

§403. Issuance of subpoena

The issuance of a subpoena is governed by this section. [PL 2019, c. 109, §1 (NEW).]

1. Request issuance. To request issuance of a subpoena under this section, a party must submit a foreign subpoena to the clerk of a District Court in the district or to the clerk of the Superior Court of the county in which the discovery is to be conducted. A request for the issuance of a subpoena under this Act does not constitute an appearance in the courts of the State.

[PL 2019, c. 109, §1 (NEW).]

1-A. Attestation. A request for issuance of a subpoena under this section must be accompanied by an affidavit stating whether the foreign subpoena seeks documents, information, inspection or testimony related to the provision or receipt of or attempted provision or receipt of legally protected health care activity or aiding and assisting legally protected health care activity. The court shall provide a form for the completion of the affidavit. The form must contain a statement informing the affiant that making a false statement on the affidavit may be punishable as the crime of false swearing under the laws of this State.

[PL 2023, c. 648, Pt. B, §3 (NEW).]

2. Submission of foreign subpoena. Except as provided in subsection 4, when a party submits a foreign subpoena to a clerk of court in the State, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

[PL 2023, c. 648, Pt. B, §4 (AMD).]

3. Requirements. A subpoena issued under subsection 2 must:

A. Incorporate the terms used in the foreign subpoena; and [PL 2019, c. 109, §1 (NEW).]

B. Contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

[PL 2019, c. 109, §1 (NEW).]

[PL 2023, c. 32, §1 (AMD).]

4. Prohibition. A clerk of court in this State may not issue a subpoena under subsection 2 and must present the request to the court if the attestation submitted under subsection 1-A indicates that the foreign subpoena seeks documents, information, inspection or testimony related to the provision or receipt of or attempted provision or receipt of legally protected health care activity or aiding and assisting legally protected health care activity. After reviewing the request and attestation, if the court finds that the foreign subpoena seeks documents, information, inspection or testimony related to the provision or receipt of or attempted provision or receipt of legally protected health care activity or aiding and assisting legally protected health care activity, the court shall deny the request for issuance of a subpoena and quash any subpoena previously issued by the court in connection with the request unless the court finds that the foreign subpoena seeks documents, information, inspection or testimony related to:

A. An action in a foreign jurisdiction founded in tort, contract or statute brought by the person who sought or received legally protected health care activity, or the person's legal representative, for damages suffered by the person or damages derived from an individual's loss of consortium of the person if a similar claim would exist under the laws of this State; [PL 2023, c. 648, Pt. B, §5 (NEW).]

B. An action in a foreign jurisdiction founded in contract that is brought by a person with a contractual relationship to the individual whose documents or information are the subject of the subpoena if a similar action would exist under the laws of this State; or [PL 2023, c. 648, Pt. B, §5 (NEW).]

C. An action in a foreign jurisdiction that is brought by a parent involving litigation between parents over custody of a minor child of the parents if the custody dispute involves legally protected health care activity or aiding and assisting legally protected health care activity for the minor child. [PL 2023, c. 648, Pt. B, §5 (NEW).]

If the court finds that the foreign subpoena seeks documents, information, inspection or testimony as provided in paragraph A, B or C, the court shall direct the clerk to issue the subpoena. [PL 2023, c. 648, Pt. B, §5 (NEW).]

SECTION HISTORY

PL 2019, c. 109, §1 (NEW). PL 2023, c. 32, §1 (AMD). PL 2023, c. 648, Pt. B, §§3-5 (AMD).

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