

**DEPARTMENT OF STATE HOSPITALS
INITIAL STATEMENT OF REASONS**

California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 16. State Hospitals Operations
Article 4. Support Services

The Department proposes to adopt Section 4440 - Duplication Services, to implement and clarify statutes related to a patient's federal and state rights as follows:

§ 4440(a):

Purpose: This subsection establishes that the Department shall provide duplication services to the patients in state hospitals.

Problem: The five state hospitals have been providing duplication services to the patients, but without appropriate authority.

Rationale: Creating regulatory authority for duplication services at the state hospitals is compliant with the Administrative Procedures Act (APA).

§ 4440(b):

Purpose: This subsection identifies the Department's authority to charge a patient for related duplication services using Civil Code section 1798.33 as a guide.

Problem: There has not been an established limit to the amount a state hospital may charge a patient for duplication services.

Rationale: Civil Code section 1798.33 limits the amount a state agency may charge for other documents maintained by the department. Section 1798.33 provides a reasonable limit that a state hospital may charge at .10 per copy. This subsection implements consistent practice throughout all of the state hospitals.

§ 4440(c)

Purpose: This subsection details the duplication services provided to indigent patients for court actions. The subsection establishes the Department's policy not to charge indigent patients for these duplication services; to provide the applicable number of copies required by courts; and identifies the specific legal documents covered by this subsection.

Problem: Indigent patients have a constitutional right to initiate and respond to legal actions. These services were provided inconsistently in the past by the state hospitals.

Rationale: This subsection will bring consistency to the implementation of these duplication services policies, will ensure patients of their civil rights to respond to legal actions, and will not deplete an indigent patient of the discretionary funds provided to them for other sundries.

§ 4440(d)

Purpose: This subsection establishes the Department's policy that indigent patients will receive one personal copy of all legal documents duplicated at no cost.

Problem: Subsection (c) allows for the duplication services of court documents limited to what is required by the courts and does not include a copy for the patient.

Rationale: This subsection is necessary to establish the Department policy to provide an indigent patient with a personal copy, at no cost, of his/her court documents for his/her own files to reference for future court actions. The Department has made the decision that an indigent patient should not be charged for one personal copy of legal documents identified in 4440(c), so as to not deplete the discretionary funds provided to them for other sundries.

§ 4440(e)

Purpose: This subsection introduces the Request for Duplication Services form, DSH-2005 (Rev. 5/15), that may be used when a patient initiates a duplication services request.

Problem: The state hospitals have no way of tracking patient duplication services requests.

Rationale: This form provides consistency throughout all of the state hospitals for documenting patient duplication services and is necessary to document a patient's specific request for duplication services and the state hospitals' action related to the request.

§ 4440(f)

Purpose: This subsection requires a non-indigent patient to have sufficient funds available before a state hospital will process their duplication services request.

Problem: Non-indigent patients are required to pay for their duplication services. The state hospital staff are required to confirm availability of funds before completing the duplication services request.

Rationale: This subsection is necessary to provide authority for the Department to confirm non-indigent patients have the funds available to cover the duplication services he/she requests.

§ 4440(g)

Purpose: This subsection outlines the Department's policies related to changes, returns and refunds of duplication services requests.

Problem: State hospital staff have a limited amount of time to allocate to duplication services and are unable to accommodate numerous changes, returns or refunds related to duplication services requests.

Rationale: This policy is necessary to eliminate staff time processing changes, returns, and refunds for duplication services requests.

§ 4440(h)

Purpose: This subsection identifies the Department's authority to place reasonable restrictions or limitations on duplication services when necessary.

Problem: Some patients have been known to monopolize the duplication services equipment and thereby preventing access to other patients.

Rationale: This subsection sets forth the criteria for a state hospital to place reasonable restrictions or limitations on duplication services.

§ 4440(i)

Purpose: This subsection is added in order to give priority to patients with time-sensitive legal documents so that his/her court actions are not impeded.

Problem: Patients with non-time sensitive duplication services should not prevent a patient with time-sensitive legal documents from obtaining duplication services timely in order to comply with court requirements.

Rationale: This subsection provides authority to a state hospital to ensure patients with access to duplication services related to time-sensitive court actions.

ANTICIPATED BENEFITS:

Adopting Section 4440 will ensure that a patient's rights are protected related to duplication services while providing safety and security to other patients, state hospital staff, and the general public through uniform procedures for processing duplication services. These regulations also promote fairness, social equity, and transparency in government.

NECESSITY:

These regulations are necessary to implement Departmental policy related to patient duplication services by following the Administrative Procedures Act (APA). These proposed regulations follow the APA and provide clarification to statutes and laws governing a patient's right to duplication services and operational procedures in implementing those services.

The Request for Duplication Services form, incorporated by this regulation, is necessary for a patient to identify the number of copies requested, for state hospital staff to verify and calculate duplication costs, if any, and to appropriately assist indigent patients.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

These regulations are intended to allow the Department to set forth the procedures for duplication services for all patients within the state hospitals.

Creation or Elimination of Jobs within the State of California

The services in these regulations are currently performed by state hospital staff. These regulations will not create or eliminate additional jobs in the State of California.

Creation of New Businesses or the Elimination of Existing Businesses within the State of California

The activities described in these regulations are currently performed by state hospital staff. These regulations will neither create nor eliminate businesses within the State of California.

Expansion of Businesses Currently Doing Business within the State of California

The services associated with these regulations are currently performed within the State of California by state hospital staff. These regulations will not expand any of the related services.

Anticipated Benefits of the Regulation

These regulations will allow for a consistent model of practice regarding duplication services for all state hospital patients; thereby protecting the safety and security of patients, state hospital staff, and the public.

TECHNICAL, THEORETICAL AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS:

These regulations are similar to those approved for the California Department of Corrections and Rehabilitation (CDCR), Title 15, CCR, Division 3, Chapter 1, Subchapter 2, Article 6, section 3162 and 3165(d), which provide duplication services for inmates within the institutions.

EVIDENCE SUPPORTING FINDINGS OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS:

The regulations would have no significant statewide adverse economic impact directly affecting businesses since the services are currently provided by state employees and are similar to those approved for the California Department of Corrections and Rehabilitation which allows duplication services for inmates.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES:

The Department has determined that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS OR STATUTES:

There is no duplication or conflict with federal regulations or statutes.