

# **CONNECTICUT VALLEY HOSPITAL OPERATIONAL PROCEDURE MANUAL**

## **SECTION II: ORGANIZATION FOCUSED FUNCTIONS**

### **POLICY 9: Management of Information**

#### **PROCEDURE 9.4: Subpoena of Medical Records (previously 10.4)**

#### **Purpose:**

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

#### **Procedure:**

##### **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. Connecticut Valley Hospital (CVH) complies with the request in accordance with state and federal laws and regulations.

##### **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.

##### **Obtaining Patient Authorization or Court Order to Comply with Subpoena Request:**

The Director of HIM contacts the Commissioner of the Superior Court (the attorney issuing the subpoena) to determine if:

1. An authorization may be obtained from the patient/personal representative to release the records to the court.
  - a. In cases where the patient is only available to sign an authorization at court on the day the record is to be presented to court, HIM staff brings a blank authorization for the patient to sign prior to delivery of the record to the clerk of the court.
2. An order from the court may be obtained from the presiding judge to release the records to court.

The Director of HIM informs the court when unable to obtain an authorization or court order to release the records to the court.

1. The medical record and certification of authenticity is prepared.
2. The Director of HIM or designee brings the certified sealed record and a blank authorization for the release of the record to court on the day and time specified in the subpoena.
3. Upon arrival to court, the Director of HIM notifies the clerk of the court that CVH is unable to comply with the subpoena.
4. At the appropriate time, the presiding judge:
  - a. orders the record to be submitted to the clerk of the court; or
  - b. orders the patient to sign an authorization to release the records to the clerk of the court.

#### **Admission of Medical Record as Evidence C.G.S. Sec 4-104**

*“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.”*

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.

#### **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.”*

#### **Preparation of Documents for Admission of Medical Record as Evidence by the Court:**

1. HIM copies the medical record.
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 place the medical record (copy) is placed in a sealed enveloped with a copy of the subpoena and/or court order. A notice is taped to the envelope with the following information for the court:
- Date:
  - To: The Clerk of the Court
  - For: Name and Address of Court
  - This envelope contains medical records of patient number: \_\_\_\_\_
  - Subpoenaed for the following date and time: \_\_\_\_\_
  - For use in the case of Docket Number: \_\_\_\_\_
  - 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 and a copy of the original subpoena, court order and/or authorization if available, is delivered to the court.
5. 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 CVH, 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.