CALIFORNIA DEPARTMENT OF

State Hospitals

NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES
DIVISION 1. DEPARTMENT OF MENTAL HEALTH

Pursuant to the requirements of Government Code section 11643.8(c), and section 44, Title 1, of the California Code of Regulations, the Department of State Hospitals is providing notice of changes made to proposed regulations Sections 864, 864.1, and 885, which were the subject of a regulatory hearing on December 23, 2014. These changes are in response to comments received regarding the proposed regulations. The specific changes include:

- No amendments will be made to Section 864
- Section 864.1 will not be adopted
- Adopt Section 870, under Article 7
- Increase the amount of time for a patient to submit a first level appeal from 10 working days to 30 working days
- Non-substantive title changes to Section 885

If you have any comments regarding the proposed changes, the Department of State Hospitals will accept written comments from January 12, 2015, through January 27, 2015. All written comments must be submitted to, and received by, the Department of State Hospitals no later than 5:00 p.m. on January 27, 2015, and addressed to:

Department of State Hospitals
Regulations Unit
1600 9th Street, Room 410
Sacramento, CA 95814

All written comments received by January 27, 2015, which pertain to the indicated changes will be reviewed and responded to by the Regulations Unit staff as part of the compilation of the rulemaking file. Please limit your comments to the modifications to the text.

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~~7. Patient Rights: Denial for Good Cause

Adopt Section 870 as follows:

§ 870 Complaint and Appeal Procedure – State Hospitals

(a) The Department of State Hospitals shall inform an individual who is admitted under the Lanterman-Petris-Short (LPS) Act of the procedure for filing complaints alleging violation(s) of any right(s) contained in Section 5325 of the Welfare and Institutions Code and the procedure for filing appeals. The written procedures shall include the name of the Patients' Rights Advocate assigned to address patients' rights complaints, their telephone number and their contact times.

(b) A patient may file a complaint with the Patients' Rights Advocate if he or she believes that one or more of his or her patient rights have been abused, punitively withheld, or unreasonably denied. The patient complaint may be written, telephoned in to the Patients' Rights Advocate's office number with a voice message left by the patient; or the patient may ask that the Patients' Rights Advocate to meet in person with the patient who can then file their complaint directly.

(c) The Patients' Rights Advocate shall take action to investigate and address a patient's rights complaint within 5 working days. The Patients' Rights Advocate shall address the issue in coordination with the patient where appropriate and provide a written response to the patient.

(d) The patient may submit an appeal within 30 working days of receiving the written response from the Patients' Rights Advocate requesting that the complaint be referred to the State Hospital's Executive Director or designee for review and response if the patient is not satisfied with the response from and/or action taken by the Patients' Rights Advocate. The patient must include the complaint and all of the responses received when making a request for an appeal at each level. The State Hospital's Executive Director or designee shall review the patient's rights complaint and issue a written response within 30 working days. This is the First Level Appeal.

(e) The patient may submit an appeal to the California Office of Patients' Rights within 30 working days of receiving the written response from the State Hospital's Executive Director or designee if the patient is not satisfied with the response. The patient must include the complaint and all of the responses received when making a request for an appeal at each level. The California Office of Patients' Rights shall review the complaint and issue a written response within 60 working days. This is the Second Level Appeal.

(f) The patient may submit an appeal to the Director or designee of the Department of State Hospitals within 30 working days of receiving the written response from California Office of Patients' Rights if the patient is not satisfied with the response. The patient must include the complaint and all of the responses received when making a request for an appeal at each level. The Director or designee of the Department of State Hospitals shall review the complaint and issue a written response to the patient. This is the Third

Level Appeal. This is the last step in the patients' rights complaint and appeal process and the response and/or decision by the Director or designee shall be final.

Authority cited: Sections 4005.1, 4011, 4027, 5325, 5325.1, and 5326, Welfare and Institutions Code. Reference: Sections 4027, 5325, 5325.1, and 5326, Welfare and Institutions Code.

California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 4.5. Patients' Rights and Related Procedures for Non-Lanterman-Petris-Short Act Patients in Department of ~~Mental Health~~ State Hospitals' Facilities
Article 2. Non-LPS Patients' Rights for Individuals Admitted to a State Hospital Operated by the State Department of State Hospitals

Amend Article 2, section 885 as follows:

§ 885. Complaint and Appeal Procedure.

~~Non-LPS patients shall be informed of and provided with a written procedure for filing complaints or appeals alleging violations of any right(s) contained in Sections 883 and 884.~~

~~The written procedure shall contain the following information:~~
~~(a) Notification that any patient who believes a patients' right listed in this Article has been abused, punitively withheld, or unreasonably denied may file a complaint with the Patients' Rights Advocate.~~
~~(b) The contact name of the Patients' Rights Advocate assigned to address patients' rights complaints, their telephone number and contact times.~~
~~(c) A statement that the Patients' Rights Advocate shall take action to investigate and address patients' rights complaints within two working days.~~
~~(d) A statement that if the complainant is not satisfied with the response and/or action taken pursuant to Subsection (c) of this Section, the complainant may, within ten working days, request that the complaint be referred to the facility director for review and response.~~
~~(e) A statement that the facility director shall take action to review the patients' rights complaint and issue a response within fifteen working days.~~
~~(f) A statement that if the complainant is not satisfied with the response of the facility director, the complainant may, within thirty working days, request that the complaint be referred to the Office of Patients' Rights for review and response.~~
~~(g) A statement that if the complainant is not satisfied with the response of the Office of Patients' Rights, the complainant may request, within thirty working days, that the complaint be referred to the Director of the Department.~~

(a) The Department of State Hospitals shall inform an individual, who is admitted under statutes other than the Lanterman-Petris-Short Act, of the procedure for filing complaints or appeals alleging violation(s) of any right(s) contained in Sections 883 and 884. The written procedure shall include the name of the Patients' Rights Advocate assigned to address patient's rights complaints, their telephone number and contact times.

(b) A patient may file a complaint with the Patients' Rights Advocate if he or she believes that one or more of his or her patient rights have been abused, punitively