

# PATIENT RESTRICTED

Coalinga State Hospital

OPERATING MANUAL

SECTION – HUMAN RESOURCES  
ADMINISTRATIVE DIRECTIVE NO. 991  
(Replaces A.D. No. 991 dated 7/13/06)

Effective Date: July 12, 2007

## SUBJECT: SUBPOENAS, COURT APPEARANCES AND LAWSUITS

### I. PURPOSE

This Administrative Directive provides staff with procedures and policies related to the Subpoena, Court Appearance and Lawsuit Process. The External Affairs Unit-Litigation Coordinator will be the primary point of contact to coordinate and assist on these Coalinga State Hospital (CSH) related events.

### II. AUTHORITY

Department of Mental Health (DMH), Special Orders 713.01 and 715; California Code of Civil Procedure, Sections 416.50, 1985 through 1992, 2020; California Evidence Code, Sections 1561 through 1565; and California Welfare and Institutions Code Sections 4514 (f).

### III. POLICY

The policy of the DMH and this hospital is to authorize the appearance in court of state employees when these employees are appearing as the official representative of the hospital or subpoenaed as a witness relative to their official duties of the hospital. The policy also provides legal representation, consultation, and support to all employees who are subpoenaed or sued regarding their actions in the scope of their employment at the hospital.

### IV. METHOD

- A. A subpoena is a legal notification to a named Individual or witness on behalf of the organization, a specific department, or an Individual to appear at a court proceeding. Additionally, a subpoena, known as a subpoena duces tecum, can be served to request specific records for legal proceedings. The subpoena duces tecum is a legal instrument, which overrides the usual criteria for disclosure when individual care information is needed for the administration of justice.
- B. CSH will receive subpoenas for criminal, civil and administrative proceedings via personal service, mail, or facsimile. The Hospital receives subpoenas in the following areas:
  - 1. Clinical Testimony

# PATIENT RESTRICTED

2. Medical Testimony
3. Clinical Records
4. Medical Records
5. Criminal Matters
6. Other Non-Clinical Areas, such as Dietetics, Vocational, etc.
7. Employees on legal actions related to Individuals
8. Employees on legal actions not involving Individuals
9. Employee service not related to CSH activities
10. Personnel Matters
11. Workers' Compensation
12. Individual Service of Non-Hospital Issues, such as divorce, other non-Hospital civil/criminal cases, etc.

C. The CSH External Affairs will process all subpoenas, whether personal service, mail, or facsimile. If CSH staff directly receives a work related subpoena, without it going through the External Affairs Unit Litigation Coordinator, they should advise their management who will contact the CSH External Affairs Unit Litigation Coordinator.

D. Any Notice to Produce or Notice to Appear will be handled in the same manner as a Subpoena.

## V. PROCESS SERVERS

It is the practice of the Hospital that process servers contact the External Affairs Unit Litigation Coordinator in advance of service so arrangements may be made to facilitate service of staff or individuals. Depending on the type of legal action, the appropriate department, per the External Affairs Policy and Procedure Manual, shall be the point of receipt for the subpoena.

## VI. MEDICAL HEALTH RECORDS

A. There is no authority to release subpoenaed information or records to any person other than directly to the court.

B. All subpoenas for medical/clinical records will be received through the External Affairs Unit Litigation Coordinator then relayed to the CSH Custodian of Records, Health Information Management Department (HIMD).

# PATIENT RESTRICTED

- C. No CSH Staff will release medical/clinical records under subpoena, except the CSH Custodian of Records.

## VII. LAWSUITS

- A. All legal documents received by employees regarding their actions in the scope of their employment shall first be brought to the attention of their immediate supervisor who will forward the information to the External Affairs Unit Litigation Coordinator. Do not sign anything.
- B. When employer/employee issues are involved, the employee shall contact the Equal Employment Opportunity (EEO) Officer who shall coordinate contact with the External Affairs Unit Litigation Coordinator, who will initiate contact to the Office of Legal Services of the DMH for legal consultation.
- C. Whenever the litigant is a present or former Individual of the Hospital, the employee will deliver all documents to the Litigation Coordinator. Employees shall not sign proof of service documents unless instructed to do so by the Litigation Coordinator. The Litigation Coordinator is the hospital's liaison with the Office of Legal Services of the DMH, and staff from the Office of the Attorney General. Staff shall not accept legal documents from Individuals nor discuss any aspect of pending litigation with Individuals.

## VIII. DOCUMENTATION/REIMBURSEMENT FOR COURT APPEARANCES

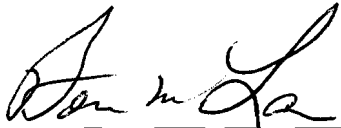
- A. All employees leaving for a court appearance, responding to subpoena or litigation issues must sign out in their designated timekeeping area. Indicate, "subpoenaed witness (SW)", or for all other court or litigation business, identify the reason for the absence. Absences for subpoena, ordered to court, or litigation is charged to "Official Business".
- B. Employees subpoenaed, ordered to court, or involved in Individual litigation in line with their official duty in relationship to Individuals shall, upon return, complete the Subpoena Response Form that was attached to their original subpoena. The employee is to submit the completed form and Travel Expense Claim (Std Form 262) to External Affairs, Central Subpoena Processing, for verification. The Subpoena Response Form will then be routed to Health Information Management Department (HIMD) for filing in the Individual's medical record.
- C. All non-Individual related legal business requires the employee to complete an original plus one copy of the Travel Expense Claim, and submit it to Fiscal Services.

## IX. OVERTIME/TRANSPORTATION/TRAVEL

- A. Transportation and travel shall be in compliance with Administrative Directive No. 726.

# PATIENT RESTRICTED

- B. The State Administrative Manual (SAM) and Bargaining Unit Memorandum of Understanding shall guide overtime involved in court appearance and/or travel in effect.
- C. An employee subpoenaed as a witness on behalf of an Individual relative to their official duties at the hospital, shall request Witness Fees. These fees shall be submitted to Fiscal Services upon return from court with a Travel Expense Claim. Failure to remit the fees will cause the employee to be charged leave credits for the absence and the employee will not be reimbursed for expenses related to the appearance.
- D. Employees subpoenaed to appear in court shall notify their supervisor immediately. The supervisor will attempt to make adjustments in the employee's schedule. Employees who appear in court for less than a full shift shall return to the hospital to complete their shift.



BEN MCLAIN  
Executive Director (Acting)

Cross Reference(s):

- A.D. No. 580 Patient Records: Confidentiality & Information Release, Maintenance, Retention, & Disposition
- A.D. No. 726 Travel
- A.D. No. 900 Utilization/Access to Hospital Grounds & Employees
- A.D. No. 904 Personnel Records-Use, Access, Confidentiality, Referrals, Recommendations