

WHITING FORENSIC HOSPITAL OPERATIONAL PROCEDURE MANUAL

SECTION II:	ORGANIZATION FOCUSED FUNCTIONS
CHAPTER 9:	Management of Information
PROCEDURE 9.5:	Legal Status: Admission and Changes in Legal Status and Probate Court Proceedings
Governing Body Approval:	April 27, 2018
REVISED:	

PURPOSE: All patients hospitalized at Whiting Forensic Hospital (WFH) will be in accordance with Connecticut General Statutes regarding commitment of persons to a psychiatric hospital.

SCOPE: All Clinical and Managerial Staff, WFH Police Department, Health Information Management and Utilization Review

POLICY:

Health Information Management monitors the patient's legal status according to the Connecticut General Statutes. Changes in legal status, to include the filing of applications with the Probate Court, are performed by Health Information Management (HIM).

PROCEDURE:

Upon admission to WFH the patient's legal status is verified and entered in the DMHAS Information system by HIM. The patient's legal status is monitored during the hospitalization according to the Connecticut General Statutes. Changes in legal status, include the filing of applications with the Probate Court, are performed by HIM. Changes in legal status are entered in the DMHAS Information System as they occur.

I. WHITING FORENSIC HOSPITAL – MENTAL HEALTH

A. Voluntary Status:

A person may request to be admitted to a facility for observation, treatment and assistance in recovery from mental illness.

1. The patient signs a Voluntary Status request upon admission.

Whiting Forensic Division: DMHAS form MHCC-2 Application for admission to a psychiatric facility.

- a. The Conservator of Person may not sign an application for Voluntary Commitment for a patient.
- b. A conserved patient may sign an application for Voluntary Commitment as approved by the Probate Court.
 - b1. The Judge of the Probate Court is notified by HIM when a conserved patient is admitted to WFH and signs an application for Voluntary Commitment.
 - b2. The Judge of the Probate Court assigns an independent psychiatrist to examine the patient to determine if the patient understands the Voluntary Commitment statutes. The Judge will either allow the patient to sign the Voluntary Commitment or schedules a Probate Court hearing for further information and/or commits the patient to WFH involuntarily.

B. Revocation of Mental Health Voluntary Status (3-day letter) WFH:

The patient may elect to rescind this Voluntary Status by signing a Revocation of Voluntary Status in accordance with Section 17a506(a) DMHAS form MHCC-10.

1. The facility has 3 working days, including the date the revocation form is signed, in which to:
 - a. file a request for Probate Court Commitment; or,
 - b. elect to discharge the patient, if appropriate.
2. The patient may elect to retract their request for a Revocation of Voluntary Status, in writing, by completing the retraction of request for termination of voluntary commitment form WFH-253 at any time during the 3 working days.
3. Retraction of the 3 day letter in an attempt to forego a commitment hearing is allowed only at the request of counsel, the attorney remains on the court file and thereafter represents the patient should a similar situation develop regarding the 3 day letter.

C. Physician's Emergency Certificate:

If a person, when seen by a qualified physician in an emergency room, mental health clinic, or elsewhere meets the criteria for admission under:

- C.G.S. 17a-502 they are admitted for psychiatric evaluation/treatment for 15 days or

1. The patient can request a hearing for Probable Cause anytime during the 15 days Psychiatric PEC or 5 day substance abuse PEC
2. The patient may at any time during the 15 days elect to sign an application for a Voluntary Status.
3. If, during the 15 days the psychiatrist feels that the patient should remain in the hospital, he/she:
 - a. Asks the patient to sign a request for Voluntary Status; or,
 - b. Requests an Involuntary Commitment by the Probate Court.
 - Probate Court Commitment Mental Health 17a-498c

D. Patient Request for a Probable Cause Hearing:

The patient admitted under a PEC, may request a hearing under C.G.S. 17a-502(d) for the purpose of determining if there is probable cause for the detention. The Court must hear the case within 72 hours from receipt of the request excluding Saturday, Sunday and Holidays.

1. The patient completes a Probable Cause Hearing Request, Probate Court form PC-802. HIM notifies the Probate Court of the request.
2. The Probate Court appoints an attorney to see the patient prior to the court hearing. Once legal counsel has been appointed by the Probate Court a hearing will only be continued or retracted at the request of the attorney, or by the Court on its own motion.
3. The Judge determines if there is sufficient evidence to have the patient remain in the facility or to release the patient.

E. Involuntary Commitment by the Probate Court:

1. Once the formal application for a Probate Commitment has been received, a hearing is scheduled within 10 business days from the date of request.
 - a. If prior to the hearing it is determined that the patient is no longer in need of hospitalization, the patient may be discharged. The Probate Court is notified of the canceled hearing.
 - b. The Probate Court allows the patient to sign an application for Voluntary Status at any time up to the entering of an order for commitment by the Probate Court.
2. Two "independent" Physicians (one medical, one psychiatric) are appointed by the Probate Court to examine the patient and to testify at the hearing.
3. An attorney is appointed by the Probate Court to represent the patient.
4. The Judge determines if there is sufficient evidence to have the patient remain in the facility or releases the patient.

F. Annual Review of Probate Commitment/Right to Request Probate Commitment Hearing:

Every year there must be a review of the Probate Commitment. The patient has the right to request a Probate Court Commitment hearing annually to determine the need for continued commitment. A Probate Commitment hearing must be held at the two year anniversary of the original Probate Commitment.

1. Health Information Management notifies the patient's attending physician/designee one month prior to the anniversary of the patient's commitment that a hearing is being scheduled, and files an application for a probate commitment hearing with the court.
2. The attending physician/designee informs the patient of their right to a Probate Court Commitment hearing and that WFH HIM department will file an application on his/her behalf.
3. **The attending physician/designee informs the patient of available advocacy services in order to determine if the patient would like an advocate to represent him/her. This notice and determination shall be documented in the medical record. Notice of Advocacy Services (WFH-606) is attached.**
 - a. **The advocate may be:**
 - the patient's private counsel;
 - a member from the Connecticut Legal Rights Projects (CLRP);
 - a member of the Office of the Public Defender;
 - a member of the Office of Protection and Advocacy; or
 - any person of the patient's choice.
 - b. **The attending physician/designee shall notify the advocate, if one has been identified by the patient, and if the patient has authorized the release of information to the advocate in writing, of the application for a Probate Court Commitment hearing request is being filed with the court.**
4. The Probate Court will arrange any required pre-hearing evaluations. When the case is heard the court determines if the patient will be:
 - a. Recommitted by the Probate Court
 - b. Discharged by the Probate Court
 - c. Allowed to sign a Voluntary Commitment

G. Revocation Hearings:

Any patient involuntarily committed by the Probate Court may apply for a revocation hearing.

1. The patient applies directly to the Judge of the Probate Court.
2. Once the patient has set in motion the challenge of their commitment the Probate Court assigns an attorney to represent the patient. A hearing is scheduled on the patient's request for revocation. A court hearing will only be continued or retracted at the request of the attorney.

H. Request to sign a Voluntary Commitment for Patients Involuntarily Committed by the Probate Court:

17a-510 of the Connecticut General Statutes was amended in the 1994 legislature to grant a patient's request to change their status to Voluntary without (further) action by the Probate Court.

1. The treating psychiatrist/physician forwards the patient's request (WFH-160a) to become voluntarily committed together with an evaluation of the patient's competency to the Medical Director as appropriate.
2. The Medical Director reviews the evaluation and determines if the request to become voluntarily committed is granted. The request form is then forwarded to HIM for processing.
3. If the Medical Director concludes that the patient is competent, the WFH Court Liaison in HIM notifies the Probate Judge who originally committed the patient of the change in status.

I. PROBATE COURT SCHEDULE

Probate Court is held on Friday mornings at 9:00. Following the hearings, the Judge delivers to HIM a list of hearings scheduled for the next Friday.

1. The Judge of the Probate Court issues the following order to the attorney assigned to provide counsel to the patient and the examining physicians:

Pursuant to Connecticut General Statutes 17-176et.seq., you are hereby appointed Attorney for the within named individuals for the purpose of Commitment.

2. The Examining Physicians are listed:
 - a. The first listed physician is instructed to examine the patient, file a written report and to be present at the hearing.
 - b. The second listed physician is instructed to examine the patient and file a written report to the Probate Court by the Thursday prior to court scheduled for the next day.
3. HIM distributes the list of hearings to the units and includes the names of the attorney and physicians that will be meeting with the patient and reviewing medical records prior to Probate Commitment Hearings the following Friday.

For commitment hearings: The attorney and physicians listed below will be meeting with the patient and reviewing the medical record prior to the court.

Court Appointed Attorney: Court Appointed Physicians:

J. Competency Restoration 54-56d(h)

The Superior Court orders persons with criminal charges pending to be admitted to WFH to be restored to competency to stand trial. The defendant returns to Superior Court to determine if he/she understands the proceeding of the court and can participate in his/her defense.

1. Superior Court Rulings are issued to WFH in the form of a mittimus. The legal paper contains the date of the next Superior Court Hearing and the current rulings of the court.

2. Upon return to WFH from Superior Court Hearings, HIM is informed of the decision of the court regarding the patient's legal status. HIM reviews the mittimus and enters into the DMHAS Information System the appropriate legal status.
3. Court Rulings/Orders of the Superior Court are:
 - a. Restoration of competency
 - a1. Continue hospitalization for restoration of competency to stand trial. The mittimus contains the date of the next court hearing. Legal status remains 54-56d(h).
 - b. Competent to stand trial
 - b1. Patient is discharged into the custody of the Department of Corrections to stand trial.
 - c. Criminal Charges are Dropped
 - c1. Patient Discharged
 - c2. Patient may sign a voluntary and return to WFH for further treatment
 - c3. Patient returns to WFH via Physician's Emergency Certificate
 - d. Incompetent/Non-Restorable to stand trial 54-56d(m)
 - d1. Superior Court finds that the defendant is incompetent/non-restorable to stand trial and releases the defendant into the custody of the Commissioner of Department of Mental Health and Addiction Services for commitment to WFH by the Probate Court. Legal Status is updated in the DMHAS Information System as recorded on the mittimus, 54-56d(m).
 - d1a. HIM files with the Probate court an Application for Involuntary Commitment.
 - e. Superior Court offers patient TRACK II treatment of mental illness. The General Assembly decided that some people with mental illness were being arrested because of behaviors related to their disability, not because they were criminals. In such instances certain individuals are better treated within the mental health system, rather than by criminalizing these behaviors. Track II is a process by which defendants who are deemed not competent to stand trial may be converted to a civil legal status and allowed the opportunity to participate in treatment, with his/her criminal charges dropped if they do well in treatment. Mittimus must state the Superior Court finds the defendant incompetent/non-restorable to stand trial.
 - e1. Patient signs a Voluntary upon return to WFH
 - e2. If patient refuses to sign a Voluntary, WFH submits an application for Involuntary Commitment to WFH by the Probate Court.