

UK HealthCare Clinical Enterprise

CLINICAL ENTERPRISE POLICY & PROCEDURE

Title: Government Inquiries and Request for Documents

Number: 04-01

I. INFORMATION:

The provision of health care services is one of the most highly regulated industries in the United States. Accordingly, UK HealthCare customarily is subject to audits and investigations conducted by various government agencies. During the course of these inquiries, government investigators may arrive unannounced at UK HealthCare or the homes of present or former employees and seek interviews and documentation. The purpose of this policy is to establish a mechanism for a fair and orderly response to government inquiries to enable UK HealthCare and its employees to respond appropriately during the investigatory process.

II. POLICY:

It is the policy of UKHC to cooperate with any appropriately authorized government investigation or audit in accordance with recognized legal standards and practice.

III. PROCEDURE:

In person requests

If a government representative appears in person, for the purpose of investigating or auditing any aspect of UKHealthCare, its employees, agents or medical staff, employees should proceed as follows:

1. Ask to see his or her identification and business card. If these materials are unavailable, ask for the person's name and title, office address and telephone number, as well as his or her agency identification number. If more than one government representative appears, there often will be one representative in charge. Obtain the above information from the agent in charge.
2. Immediately contact your supervisor as well as UK HealthCare's Office of Compliance and/or the University's Office of Legal Counsel. UK Hospital employees should first contact Hospital administration. Relay all of the above information and documentation which you have gathered.

3. If a government representative wants to speak with an employee personally, or wishes to conduct a search or otherwise obtain documents from UK HealthCare, politely inform the representative that University officials have been contacted and will arrive shortly to assist with this process. Should the government representative refuse to wait for University officials to arrive before beginning a search, ask to see the legal documents supporting the search and make a copy of this documentation. Finally, inform the government representative that while you will not in any way prevent or obstruct them from acting immediately, you do not have the authority to consent to the search. **Remember employees are forbidden under any circumstances to obstruct the government representative's search and must provide any documents requested in a warrant or other legal document.** Accordingly, employees who, in good faith, assist government representative believing that they are required to do so by law, shall not be deemed to have consented to the government's search on behalf of the University of Kentucky.

Other requests

Employees who receive any written notice (or other type of notice not delivered in person by a government representative) requesting documents, records, interviews, or other information related to UK HealthCare in the course of their job duties should immediately notify their supervisor of the request. The supervisor is responsible for notifying the appropriate administrative office (e.g. Office of the EVPHA, hospital administration or dean's office). Depending on the nature of the request, UK HealthCare Office of Compliance or UK Office of Legal Counsel should be also be notified.

A. INTERVIEWS

Government representatives often will request to interview employees. Although anyone may volunteer to do so, employees are not obligated to consent to an interview.

It is not unusual for government representatives to try to suggest that employees must speak to them when they first contact an employee or for the government representatives to imply that it is wrong to refuse to speak with them during this first contact. Note that government representatives may not threaten an employee in any way whereby requiring an employee to speak with them immediately or suggest that they may offer an employee a “deal” if an employee provides them with information. No matter what the government representative might tell an employee, he or she is allowed to schedule an appointment for sometime in the future during which time such an interview can take place.

An employee is entitled to have someone with him/her during any interview with a government representative. The University can arrange to have its attorney present at no cost to the employee, or, if an employee wishes, he/she may consult with an outside attorney. If the

employee desires outside representation, he/she should contact the University's legal counsel prior to engaging outside legal counsel.

Notwithstanding any policy, an employee always is free to speak with a government representative. However, if an employee chooses to be interviewed by a government representative before contacting the appropriate University representative, the employee is still encouraged to contact the appropriate University representative as soon as possible after the interview.

Regardless of when or where an employee is interviewed, employees should follow these basic principles during an interview with government representatives:

1. Always tell the truth. If an employee does not recall something or has no knowledge about the topic that the government representative is asking about, say so.

2. In talking with the government representative, an employee should be very careful to answer questions completely, accurately and concisely so that there will be no misunderstanding. It is important to make clear to the government representative whether the information that an employee is providing is first-hand knowledge, something an employee has heard, or speculation. It is good to avoid speculation, but if an employee does speculate, make sure the government representative knows it.

3. You may request that the interview be stopped or delayed at any time during the interview process.

B. SEARCHES

A “search” occurs any time a government representative enters the company’s premises and begins to look for documents or ask questions. If the government representative refuses to wait for University officials to arrive before beginning a search, the employees on site at the time should:

1. Determine who is the highest-ranking employee present. That person will be in charge until UK HealthCare officials arrive on the scene. The employee in charge will be responsible for communicating with government representatives and for initiating and maintaining communication with UK HealthCare officials responsible for responding under this policy.

2. The employee in charge will ask to see the legal documents supporting the search and make a copy of this documentation. Note that some government agencies have the authority to assess penalties if their representatives are not granted immediate access to any location within UK HealthCare upon reasonable request. These agencies include OSHA, state Medicaid fraud control units, the Office of the Inspector General, and the state Medicaid agency. Therefore, regardless of what, if any, legal documents are provided to the UK HealthCare employee in charge, that employee should inform the government representative that while no one will in any way obstruct their investigation. However, even though they are free to take immediate action, he/she does not have the authority to consent to the search.

3. The employee in charge will keep a thorough list of all documents that the government representative inspects, seizes or copies. Further, the employee in charge will assign another employee to follow each government representative during the search. Employees assigned to this task should take detailed notes of everything that the government representatives seize and those documents that the government representatives inspect, but do not seize or copy. A detailed receipt should be obtained from the government representative of all documents/items for which the government has seized or copied, including the number of pages copied for each document. If the government representative wishes to take original documents, ask if those documents first may be copied. If the government representative will not allow copies, be sure to make a list of all documents that the government is taking.
4. It is not unusual for government representatives to seize documents or items such as patient records and computers, whose loss will impede day-to-day operation of the company. If a government representative wants to seize any computers or hard drives, the employee in charge should ask the representative if he/she is permitted to copy all such files onto a disk. If the government representative wishes to seize patient records, ask whether those records may be copied so that patient care or patient confidentiality will not be compromised.
5. If any UK HealthCare employee is asked to sign an affidavit of any kind, he or she should not comment as to the validity of its contents and explain that he/she are not authorized to sign any document prior to review by legal counsel.
6. **All UK HealthCare employees are required to answer questions concerning the location of documents. Remember, it is a crime to obstruct an agent in the lawful execution of his/her duties. Some other examples of unlawful behavior are: altering or destroying documents sought in an investigation; falsely denying knowledge of information; corruptly influencing another person to exercise the privilege against self-incrimination; or intimidating a witness with the intent of influencing testimony or retaliating against a witness for testifying in an official proceeding. However, asking questions and demanding a copy of the warrant are not obstruction. Remain calm, polite and observant.**

C. COMMUNICATIONS REGARDING AN INVESTIGATION

Except as outlined in this policy, UK HealthCare employees are asked not to discuss matters related to a government investigation with anyone other than UK HealthCare officials responsible for investigating the matter on behalf of UK HealthCare.

All media inquiries should be directed to the University of Kentucky Office of Public Relations.

D. CONTACT INFORMATION

UK HealthCare Office of Compliance
Chief Compliance Officer
Office (859) 323-8002

University Office of Legal Counsel
Medical Center Office (859) 323-1161 or Campus Office (859) 257-2936

Office of the Executive Vice President for Health Affairs
(859) 323-5126

University of Kentucky Office of Public Relations
Office (859) 323-6363 or staff member on-call (859) 323-5321

Hospital Administration
Office (859) 323-5211 or the administrator on-call (859) 323-5321

Kentucky Clinic Administration
Office (859) 257-8562

College of Medicine
Dean's Office (859) 323-5567

College of Dentistry
Dean's Office (859) 323-5786

College of Pharmacy
Dean's Office (859) 323-7601

College of Nursing
Dean's Office (859) 323-6533

College of Health Sciences
Dean's Office (859) 323-1100