

**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 4. Community Mental Health Services Under the Lanterman-Petris-Short Act
Article 6. Patient Rights: Denial for Good Cause

And

Chapter 4.5. Patients' Rights and Related Procedures for Non-Lanterman-Petris-Short Act Patients in Department of Mental Health Facilities
Article 2. Non-LPS Patients' Rights

PROBLEM STATEMENT

California Code of Regulations (CCR), Chapter 4, Title 9, Section 864 describes the patient complaint procedure for patients admitted to the Department of State Hospitals under the Lanterman-Petris-Short (LPS) Act. CCR, Title 4.5, Section 885 describes the patient complaint and appeal procedures for patients admitted to the Department under statutes other than the LPS Act. In response to patient complaints regarding these procedures, the Department is proposing to adopt Section 864.1 and amend Section 885 to provide more detailed instructions on the patients' rights complaint and appeal procedures for both types of patients.

BENEFITS

This regulatory amendment will allow the Department of State Hospital staff, patients and patient advocates to benefit from the clarification and time lines provided in these regulatory actions on the patients' rights complaint and appeal procedures.

PURPOSE

The purpose of these regulatory actions is to provide additional clarification on the procedures for filing and reviewing patients' rights complaints and appeals. The regulatory text provides specific roles and responsibilities as well as time lines for completion of the three levels of appeals.

NECESSITY

The proposed regulations are necessary to eliminate confusion with the current regulations and facilitate the review and resolution of patient complaints and appeals thereby correcting potential patients' rights violations, including abuse and punitively withholding or unreasonably denying patients of their rights. These proposed regulations will provide additional health, safety and security for the patients and staff at the state hospitals through the timely review and resolution of potential patient rights

violations. These regulations are an effort for the Department to improve the current regulations by providing clarity to the complaint and appeal process and provide all patients with equal rights. Further, these regulations prevent discrimination, promote fairness or social equity, and increase openness and transparency in business and government.

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, Article 8, providing for complaint and appeal procedures for inmates within their institutions.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Creation or Elimination of Jobs within the State of California

These rulemaking changes provide further clarification to existing patient rights complaint and appeal regulations. The services associated with these regulations are currently performed by Patient Rights' Advocates and state hospital staff. These regulations will not expand or eliminate any of the related services and; therefore, will neither create nor eliminate jobs within the State of California.

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

These rulemaking changes provide further clarification to existing patient rights complaint and appeal regulations. The services associated with these regulations are currently performed by Patient Rights' Advocates and state hospital staff. These regulations will not expand or eliminate any of the related services and; therefore, will neither create nor eliminate businesses within the State of California.

The Explanation of Businesses Currently Doing Business within the State of California

These rulemaking changes provide further clarification to existing patient complaint and appeal regulations. The services associated with these regulations are currently performed by Patient Rights' Advocates within the State of California and state hospital staff. These regulations will not expand or eliminate any of the related services.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

These rulemaking changes provide further clarification to existing patient rights complaint and appeal regulations. Roles, responsibilities and time lines are clarified which will benefit the health, welfare and safety of the state hospital patients and workers. Potential patient rights violations will be reviewed and resolved in a more timely manner and will be applied consistently to all state hospital patients. There is no impact on the state's environment.

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

These regulations are similar to those approved for CDCR (Title 15, Division 3, Chapter 1, Article 8), which provide complaint and appeal procedures for inmates. CDCR has successfully implemented those regulations with no significant statewide adverse economic impact directly affecting businesses.

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

In accordance with Government Code section 11346.5, subdivision (1) (13), the Department has determined that no reasonable alternative considered or otherwise identified and brought to its attention will be effective in carrying out the purpose for which this action is proposed, or will be as effective and less burdensome to affect private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the regulations.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS

There is no duplication or conflict with Federal Regulations.