# **Sharing Confidential Patient Information with Social Services**

### AIMEE WALL UNC SCHOOL OF GOVERNMENT

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### Abuse, neglect and dependency

 DSS received a report that an 8 y.o. boy, John, was being abused. A DSS employee contacts the local health department (LHD) and asks for a copy of John's medical records.

•Should the LHD provide DSS with a copy?

### Abuse, neglect and dependency

### State law

 Must "assist" DSS with its assessment of report or provision of protective services

**ODSS** may make a written demand for information it considers relevant

✓ If so, LHD must disclose

HIPAA allows this disclosure

### Abuse, neglect and dependency

 HIPAA requires that, before disclosing, you

 Know or verify the requestor's legal authority to have the information
 Know or verify identity of the requestor

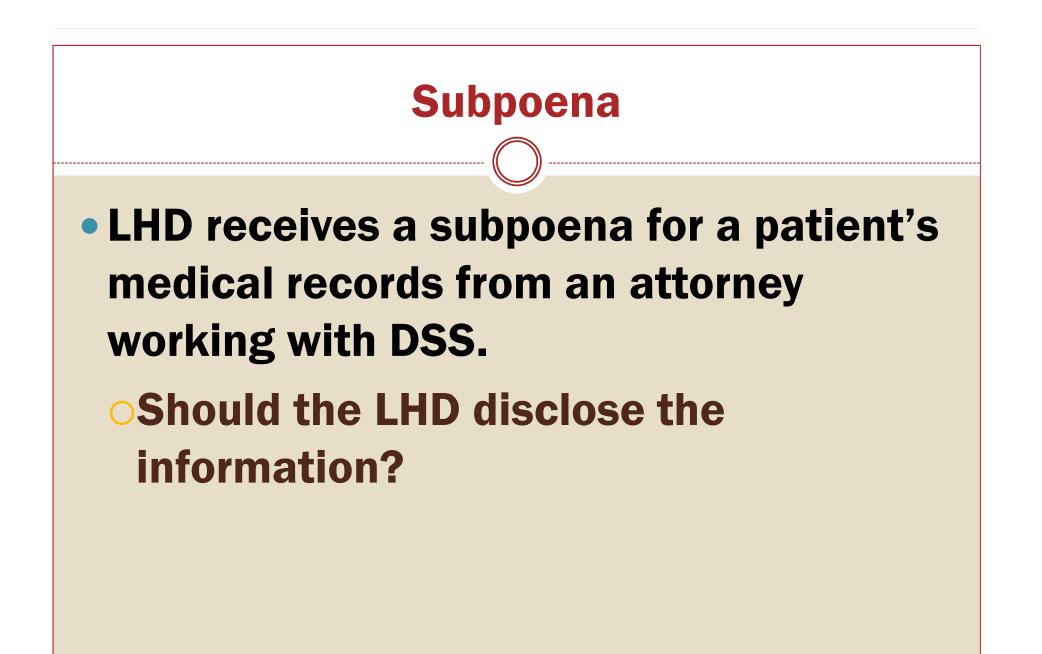
### **Guardian ad litem**

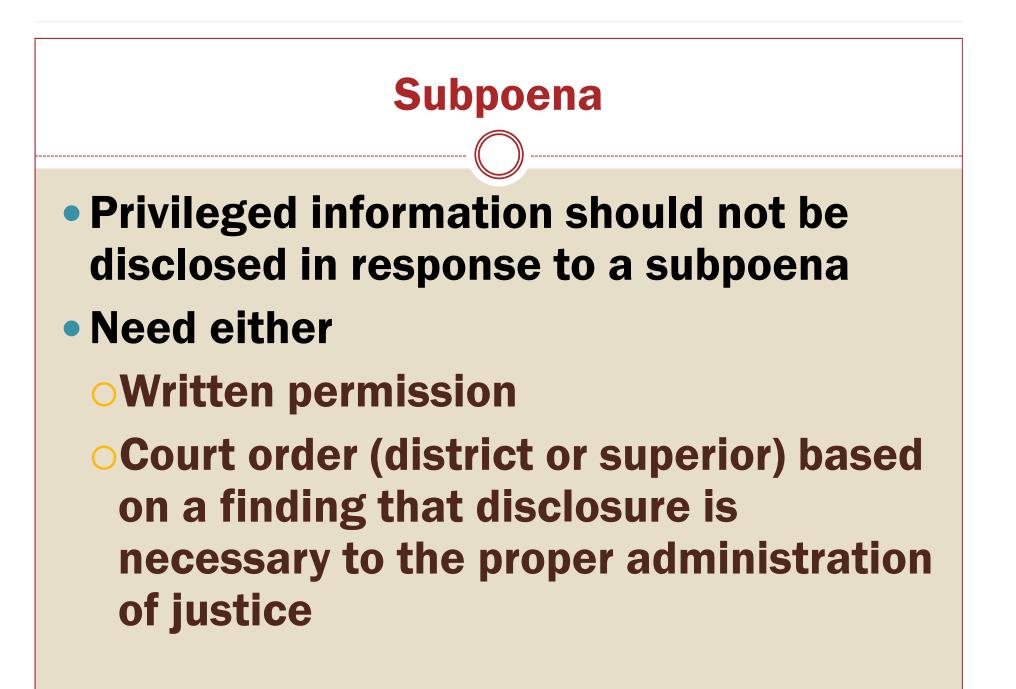
 A GAL is appointed to represent Mary, a 5 y.o. who has been a patient at the LHD. The GAL requests a copy of Mary's medical records.

Should the LHD provide a copy?

## **Guardian ad litem**

- State law
  - Must provide access to any information GAL believes to be relevant
- HIPAA allows this disclosure
- HIPAA requires verification of authority and \_\_\_\_\_\_.





# Subpoena

 Court may also conclude that the privilege is "waived" because it is a case related to child abuse or neglect

# •G.S. 8-53.1: ...the privilege shall not be a ground for excluding evidence...

• The LHD reports suspected abuse to DSS. A few days later, the father storms into the LHD. He is furious because he is being investigated. He wants to know if the LHD told DSS anything.

•What should the LHD tell the father?

- HIPAA requires covered entities to provide an accounting of disclosures upon request
- Three potential exceptions
  - •(1) Pursuant to a request from law enforcement or oversight officials
  - (3) If the disclosure was of information about care provided pursuant to the minor's own consent

- Three potential exceptions (cont.)  $\circ$ (2) LHD has a reasonable belief that either The child has been or may be subjected to abuse by the parent making request or Providing the accounting may endanger the child OLHD must conclude that it is not in the patient's best interest to provide
  - accounting

- What must the accounting include?
  Date
  - Recipient (including address, if known)
  - OBrief description of information disclosed
  - **Either** 
    - Statement of purpose of the disclosure or
    - **Copy of a written request**

# Summary

- State law requires disclosure of confidential information in some situations, such as pursuant to DSS and GAL requests
  - HIPAA allows such disclosures
- State law prohibits disclosure in some situations, such as in response to subpoenas
- HIPAA requires disclosure in some situations, such as providing an accounting

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