

**State of California
Office of Administrative Law**

In re:
Department of State Hospitals

Regulatory Action:

Title 09, California Code of Regulations

Adopt sections: 893

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2022-0826-02

OAL Matter Type: Regular Resubmittal (SR)

This resubmittal action adopts limitations for and a process governing the buying, selling, trading, or gifting of property between patients of the Department of State Hospitals

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 4/1/2023.

Date: January 17, 2023



Digitally signed by Mark
Storm
Date: 2023.01.17 13:55:23
-08'00'

**Mark Storm
Senior Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Stephanie Clendenin, Director
Copy: Anna Libonati**

RESUBMITTAL

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2022-0826-02	SR
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of State Hospitals			
OFFICE OF ADMIN. LAW 2022 AUG 26 PM 12:44			

ENDORSED - FILED
 in the office of the Secretary of State
 of the State of California

JAN 17 2023

1:50 PM

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Property Transfer Between Patients	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2022-0506-02S
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 893
TITLE(S) 9	AMEND REPEAL
3. TYPE OF FILING	
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> File & Print <input type="checkbox"/> Print Only <input type="checkbox"/> Other (Specify) _____	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) 3/30/2022 through 4/14/2022, 8/4/2022 through 8/19/2022, 12/7/2022 THROUGH 12/22/2022	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____	
7. CONTACT PERSON Anna Libonati	TELEPHONE NUMBER (916) 562-2598
FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>S. Clendenin</i>	DATE 8/26/2022
TYPED NAME AND TITLE OF SIGNATORY Stephanie Clendenin, Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JAN 17 2023

Office of Administrative Law

**DEPARTMENT OF STATE HOSPITALS
THIRD 15-DAY MODIFIED REGULATION TEXT
PROPERTY TRANSFER BETWEEN PATIENTS**

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 Facilities
Article 3. General Limitations Applicable to Non-LPS Patients

Section 893 Property Transfer Between Patients

- (a) ~~Patients shall not buy, sell, trade, or gift any property or items on the contraband list of the Department of State Hospitals (Department), or the contraband list of the facility in which the patient is committed.~~
- (b) ~~Prior to any transfer of property, patients must first obtain an approval from their treatment team.~~
- (c)(a) Each the Department of State Hospitals, or each state hospital, may prohibit patients from buying, selling, trading, or gifting property between **patients of that state hospital. To determine if the hospital will prohibit the buying, selling, trading, or gifting of property between patients, the hospital executive staff will weigh the factors in Section (a)(2)(B) as they apply to the hospital as a whole.**
- (1) If the buying, selling, trading, or gifting of ~~personal~~ property is prohibited at the state hospital, state hospital staff will confiscate property found in the possession of a patient identified as having been bought, traded, or gifted will be confiscated.
- (A) **Either before or after confiscation, in order to determine whether property found in the possession of a patient has been bought, traded, or gifted, in violation of the prohibition, the patient will be asked to verify property ownership, by means of property receipts, Property Transfer Forms referenced in subsection (a)(2)(A), or any other means available. If the patient demonstrates they did not violate the prohibition, then the patient will retain the property, and if confiscated, hospital staff will return that property to the patient.**
- (A)(B) The patient's treatment team ~~may~~ will arrange for the return of the confiscated property to the original owner, who sold, traded or gifted the property, if identified and the confiscated property is not

contraband, illegal, or otherwise prohibited on state hospital grounds.

~~(B)~~(C) If the original owner, who sold, traded or gifted the property, ~~is not~~ **cannot be is not** identified, the confiscated property will be deemed as unidentified property.

~~(C)~~(D) If a patient contests property confiscation under subdivision ~~(b)~~(a)(1), the patient may submit a written request within ten 10 working days of the date of confiscation, stating what property was confiscated, and that they are requesting a review to the program director, or designee, within ten 10 working days of the date of confiscation.

1. The program director, or designee, will respond to the written request of the patient within ~~thirty~~ 30 calendar days.

2. If the program director or designee finds the property was not transferred in violation of the prohibition request contesting the confiscation is approved, then the program director or designee will approve the request and the Department state hospital will return the property to the patient from which it was confiscated. If the request contesting the confiscation is denied, or the property remains unidentified, the Department state hospital may arrange for an alternate disposition of the property, including destruction.

(2) If the buying, selling, trading, or gifting of property is permitted, that permission will be based upon the following processes and considerations:

(A) The patients involved in the transfer must mutually agree on the transfer of the property. Written requests to transfer property will be submitted on the Property Transfer Form 9269 (Rev New 8/22), hereby incorporated by reference, to each patient's treatment team or unit supervisor. The treatment team or unit supervisor will obtain written confirmation of the patient's agreement to transfer from both the donating and the receiving patient.

(B) To determine the appropriateness of the transfer, the treatment team for each patient will consider the following factors:

1. Competency and cognitive functioning of the involved patients;

2. Identified behaviors, risk factors, and history of the involved patients;
3. Safety or security risks associated with the transaction and needs of the facility;
4. Health concerns of the involved patients;
5. Sanitation concerns of the involved patients or facility;
6. Infection control considerations;
7. Physical space limitations of the facility, including fire code restrictions and regulations; and,
8. Environmental health guidelines.

~~(C) In addition to subdivision (b)(a)(2)(B), transfer requests between patients that include money or other a transfer of value will be reviewed for the following:~~

- ~~1. Safety and/or security risks associated with the transaction;~~
- ~~2.9. Multiple requests to or from the same patient or individuals not committed to the facility;~~
- ~~3.10. Gifting of high-value items. The fair-market value of the item(s); and,~~
- ~~4.11. An unreasonably high. The number of items in one transfer.~~

(D) The treatment team or unit supervisor review of the request to buy, sell, trade, or gift property will be approved or denied by the program director, or designee within 30 calendar days.

(E) If approved, the treatment team or unit supervisor will document the approval and date of property transfer.

(3) Patients are not allowed to buy, sell, trade, or gift food items to other patients. For facilities with an onsite canteen, store, or other similar establishment for the purchase of food or other goods, defined in these regulations as a location for the sale to or for the benefit of patients of the institution of candies, sundries, and other articles, patients may purchase items for other patients under the following conditions:

- ~~(A) The patients participating in the purchase must mutually agree to the purchase.~~
- ~~(B) Prior to each purchase, patients must first obtain an approval from their treatment team. Approvals for the purchase of food items will be approved immediately by the treatment team, unless the treatment team is aware of any health, safety, or security concerns that may result from an approval of this request.~~
- ~~(C) Upon receiving the approval of the treatment team, the unit supervisor, or designee, will may issue a document that the patients will presents along with their identification badges to a canteen staff member.~~
- ~~(D) All food items purchased in this manner are to be consumed in an area approved by the Department state hospital.~~
- ~~(E) Canteen staff will return the any purchase approval documents provided by the patients to their respective unit supervisor.~~

Note: Authority cited: Sections 4005.1, 41091, and 41049, Welfare and Institutions Code. Reference: Section 4109, Welfare and Institutions Code.



ADOPT

Date: _____

• I, _____ ID# _____, am requesting to **give transfer, without receiving property, service or financial reimbursement in exchange**, the following to _____ ID# _____. I understand that this/these items will be removed from my property and placed in the property of the recipient. I understand that once this transfer is completed I have no claim to the item.

• I, _____ ID# _____, am receiving the following property from _____ ID# _____ **without providing property, service or financial compensation in exchange**.

Detailed description of Property to be transferred (*include quantity, make, model, serial number etc. as needed*)

 Donating Patient's Signature

 Receiving Patient's Signature

Treatment Team Reviewer/Unit Supervisor Name	Approved:	Denied:	Date:
Signature			
Program Director Name	Approved:	Denied:	Date:
Signature			

Transfer of Property Completed Date _____

CONFIDENTIAL PATIENT INFORMATION

ADDRESSOGRAPH

