

CENTRAL STATE HOSPITAL
POLICY

SUBJECT: WRIT OF HABEAS CORPUS/JUDICIAL SUPERVISION

ANNUAL REVIEW MONTH: April

RESPONSIBLE FOR REVIEW: Facility Risk Management
Director

LAST REVISION DATE: January 2008

I. **GENERAL**

The purpose of this policy is to define and outline the methods to be followed by clients when requesting a court to issue a Writ of Habeas Corpus or when requesting Judicial Supervision.

II. **HABEAS CORPUS**

A Writ of Habeas Corpus is an order providing for a hearing which has as its object the speedy release of anyone found to be illegally restrained of his/her liberty. It requires that the person alleged to have been unlawfully held be brought before the court so that the court may inquire into the legality of the restraint. A petition for a writ may be filed in the Superior Court of Baldwin County.

Any person detained in the Hospital, or anyone on his/her behalf, may question the cause and legality of detention and request the superior court to issue an order for release.

III. **PROCEDURE**

A. The application for the writ shall be by petition in writing, signed by the applicant, his/her attorney or agent, or some other person on his/her behalf, and shall state:

1. The name or description of the person whose liberty is restrained.
2. The person restraining, the method of restraint, and the place of detention.

3. The reason for the restraint; and if by court order, a copy of the order, if within the power of the applicant, must be attached to the petition.
 4. A statement as to the reasons why the writ of habeas corpus is sought.
 5. A request for the writ of habeas corpus.
- B. The application must be verified by the oath of the applicant or some other person on his/her behalf and mailed or delivered directly to the court.
 - C. In the case of a person detained under a court order pursuant to a plea of mental incompetency to stand trial or a plea of insanity or mental incompetency at the time of the trial, a copy of the petition, along with proper certification of service, shall also be served upon the presiding judge of the court ordering such detention and the prosecuting attorney for such court. This service may be made by certified mail, return receipt requested.
 - D. If, at any time after the application is made and before the scheduled court hearing, it should be decided to release the applicant, he/she must first submit to the same court a letter withdrawing the initial application for a writ and stating the reasons for the withdrawal.
 - E. Staff supervision for all matters pertaining to actions in Habeas Corpus has been assigned to the Facility Risk Management Director.

IV. **JUDICIAL SUPERVISION**

A related right to review can be found in the Georgia Code which provides that a client or his/her representative may file a petition in the Probate Court alleging that the client is being unjustly denied a right or privilege that he/she is supposed to have, or that a legal procedure is being abused. Upon the filing of such a petition, the court shall have the authority to look into the situation and to issue appropriate protective orders to correct any abuses found.

Approved:

This policy has been approved by the CEO and CMO in February, 2008.