

CONNECTICUT VALLEY HOSPITAL OPERATIONAL PROCEDURE MANUAL

SECTION I:	PATIENT FOCUSED FUNCTIONS
CHAPTER 1:	Ethics, Rights and Responsibilities
PROCEDURE 1.17:	Conservatorship
REVISED:	12/09/05; 03/13/07; 04/26/10; 01/24/13; 12/19/16; Reviewed 02/18
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PURPOSE: To ensure that a patient who is incapable of caring for him/herself or managing his/his affairs is assigned a conservator. (The Connecticut General Statutes Section 17a-506; 45a-242 and 45a – 644 through 45a – 663 were referenced in this procedure and should be referred to for more information.)

SCOPE: All Clinical Staff

POLICY:

A patient who is incapable of caring for him/herself or managing his/her affairs is assisted by Connecticut Valley Hospital (CVH) staff and the Probate Court in the process of applying for a conservator. The Social Worker is responsible for maintaining current contact information for the assigned conservator of patient's in his/her care.

Definitions:

Conservator of Estate: a person, official or corporation appointed by the Probate Court when an individual is found to be incapable of managing his/her own financial affairs.

Conservator of Person: a person, official or corporation appointed by the Probate Court when an individual is found incapable of caring for him/herself.

Incapable of Caring for One's Self: when a mental, emotional or physical condition results in an individual's inability to provide medical care, nutritious meals, clothing, safe and adequately heated and ventilated shelter, personal hygiene and protection from physical abuse or harm resulting in endangerment to the individual's health.

Incapable of Managing One's Affairs: when a mental, emotional or physical condition prevents an individual from performing the functions required to manage his/her affairs, and the individual has property that will be wasted or dissipated unless properly managed, or an individual is unable to obtain/provide funds needed for the welfare of his/herself or those entitled to be supported by the individual.

Involuntary Representation: the appointment of a conservator of person, estate, or both, after a Probate Court finds the individual incapable of managing his/her affairs or incapable of caring for him/herself.

PROCEDURE:

- I. Applying for conservatorship

- A. When team members assess that a patient does not appear to have the capacity to manage his/her own affairs and/or to care for him/herself, the process for applying for conservatorship is initiated. As part of this process, the Social Worker completes the Probate Court Form “Application for Appointment of Conservator” (PC-300). Additionally, the Attending Psychiatrist completes the Probate Court Form “Physician’s Evaluation: Conservator” (PC-370). As part of this assessment, a determination is made as to whether a Conservator of Estate and/or a Conservator of Person is required. The Social Worker is responsible for ensuring that the forms are sent to the Probate Court and for sending copies to Health Information Management (HIM).
- B. When the Probate Court receives the application for involuntary representation, it issues a notification to the interested parties which notes when and where to appear for the hearing. The patient has the right to attend the hearing and has the right to representation by an attorney (the court may appoint an attorney).
- C. At the hearing, evidence of the patient’s condition is presented, including a written report or testimony, by at least one physician who has examined the patient within the past 30 days. The court may consider other relevant available information at this time.
- D. If the court finds by “clear and convincing evidence” that the patient is incapable of managing his/her affairs, then a Conservator of Estate will be appointed by the court. If, likewise, the court finds by “clear and convincing evidence” that the patient is incapable of caring for him/herself, then a Conservator of Person will be appointed.
- E. HIM coordinates and attends the Probate Court hearings at CVH. It is the responsibility of the HIM employee to follow through with obtaining a copy of the official Court decree for inclusion in the Medical Record. It is the responsibility of each Social Worker to know which of his/her assigned patients are conserved, to retain contact information for that conservator, and to note this information on the inside cover of the conserved patient’s medical record (HIM Policy 21) with affixed sticker.

Note: Regardless of whether a patient is conserved or not, he/she maintains the right to refuse psychotropic medications. If administration of psychotropic medications is indicated, the patient may be involuntarily medicated per [Operational Procedure 3.1 Emergency and Involuntary Medication](#). Such action requires Probate Court intervention by appointment of a conservator with the unique right of decision over administration of psychotropic medications to the patient.

II. Duties of Conservators

- A. Duties of Conservators of Estate: The Conservator manages all the estate and acts to support the conserved and family members and pay debts.
- B. Duties of Conservators of Person:
 - 1. The conservator is responsible for the general custody and belongings of the patient, including the power to consent for medical or other care and treatment;

2. At least annually, the conservator is to report to the appointing Probate Court as to the condition of the conserved; and
 3. The Conservator of Person does not have the power to commit the individual “to any institution for the treatment of the mentally ill...” (Refer to CGS 45a – 656 for references for exceptions to this statement.)
- C. Given the duties of Conservators, it is essential for him/her/them to be as involved in the care of the patient as possible. Any document requiring the signature of the patient and any procedure requiring the informed consent of the patient must involve the Conservator. Documented involvement and/or documented attempts to invite, involve and inform the Conservator should be found in the patient’s medical record. When the signature of the conservator is required, attempts to obtain the signature are to be noted either in the progress note entries of the Social Worker relevant to the patient’s treatment plan or on copy of the unsigned Authorization form (placed in the appropriate section of the medical record) on which the attempt is noted.

III. Review of Conservatorship

- A. The Probate Court will review each order of conservatorship one year following appointment, then *at least every three years*. At that time the Presiding Judge will either: continue, modify, or terminate the order for conservatorship.
- B. To conduct this process, the Court reviews written evidence on the condition of the patient. In response to the court’s request, the conservator, the patient’s attorney (one may be appointed by the court), and a physician must each submit a written report to the Court within 45 days of notice of the review. The physician must examine the patient within 45 days of submission of the report to the Court.
- C. Based on the written reports, if the court determines that no change is indicated, a hearing does not have to occur. If the attorney, physician, or conservator requests a hearing, however, one will be scheduled.

IV. Replacement of Fiduciary and Appointment of Successor Fiduciary

If the conservator fails to fulfill his/her duties, the Probate Court with jurisdiction may remove him/her upon the application and complaint of any interested party. The Probate Court may then appoint a suitable person to fill the vacancy. When a conservator fails to respond to the efforts of the treatment team, the treatment team will document these failures in the medical record and will continue to operate on behalf of the best interests of the patient.

V. Admission or Transfer to CVH of a Conserved Patient

- A. The Social Worker assigned an admission or transfer of a new patient contacts the Probate Court from which the appointment of the conservator originated to verify the conservatorship decree and to request, as appropriate, for the file of the conserved person. Once received, this document is then copied, certified, and sent to the Middletown Probate Court. With these documents in hand, the Middletown Probate Court will then take over jurisdictional oversight of the conserved person. If the Probate Court originating the decree is unknown, the Social Worker contacts the Office of the Probate Court Administration, West Hartford, Connecticut. The status of the patient is forwarded to HIM.

- B. If a conserved patient requests and is granted voluntary admission to CVH, the Hospital will notify the conservator and the Probate Court which appointed the conservator within five (5) business days. Within ten (10) business days of notification, the Probate Court will appoint a psychiatrist from a panel provided by the Commissioner of DMHAS to examine the patient within ten (10) business days of his/her appointment, to determine whether the patient gave informed consent to his/her hospitalization. The psychiatrist reports his/her findings to the court. The court will then act based on its conclusions.

VI. Termination of Conservatorship

- A. The Court may terminate the Conservatorship of Person if it finds the person capable of caring for him/herself. Likewise, the Court may terminate a Conservatorship of Estate if it finds the person capable of managing his/her own affairs.
- B. The patient, his/her Psychiatrist, or conservator may petition the Probate Court for removal of conservatorship status. As appropriate the Judge will schedule a hearing in Probate Court to determine if the patient is capable of caring for him/herself and/or is capable of managing his/her own affairs.