, your attorney can help you to understand:
  - What is the validity and scope of the subpoena? (e.g., is it signed by a judge or an attorney?; does it contain a valid case number and deadline?; is it from Missouri or out-of-state?)
  - Is it asking you to testify in person or is it seeking documents?
  - To whom are you supposed to deliver documents?
  - When is the applicable due date?
- Contact the client (or the minor client's custodial parent) in writing to let them know you received a subpoena requesting their private medical information and/or records.

[1] *See* Mo. Sup. Ct. R. 57.09.

[2] *See* Fed. R. Civ. 45.

I have heard that hospitals and clinics across the country that provide gender-affirming medical care to minors have received subpoenas from the government. What is going on?

In July 2025, the U.S. Department of Justice ("DOJ") announced that it had sent subpoenas to over 20 healthcare institutions that provide gender-affirming medical care to minors. These subpoenas sought broad access to patient records, including names, social security numbers, medical diagnostic codes, insurance billing, and more. The Administration did not release a list of the healthcare entities that had been sent subpoenas. The kind of subpoena that the DOJ sent is a civil (not criminal) demand to produce documents, purportedly to "investigate Federal health care offenses" they suspect the healthcare entities, their providers, or others are "committing or have committed, related to the provision of gender-affirming care." So far, at least eight federal district courts have blocked the DOJ's efforts to obtain sensitive medical information through civil subpoenas.[3]

In May 2026, the DOJ issued its first criminal grand jury subpoena targeting hospitals and clinics that provide gender-affirming medical care to minors. Litigation in this area is ongoing.[4]

Are there any federal or state legal protections i can use to challenge a subpoena that demands i turn over my patient's private medical information and records?

Yes. In Missouri, the disclosure of patients' medical information and/or records is protected by confidentiality, including under state law and federal law. Refer to the chart below for a quick overview of the legal protections available to medical and mental health providers in Missouri. Despite these protections, a provider could be ordered to turn over certain information. In that case, it is helpful to have a protective order in place or request that one be put in place to provide additional protection to the disclosed information.

**Be sure to consult with an attorney for more information!*

[3] For more information, see the Q&A and fact sheet prepared by experts from the ACLU, Lambda Legal, Transgender Law Center, National Center for LGBTQ Rights, and GLAD Law: https://www.aclu.org/trumps-assault-on-transgender-rights/doj-subpoenas-healthcare-trans-youth

[4] For more information on these grand jury subpoenas, see this Q&A from the ACLU, NYCLU, and Lambda Legal: https://www.aclu.org/qa-coe-et-al-v-blanche

Privilege Name	Law Source	How Does this Privilege Apply to Subpoenas for Medical Records?	Who Does this Privilege Cover?
HIPAA (Health Insurance Portability and Accountability Act)	Federal Law: 45 C.F.R. § 160-64	Missouri courts, as well as Missouri health care providers and entities, must comply with HIPAA.[5] HIPAA protects patient privacy by prohibiting health care providers and entities from disclosing protected health information ("PHI"). PHI is defined as "individually identifiable health information" that "is created or received by a health care provider, health plan, employer, or health care clearinghouse" and relates to the "physical or mental health or condition of an individual, the provision of health care to an individual, or . . . payment for the provision of health care to an individual."[6] To be PHI, health information must identify the individual, including information in which "there is a reasonable basis to believe the information can be used to identify the individual."[7]	**Healthcare providers**—any provider that transmits health information electronically in connection with a covered transaction. This includes **physicians, psychologists, psychiatrists, therapists, and other mental health providers** who bill insurance or submit claims electronically.

[5] *Wash. Univ. v. Att'y Gen. of State,* 727 S.W.3d 759, 776 (Mo. Ct. App. 2025).

[6] *See* 45 C.F.R. § 160.103.

[7] *Id.*

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Physician-Patient Privilege	State Law: §491.060(5), RSMo.	In Missouri, the physician-patient privilege is governed by statute[8], which provides that physicians, psychologists, chiropractors, and dentists are incompetent to testify about information they received from a patient that was used to diagnose and treat the patient. This privilege applies to a patient's medical records, even if these records are directly relevant to the court claim.[9] The patient is the only one who can waive the privilege.[10] A patient can waive this privilege expressly or impliedly, for example, by putting their medical condition at issue, usually by filing a petition alleging physical or mental injuries.[11] A patient can also waive this privilege by "showing a clear, unequivocal purpose to divulge the confidential information."[12] Because this privilege makes evidence (in this case, medical records) non-discoverable, a subpoena cannot compel discovery of medical records even if they are relevant.[13] **Note that patients should be careful not to inadvertently waive this privilege!*	• **Physicians** • **Psychologists** • **Chiropractors** • **Dentists** **in Missouri**

[8]*See* § 491.060(5), RSMo.

[9]*State ex rel. Lutman v. Baker,* 635 S.W.3d 548, 551 (Mo. banc. 2021).

[10]*Id.* at 552.

[11]*Id.*

[12]*Id.*

[13]*Id.* at 553-54.

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Psychologist-Patient Privileged Communications Priviledge	State Law: § 337.055, RSMo.	Missouri law includes a privilege specific to licensed psychologists.[14] Specifically, this statute states that "[a]ny communication made by any person to a licensed psychologist in the course of professional services rendered by the licensed psychologist shall be deemed a privileged communication and the licensed psychologist shall not be examined or be made to testify to any privileged communication without the prior consent of the person who received his professional services."[15] Although this statute is written differently from the broader physician-patient privilege (see above)—i.e., the physician-patient privilege concerns competency to testify, while this narrower psychologist-patient privilege concerns protected communications—both offer the same protection to psychologists and patients.[16] Because this privilege renders evidence (in this case, medical records) non-discoverable, a subpoena cannot compel discovery of medical records, even if they are relevant.[17] **Note that patients should be careful not to inadvertently waive this privilege!*	**Licensed psychologists in Missouri**

[14] *See* § 337.055, RSMo.

[15] *Id.*

[16] *See State ex rel. Dean v. Cunningham,* 182 S.W.2d 561, 566 n.6 (Mo. banc. 2006).

[17] *See State ex rel. Lutman v. Baker,* 635 S.W.3d 548, 553–54 (Mo. banc. 2021).

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Marital & Family Therapist Privilege	State Law: § 337.736, RSMo.	Missouri recognizes a right to privacy to personal information and healthcare information "that should not be lightly disregarded or dismissed."[18] Under this privilege, a licensed therapist cannot disclose client information unless an exception applies: • Client written consent (or authorized rep consents after client's death/disability); • Information relates to a criminal act; • Child under age 18 & the information indicates the child is a victim of a crime; • Client waives privilege by suing therapist; • Therapist called to testify in court/admin hearings about adoption, abuse, neglect, or client welfare; or • Therapist is collaborating or consulting with professional colleagues on behalf of the client.[19]	**Licensed marital and family therapists in Missouri**

[18] *See State ex rel. Delmar Gardens N. Operating,* LLC, 239 S.W.3d 608, 611 (Mo. banc. 2007).

[19] *See* § 337.736, RSMo.

So how do I comply with HIPAA if I am responding to a subpoena for medical records?

- Consult an attorney who can guide you in understanding HIPAA rules. (You should also work to ensure that you have compliant policies at your practice.)
- Determine the subpoena's authority.
- Determine the scope of the patient information sought. (Protecting privacy is important for all patients, including transgender, nonbinary, gender non-conforming, and intersex patients!)
- Consider whether other laws—in addition to HIPAA—limit the requested disclosure.
- Ensure your psychotherapy notes receive a heightened level of protection!

For more information about TGNCI (transgender, nonbinary, gender non-conforming, and intersex) people's legal rights in Missouri, visit our free **Show-Me My Rights Guide:**

Scan the QR code of visit the link below:

https://www.aclu-mo.org/know-your-rights/your-rights-as-a-trans-person

For any questions, email us at:

showmemyrights@aclu-mo.org