

# CONNECTICUT VALLEY HOSPITAL OPERATIONAL PROCEDURE MANUAL

<b>SECTION II:</b>	<b>ORGANIZATION FOCUSED FUNCTIONS</b>
<b>CHAPTER 9:</b>	Management of Information
<b>PROCEDURE 9.4:</b>	<b>Subpoena of Medical Records</b>
<b>REVISED:</b>	03/13/07; 10/20/09; 01/03/11; 03/28/11; 09/28/12; 3/7/16; 4/28/17; Reviewed 11/16/18
<b>Governing Body Approval:</b>	11/19/18( <i>electronic vote</i> )

**PURPOSE:** To insure the Subpoena of Medical Records are processed according to State and Federal Laws and Regulations.

**SCOPE:** Clinical, Administrative Staff; and HIM

**POLICY:**

The Director of Health Information Management (HIM)/designee, responds to all subpoenas for the production of documents from patient medical records. Any HIM staff served with a subpoena, which includes a directive to produce Connecticut Valley Hospital (CVH) medical records, immediately contacts the Director of HIM in Merritt Hall.

***Definitions:***

**Connecticut General Statutes Governing Subpoena of Medical Records:**

A. Authenticity of Medical Record by the Director of HIM:

1. *C.G.S. Sec 4-104: Admission of Medical Record as Evidence* – “Any and all parts of any such record or copy, if not otherwise inadmissible, shall be admitted in evidence without any preliminary testimony, if there is attached thereto the certification in affidavit form of the person in charge of the record room of the hospital or his authorized assistant indicating that such record or copy is the original record or a copy thereof, made in the regular course of the business of the hospital, and that it was the regular course of such business to make such record at the time of the transactions, occurrences or events recorded therein or within a reasonable time thereafter
2. As requested by the attorney issuing the subpoena, the Director of HIM may attend court and give testimony regarding the authenticity of the medical record.

B. Time Frame for Serving a Subpoena C.G.S. Sec 4-104: “A subpoena directing production of such hospital record shall be served not less than twenty-four hours before the time for production, provided such subpoena shall be valid if served less than twenty-four hours before the time of production if written notice of intent to serve such subpoena has been delivered to the person in charge of the record room of such hospital not less than twenty-four hours nor more than two weeks before such time for production.”

C. Acceptance of Subpoena

Any HIM employee may accept a subpoena for the production of medical records. The sheriff, or other process server, records the date and time of service on the subpoena. The subpoena is immediately given to the Director of HIM. CVH complies with the request in

accordance with state and federal laws and regulations.

**D. Subpoena of Mental Health and Substance Abuse Records**

Based on Connecticut General Statutes (C.G.S.) Section 4-104, Inspection and Subpoena of Hospital Records and Federal Regulations 42 CFR2, records are not released. A subpoena must be accompanied by an order from the court signed by the presiding judge or accompanied by a signed authorization from the patient or their personal representative to produce the record.

**PROCEDURE:**

**A. Upon receipt of the subpoena to obtain medical records the Director of HIM:**

1. Contacts DMHAS Legal Counsel to review the subpoena and accompanying court order if applicable, to insure it is in compliance with State and Federal Laws and Regulations.
2. If the subpoena and/or court order, are approved by DMHAS Legal Counsel for the production of medical record documents, the approved documentation is prepared as outlined in C below.

**B. If DMHAS counsel determines DMHAS/CVH is unable to comply with the Subpoena and/or Court Order for the production of medical record documents the Director of HIM will be advised if additional actions may be required to include:**

1. If the DMHAS attorney attends court to make a motion to quash the subpoena the Director of HIM may be instructed to also attend the court hearing and to bring the requested documents should the judge order the records to be released to the court.
2. The patient whose records are subpoenaed can sign, or present in court a signed authorization to release the records

**D. Preparation of Documents for Admission of Medical Record as Evidence by the Court**

1. HIM copies the medical record or portion(s) of the medical record as specified in the Subpoena/Court Order.
2. The Director of HIM certifies the copied documents to be a true copy of the original medical record. The certification includes:
  - a. Name of patient;
  - b. Date of birth;
  - c. Master Patient Index (MPI) number;
  - d. Docket number;
  - e. The following statements:

*“The enclosed records are hereby certified to be true copies of medical records of the above-mentioned individual.*

*The records were made in the regular course of business of CVH, and it is the regular course of such business to make a record at the time of the transaction recorded therein or within a reasonable time thereafter.*

*These are being submitted to your care through action of the subpoena received at CVH and should be handled according to the requirements of State and Federal laws*

*regarding confidentiality of patient records. Confidentiality of psychiatric, drug and/or alcohol abuse and HIV records is required by law and no information from such records may be transmitted to anyone else without written consent or authorization as provided for under Connecticut General Statutes, Chapter 899 and 368x; Sections 19a-126h, 19a-581 through 590, and Federal Regulations 42 CFR 2.*

*These confidential records and any/all copies should be returned to CVH as soon as they have served the purpose of the subpoena."*

- f. The certification document is signed and dated by the Director of HIM; and
  - g. The certification document is notarized.
3. HIM staff places the medical record documents (copy) in a sealed envelope with a copy of the subpoena and/or court order. A notice is taped to the envelope with the following information for the court:
- a. **Date:**
  - b. **To:** The Clerk of the Court
  - c. **For:** Name and Address of Court
  - d. This envelope contains medical records of patient number: \_\_\_\_\_
  - e. Subpoenaed for the following date and time: \_\_\_\_\_
  - f. For use in the case of Docket Number: \_\_\_\_\_
  - g. The following statements:  
*"These are true copies of medical records and may not be opened unless so ordered by the Court. Please return these records to CVH when they have served the purpose of the Court."*
4. The sealed envelope containing the copy of the medical record, certification documents, a copy of the original subpoena, court order and authorization if available, is delivered to the clerk of the court.
- a. The Clerk of the court signs an acknowledgement of the receipt of the medical record(s) by signing a receipt that states:  
**To:** The Clerk of the Court  
Received from Connecticut Valley Hospital, an envelope containing Medical Records for use in Docket Number: \_\_\_\_\_  
Clerk/Assistant Clerk signs, dates and records the time of acceptance of the envelope.  
The receipt is filed in the patient's medical record with the original subpoena and/or court order.