

**RICHARDSON
PLOWDEN**
ATTORNEYS AT LAW

COLUMBIA P.O. Drawer 7788 • Columbia, SC 29202
1900 Barnwell St., Columbia, SC 29201 P 803.771.4400 F 803.779.0016

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 29578
2103 Farlow St., Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.1533

CHARLESTON P.O. Box 21203 • Charleston, SC 29413
171 Church St., Suite 150, Charleston, SC 29401 P 843.805.6550 F 843.805.6599

www.richardsonplowden.com

Reply To: Columbia
mkelley@richardsonplowden.com
Direct Dial: 803-576-3736

August 23, 2016

Sean Lyons
8310 Two Notch Road
Columbia, SC 29223

Re: *Sean Lyons v. Palmetto Richland Springs*
Appellate Case No. 2016-001544
Civil Action No. 2016-CP-40-02459
RPR's File No. 4961-160

RECEIVED
AUG 25 2016
SC Court of Appeals

Dear Mr. Lyons:

I am writing to advise you that the Probate Court has required that we request your signature on the enclosed Authorization and Release of Information from Commitment Division Files prior to the release of the Probate Court transcript of the March 3, 2016, Probate hearing.

Please complete, date and sign the Authorization and return it to our office in the enclosed envelope.

Sincerely,



Michelle Parsons Kelley

MPK:sjl
Enclosure

cc: The Honorable Jenny Abbott Kitchings, Clerk of Court, S.C. Court of Appeals (Via U.S. Mail to P.O. Box 11629, Columbia, SC 29211) (with enclosure)
Roselyn W. Frierson, Director, SC Court Administration (Via U.S. Mail to 1015 Sumter Street, Suite #200, Columbia, SC 29201) (with enclosure)

AUTHORIZATION AND RELEASE OF INFORMATION FROM COMMITMENT DIVISION FILES

The Commitment Division of the Probate Court handles cases involving both emergency and non-emergency admissions to treatment of persons alleged to be mentally ill or chemically dependent. The Probate Court also has jurisdiction to handle cases in which the Department of Disabilities and Special Needs (DDSN) is seeking to involuntarily admit a person with mental retardation or related disability to the services of its agency. In Richland County, the Commitment Division of the Probate Court generally handles those cases.

Unlike other Probate Court case files, the court files in all of the above types of cases are confidential. Therefore, the proper way to secure the release of those records is by obtaining authorization for release from the person who was the subject of the court action, his or her parent or guardian (if the individual is under the age of 16), or from his or her legal guardian, if the person is not competent. Because of state and federal confidentiality laws governing those records, we have developed a very specific authorization and release form to secure the documents; a general release of information form does not meet the requirements set out in state and federal law. In addition, a subpoena is generally not sufficient, and commitment records are not subject to disclosure under the Freedom of Information Act.

The Court is pleased to provide a form on this website for your use in requesting such records. You will need Adobe Acrobat in order to download the form. However, there are circumstances when a release might not be necessary or sufficient, if the applicable confidentiality statute provides an exception or restriction. Some examples include:

- ◆ If you want a copy of your own records a release is not necessary, but you will need a copy of your driver's license or another photo I.D.
- ◆ You are the court-appointed attorney or guardian ad litem in a criminal or family court case. If you supply us with a copy of the order appointing you, along with a written request for the information you need, a release will not be necessary.
- ◆ If you are the parent or guardian of a child **under the age of sixteen**, a release is not necessary. In South Carolina, children age sixteen or older can admit themselves to mental health or chemical dependency treatment, so, if competent, they must sign an authorization to release information themselves before their records can be disclosed.
- ◆ Though a subpoena cannot be used to secure commitment records related to Department of Mental Health, private mental health, or chemical dependency treatment, a subpoena by a court of law can be used to secure copies of court records regarding DDSN cases, as allowed by that agency's confidentiality statute.
- ◆ If you are a law enforcement, health, welfare, or other state or federal agency seeking information regarding an individual's mental health treatment from the Court, a written request stating the purpose for the release of information may be sufficient.
- ◆ Federal law governing chemical dependency treatment records is so strict that if a release cannot be obtained from the individual who was treated, a court order meeting very strict requirements may be the only way to obtain records.

Individuals will not be charged for copies of their own records, nor will an attorney or guardian ad litem representing the person, the parent of a minor under the age of sixteen, or a legal guardian. All others will be charged for copies at the per page rate in effect at the time of the request. Please allow us at least 24 hours to fulfill your request for records. If you have any questions, please feel free to call the Commitment Division of the Richland County Probate Court at (803) 576-1965.

RICHLAND COUNTY PROBATE COURT COMMITMENT DIVISION

Name of Person Alleged to be Mentally Ill, Chemically Dependent, Child in Need of Mental Health Treatment, Person with Mental Retardation:

Is this person a **child** 16 years of age or older? Yes _____ No _____
(A child 16 years of age or older, who is mentally competent, must sign this authorization himself/herself.)

Patient's Address: _____ SS No.: _____

Patient's DOB: _____

The purpose of the release is to: _____

I hereby authorize the Commitment Division of the Richland County Probate Court to release the following information from the court file of the above-named person to:

Name: _____

Address: _____

Telephone No.: _____

Relation to the person whose name appears on the first line of this form: _____

PORTRION OF THE COURT FILE TO BE RELEASED*:

- _____ Affidavit & Application for Involuntary Emergency Admission for Chemical Dependency and Physician's Certification
- _____ Affidavit & Application for Involuntary Emergency Hospitalization for Mental Illness and Physician's Certification
- _____ Affidavit and Petition for Involuntary Judicial Admission for Chemical Dependency
- _____ Petition for Judicial Admission (Mental Illness)
- _____ Application for Child in Need of Emergency Admission and Physician's Certification
- _____ Petition for Judicial Admission of a Child
- _____ Notices Regarding: Initiation of Proceedings, Hearings, Appointment of Examiners, Dates of Examination
- _____ Notices Regarding Supplemental Proceedings
- _____ Designated Examiner Reports
- _____ Court Documents from Proceedings to Involuntarily Admit a Person with Mental Retardation or Related Disability to the Services of the Department of Disability and Special Needs (DDSN), pursuant to §44-20-450 of the S.C. Code
- _____ Court Order(s)
- _____ Other (please list): _____

*The Court will not release copies of any medical records that may be in its files. Those records must be requested directly from the facility where the person was or is being treated.

Date(s) for which Court documents are requested: From _____ to _____

You may withdraw this consent at any time by written notification to the Court, provided action has not been taken in reliance upon this authorization. Without written notice to withdraw this consent, it expires at the earlier of any listed expiration date or upon the release of the information, or one year from the date of the request. Individuals will not be charged for copies of their own records, nor will a legal guardian or an attorney representing the person in probate or related proceedings. All others will be charged for copies at the per page rate in effect at the time of the request.

I AM AWARE THAT WHEN THE DOCUMENTS IN MY/THE PATIENT'S COURT FILE REFLECT INFORMATION CONCERNING PSYCHOLOGICAL OR PSYCHIATRIC IMPAIRMENTS, DRUG ABUSE, AND/OR ALCOHOLISM, AND/OR INFORMATION REGARDING HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND OTHER INFECTIOUS DISEASES, THAT THIS INFORMATION WILL BE RELEASED AS PART OF MY COURT FILE, IF CONTAINED IN THE REQUESTED DOCUMENTS.

DATE PATIENT'S SIGNATURE

STATE REASON PATIENT UNABLE TO SIGN: _____

DATE AUTHORIZED PERSON/RELATIONSHIP

EXPIRATION DATE WITNESS

NOTE: The execution of this form does not authorize the release of information other than that specifically described. The information requested on this form is protected by State or Federal laws and will authorize release of the information specified. All items must be completed. If the information is not complete, we may not be able to comply with your request.

STATUTORY REFERENCES: §§44-24-20(1), 44-52-20, 44-23-1100, 44-22-100, and 44-20-340 of the S.C. Code, and 42 C.F.R. Part II

RICHARDSON
RICHARDSON PLOWDEN ROBINSON, P.A.
PLOWDEN
ATTORNEYS AT LAW

4961-160

COLUMBIA P.O. Drawer 7788 • Columbia, SC 29202

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AUG 25 2016

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court, S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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