

**STATE OF CALIFORNIA
DEPARTMENT OF MENTAL HEALTH
1600 9TH STREET
SACRAMENTO, CA 95814**

**TITLE 9, CALIFORNIA CODE OF REGULATIONS
ADOPT CHAPTER 16 REGARDING STATE HOSPITAL OPERATIONS**

INITIAL STATEMENT OF REASONS

INTRODUCTION

These proposed regulations are necessary to effectuate the statutes relating to the care and custody of mentally disordered persons, and to clearly set forth in regulations the necessary legal requirements in order to ensure that DMH will not be hampered in its ability to carry out its responsibilities, and to ensure that the individual patients' and the public's safety and security will not be compromised by underground regulation challenges that have occurred and continue to occur.

The proposed regulations address the important safety and security topics of visitation of individual patients, state mental hospital police services, offsite transportation, complaints against hospital police officers, counting of individual patients, and interment of unclaimed deceased individual patients. These proposed regulations also address issues regarding patients' mail and packages, patient's rights complaints, and in-house hearing procedures regarding involuntary medication of patients.

These regulations will ensure that DMH will not be prohibited from using the affected administrative directives or special orders that are important to safety and security of DMH facilities.

**SPECIFIC PURPOSE OF EACH SECTION – GOVERNMENT CODE 11346.2
(b)(1)**

Proposed Section 4100 describes the scope of the regulations in Title 9, Chapter 16. This section is necessary in order to delineate the scope of Chapter 16.

Proposed Section 4105 contains definitions for the terms, “state hospital,” “facility,” “individual patient,” and “patient” as used in Title 9, Chapter 16. This section is necessary in order to define specific terms as used in Chapter 16.

Proposed Section 4210 sets forth procedures for conducting administrative hearings on state hospital grounds to determine whether individual patients may be administered medication involuntarily. Section 4210 also provides that the appropriate court hearing as required by applicable law shall be requested as soon as possible by the state hospitals concurrent with, or subsequent to, the administrative hearing. Subsection (a) states that State Hospitals may conduct hearings to determine whether individual patients may be

given interim involuntary antipsychotic medication. Subsection (b) states the prerequisite requirements which must be met before the administrative hearing process may be initiated. Subsection (c) describes the criteria for the administrative hearing including the requirements for: (1) patient notice; (2) hearing panel members; (3) evidence to be presented by the State Hospital; (4) evidence which may be presented by the patient; (5) patient representation; (6) panel decision-making; (7) appeal process; and (8) duration and effect of the panel's decision. Subsection (d) specifies that this regulation shall not affect any existing patient's right to judicial review of these proceedings; and Subsection (e) specifies that this regulation shall not affect any existing legal authority of the state hospital to involuntarily medicate these patients in emergency situations. This section is necessary in order to maintain the safety and security of state hospital facilities.

Proposed Section 4300 sets forth the visiting hour standards for all individual patients and prohibits conjugal visits. Subsection (a) sets the days of the week and times for visiting hours. Subsection (b) sets out requirements for private attorney-client meeting areas. Subsection (c) allows for suspension of visiting hours for safety and security concerns and staffing limitations. Subsection (d) prohibits conjugal visits. This section is necessary in order to maintain the safety and security of state hospital facilities.

Proposed Section 4310 sets forth the visiting hour standards for all Non-LPS individual patients who are being treated in offsite hospitals. Subsection (a) gives the parameters for when patients in offsite hospitals may receive visitors. Subsection (b) gives the parameters of visiting hours for patients being treated in offsite hospitals who are in critical condition or suffering from a terminal disease. This section is necessary in order to maintain the safety and security of state hospital facilities.

Proposed Section 4315 sets forth the responsibilities of the Department of Police Services and states that the Department of Police Services may work with and obtain assistance from other local, state or federal law enforcement agencies. Subsection (a) delineates the responsibilities of the hospital's police services department. Subsection (b) clarifies that it is permissible for hospital police to work with state and local law enforcement. Subsection (c) states that the Hospital Administrator is the senior law enforcement official of a state hospital. This section is necessary in order to maintain the safety and security of state hospital facilities.

Proposed Section 4320 sets forth the ability of state hospitals to coordinate with the California Department of Corrections and Rehabilitation and law enforcement agencies to arrange for the transportation of individual patients to and from state hospitals. This section is necessary in order to maintain the safety and security of state hospital facilities as well as patients being transported to and from state hospital facilities.

Proposed Section 4325 sets forth the complaint procedures and the process for handling of complaints against a state hospital peace officer. Subsection (a) sets forth the requirement that all complaints be submitted in writing, and the requirements for information which must be contained in the written complaint and optional complaint form. Subsection (b) sets forth the requirements for investigating complaints; and

Subsection (c) sets forth the possible dispositions for the complaint. This section is necessary in order to better comply with legal requirements regarding the complaint process for state police officers.

Proposed Section 4330 sets forth the procedures in counting individual patients of state hospitals. Subsection (a) specifies the number of counts that must be performed each day. Subsection (b) proscribes the scope of counts. This section is necessary in order to maintain the safety and security of state hospital facilities.

Proposed Section 4340 sets forth the protocol for interment of unclaimed deceased individual patients in state hospitals. Subsection (a) states that if a patient has an advance directive, then it must be followed. Subsection (b) states the procedures for interring the patient with a relative or the coroner if the patient does not have an advance directive. This section is necessary in order to ensure that patients' advance directives are complied with.

Proposed Section 4415 sets forth the formal facility policy on the dimensions, weight and volume of mail allowed as such policy is required pursuant to Title 9, California Code of Regulations Section 884 (b)(6). This section is necessary in order to maintain a consistent policy regarding the receipt of mail, and to maintain the safety and security of state hospital facilities.

Proposed Section 4420 sets forth the formal facility policy on the dimensions, weight, volume, and number of packages allowed as such policy is required pursuant to Title 9, California Code of Regulations Section 884 (b)(7). Subsection (a) gives the definition of "packages", as differentiated from "mail." Subsection (b) gives the maximum dimensions and weight of packages. Subsection (c) allows the hospital to limit the volume of a patient's packages in certain circumstances. Subsection (d) states that packages sent to the facility that are not within the limits set forth in subsection (b) and (c) above shall be returned to the sender. Subsection (e) states that these limitations do not apply to confidential mail. This section is necessary in order to maintain a consistent policy regarding the receipt of mail, and to maintain the safety and security of state hospital facilities.

Proposed Amendment to Section 864 adds a subsection (e) to clarify that the procedures in section 864 do not apply to state hospitals, but that the complaint procedures for LPS state hospital patients are the same as those set forth in Title 9, California Code of Regulations Section 885 for Non-LPS state hospital patients. This section is necessary in order to clarify the complaint procedures in this section and Title 9, California Code of Regulations Section 885.

OTHER REQUIRED SHOWINGS – GOVERNMENT CODE 11346.2 (b)(2)-(4)

Studies, Reports, or Documents Relied Upon – Gov. Code 11346.2(b)(2): None

Reasonable Alternatives Considered – Gov. Code 11346.2(b)(3)(A): None

Reasonable Alternatives That Would Lessen the Impact on Small Businesses – Gov. Code 11346.2 (b)(3)(B): None

Evidence Relied Upon to Support the Initial Determination That the Regulation Will Not Have A Significant Adverse Economic Impact On Business – Gov. Code 11346.2(b)(4):

The proposed regulations will not have a significant adverse economic impact upon business since they only govern security issues and patient policies for secured state hospital facilities.