

## **WHITING FORENSIC HOSPITAL OPERATIONAL PROCEDURE MANUAL**

<b>SECTION II:</b>	ORGANIZATION FOCUSED FUNCTIONS
<b>CHAPTER 9:</b>	Management of Information
<b>PROCEDURE 9.11:</b>	<b>Service of Process and Procedure for Acceptance of Notice of Legal Action or Proceedings</b>
<b>Governing Body Approval:</b>	April 27, 2018
<b>REVISED:</b>	

**PURPOSE:** To define the responsibilities concern the serving and acceptance of official notice of legal action or proceedings-including subpoenas, patient notification of Probate Court hearings or other legal documents.

**SCOPE:** All Clinical, Managerial and Administrative Staff; HIM; Agency Police; Security Staff

**POLICY:**

Whiting Forensic Hospital (WFH) assists any court representative, Connecticut State Marshal or law enforcement officials acting in an official capacity, who comes to the WFH to serve any type of legal document. Procedures for accepting service are dependent upon several factors including the legal action being pursued, parties to the action including clinical staff and patients and/or the types of records being requested.

**PROCEDURE:**

Security personnel or Agency Police reviews the documents presented by the Connecticut State Marshal to determine the authorized person/office to accept the documents as follows:

## **Subpoenas:**

1. A witness subpoena is a court order requiring a person to appear in court on a certain date and testify as a witness.
  - a. Security personnel or the Agency Police page the employee listed on the subpoena to accept service directly from the Marshal.
    - a1. If the respondent is a physician, but is not available, the Chief Executive Officer or designee may accept the subpoena for a physician.
      - C.G.S. §52-143 “...(f) Any subpoena summoning a physician as a witness may be served upon the office manager or person in charge at the office or principal place of business of such physician who shall act as the agent of the physician named in the subpoena. Service upon the agent shall be deemed to be service upon the physician...”
  - b. If a clinician (other than the physician), is not available the Marshal is told the employee is not available or is no longer employed at WFH as applicable. The documents are not accepted.
2. Subpoena Duces Tecum (Records) is a court order requiring the person subpoenaed to produce books, documents or other records under his/her control at a specific time and place in a court hearing either via courier to the Clerk of the Court or appearance in person.
  - a. Security personnel or the Agency Police call the HIM office in the building that the Marshal is serving the documents, or may direct the Marshal to the Health Information Management (HIM) department. HIM staff shall act as the agent of the Director of Accreditation, Compliance and Performance Improvement or “Keeper of the Record.” Service upon HIM staff shall be deemed to be service upon the Director of Accreditation, Compliance and Performance Improvement or “Keeper of the Record.” HIM staff immediately notifies the Director of Accreditation, Compliance and Performance Improvement or Director of Accreditation and Regulatory Compliance of the subpoena of medical records. (See OP&P 000 for processing of Subpoenas)

## **Notice of Hearing on Psychiatric Commitment (C.G.S. §17a-75 and §17a-495; Probate Court Rules of Procedure section 44.4, rule 8 – effective July 1, 2013)**

1. The court shall give notice of a hearing on the commitment of an individual under C.G.S. §17a-498 to the patient (respondent) by personal service.

2. The court shall give notice of the hearing to WFH (the facility) in which the patient is confined and to other persons as the court directs under section 44.1 by regular mail or other reasonable means.

**Petition for Shock Therapy** (C.G.S. §17a-540; Probate Court Rules of Procedure section 45.5, rule 8 – effective July 1, 2013)

1. A petition for shock therapy under C.G.S. §17a-543 (c) shall be filed in the court for probate district in which the treating facility is located.
2. The court shall give notice of hearing on the petition to the patient by personal service.
3. The court shall give notice of the hearing to the treating facility and to other persons as the court directs under section 45.1 by regular mail or other reasonable means.

**Notice of Hearing Regarding Conservatorship** (C.G.S. §45a-645)

1. The notice which is required by statute must say what kind of conservatorship is being sought, the time and place of the hearing and MUST describe the possible consequences of the appointment of a conservator, as well as the right to be present and to have an attorney.
2. The court shall give notice of hearing on the petition to the patient by personal service.
3. The court shall give notice of the hearing to the treating facility and to other persons as the court directs by regular mail or other reasonable means.

**Service to Patients by Connecticut State Marshals**

1. The service of process in connection with conservatorship, commitment or shock therapy where WFH is the petitioner, the Marshall serves the patient personally at the hospital as there would be no confidentiality (HIPAA) disclosure since, by nature, the petition would disclose that the patient is confined at the facility.
  - a. Security personnel or the Agency Police reviews the notice of hearing. This document indicates the unit the patient is on.
  - b. The unit is contacted to inform staff that there is a State Marshal here to serve the patient notice of a Probate Court hearing that has been scheduled.
  - c. A member of the treatment team determines if the patient can accept the documents in the building's lobby or should be served on the unit. This should be done in a private area outside the immediate lobby/unit.

2. The service of process for any other court documents is as follows:
  - a. Security personnel or the Agency Police asks the Marshal to take a seat. Do not confirm or deny that the individual is or is not a patient at WFH.
  - b. If the patient is no longer an inpatient the Marshal is told there is no patient by that name currently hospitalized. No further information may be given such as if they ever were a patient, discharge date or discharge location.
  - c. If the patient is currently an inpatient the unit is contacted to inform staff that there is a State Marshal here to serve the patient with legal papers from the court. A member of the treatment team notifies the patient that there is a State Marshal here to serve them with legal papers of the court.
    - c1. If the patient agrees to accept the documents a member of the treatment team determines if the patient can accept the documents in the building's lobby or should be served on the unit. This should be done in a private area outside the immediate lobby/unit.
    - c2. If the patient refuses acceptance of the documents the Marshal is informed that the hospital can neither confirm nor deny that the individual is/is not a patient and that he/she should serve the papers in accordance with C.G.S. §4a-17.

**Service of process on mentally ill or mentally deficient persons C.G.S. §4a-17**

Notices and documents required to be served upon patients who refuse to accept service directly from the Marshal are served to the Chief Executive Officer (CEO) of WFH or designee.

1. The CEO reviews the document(s) and notifies the appropriate Program Manager.
2. Legal documents are served to the patients on their unit by the Program Manager/designee (who act under the authority of the CEO) and when clinically indicated in the presence of an Agency Police Officer, in an area that affords privacy for the patient.