



CALIFORNIA DEPARTMENT OF STATE HOSPITALS

NOTICE OF PUBLIC COMMENT PERIOD FOR PROPOSED ADOPTION OF THE HOSPITAL ACCESS SYSTEM REGULATIONS

The Department of State Hospitals (DSH or the Department) proposes adoption of the Hospital Access System (HAS) regulation after considering all comments, objections, and recommendations.

PUBLIC HEARING

A public hearing is not currently scheduled; however, any interested person may request the Department to conduct a public hearing. A public hearing will be held if any interested person, or their duly authorized representative, requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice **no later than 5:00 p.m. on April 29, 2019**, 15 days prior to the close of the 45-day comment period, which is May 13, 2019. If a request for public hearing is received by April 29, 2019, the time, date, and location of the public hearing will be provided by separate notice.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

Any interested person or their representative may provide comments relevant to the proposed regulatory action to the Department by personal delivery, postal mail service, fax, or email submittal as detailed below. The public comment period for this regulatory action will begin on March 29, 2019. For any written comment to be considered, it must be received by the Department **no later than 5:00 p.m. on May 13, 2019**, the close of the 45-day comment period.

Comments sent to persons or addresses other than that specified or received after the date and time specified above will be included in the record of this proposed regulatory action but will not be summarized or responded to regardless of the manner of transmission. For consideration, any written comments shall be submitted in one of the following ways:

1. By email to DSH.Regulations@dsh.ca.gov. DSH requests that all comments, particularly those emailed with attachments, contain the regulation package identifier **"HAS Regulations"** in the subject line to facilitate timely identification and review.
2. By fax transmission to (916) 651-3090.

3. By mail to:
California Department of State Hospitals
RE: HAS Regulation
Regulations Unit
1600 9th Street, Room 410
Sacramento, CA 95814; or
4. Hand-delivered to the address above.

AUTHORITY AND REFERENCE

This regulatory action is proposed under the authority granted to the Department in Welfare and Institutions Code sections 4005.1, 4011, 4027, 4101, and 4312. This action is proposed to implement, interpret, or make specific Welfare and Institutions Code sections 4011 and 4312.

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

Sections Affected: The Department proposes to adopt new sections 4355, 4356, 4357, 4358, 4359 and 4360 to title 9, California Code of Regulations (CCR).

Existing Laws / Regulations:

Welfare and Institutions Code section 4005.1 provides that DSH may adopt and enforce rules and regulations necessary to carry out its respective duties.

Welfare and Institutions Code section 4011 provides that DSH shall have jurisdiction over the execution of the laws relating to care and treatment of persons with mental health disorders under the custody of DSH.

Welfare and Institutions Code section 4027 provides that DSH may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders committed to DSH pursuant to Penal Code sections 1026, 1026.2, 1364, 1370, 1610, and 2684 and of mentally disordered sex offenders.

Welfare and Institutions Code section 4101 provides that unless specifically authorized by law, all institutions under the jurisdiction of DSH shall be governed by uniform rule and regulation of DSH.

Welfare and Institutions Code section 4312 provides that state hospital directors may establish rules and regulations concerning the care and treatment of patients, research, and clinical training and for the government of the hospital buildings and grounds.

Effect of the Proposed Regulatory Action

This proposed rulemaking adopts the HAS to specify the requirements for a standardized hospital access system to enable patients to move about on the hospital grounds while maintaining the safety and security of patients, staff, and the public and encouraging patient autonomy, treatment participation, and overall wellness.

Policy Statement Overview / Broad Objectives / Anticipated Benefits

The proposed regulation will specify the requirements for patient movement on hospital grounds; provide uniform rules for all patients and staff; and provide clarification on the HAS for the patients and staff at DSH. The proposed regulation, pursuant to the Department's regulatory authority under Welfare and Institutions Code sections 4005.1, 4011, 4027, 4101, and 4312 clarifies the access levels and the assessment of patient access level, allowing patients to move about in each state hospital safely, ensuring the safety and security of the patients, DSH staff, and the public.

Developing a structured access system will standardize access levels and the way patients move about on DSH hospital grounds. This standardization will provide clarification and guidance to DSH staff and DSH patients and will ensure the safety, security, and welfare of the patients, DSH staff, and the public.

Further, structured access to hospital grounds ensures that each patient goes through the same process, promoting fairness. The Department hopes and anticipates that a standard access system will encourage patients to positively navigate in the hospital and have a better sense of well-being, cultivate good relationships with others, and make for a safer hospital atmosphere.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

During the development of this proposed regulatory action, DSH reviewed the regulations on this topic and concluded that the proposed regulation is neither inconsistent nor incompatible with existing state regulations or statutes. In arriving at this conclusion, DSH reviewed the Welfare and Institutions Code, the Penal Code, and its own regulations in title 9 of the CCR.

OTHER STATUTORY REQUIREMENTS (Gov. Code, § 11346.5 subd. (a)(4))

Pursuant to Welfare and Institutions Code sections 4011 and 4109, DSH is vested with jurisdiction and supervision over all state hospitals as designated in Welfare and Institutions Code section 4100. The scope and content of DSH's regulatory authority are set forth in Welfare and Institutions Code sections 4005.1, 4027, 4101, and 4109.

DETERMINATION OF FISCAL IMPACT ON PUBLIC AGENCIES, SIGNIFICANT EFFECT ON HOUSING COSTS, ECONOMIC IMPACT ON BUSINESS, AND COST IMPACTS

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Cost or savings to any State agency: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the State: None.

Significant effect on housing costs: None.

Significant, statewide adverse economic impact directly affecting businesses and individuals: None.

Effect on small business: None.

Cost impacts to a representative private person or business: None.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT

The Department concludes that it is (1) unlikely that the proposal will create or eliminate jobs within the State of California, (2) unlikely that the proposal will create new businesses or eliminate existing businesses currently doing business within the State of California, (3) unlikely that the proposal will affect the expansion of businesses currently doing business within the State of California, and (4) likely that the proposal will benefit the health and welfare of California residents, worker safety, and the State's environment.

The proposed regulation may benefit the health and welfare of California residents, primarily the patients committed to the Department. A standardized system for hospital access promotes patient autonomy, treatment participation, and overall wellness, resulting in better adapted patients. When patients do well, DSH anticipates that morale will be higher and the hospitals safer, for both staff and patients. The proposed regulation may also benefit the health and welfare of the California public. When patients do well, they return to the community in a better state than when they entered the state hospital system, thereby reducing the risk of harm to the community.

The proposed regulation may also benefit worker safety. Balancing the patients' interest in autonomous movement and the safety and security concerns of the Department, a standardized hospital access system also gives staff a reliable way to manage patient movement and maintain the safeguards in place to keep both staff and patients safe.

The proposed regulation may also benefit the State's environment by making more efficient the movement of patients and the assessment and patient monitoring by staff. This greater efficiency reduces waste in both time and resources, carbon footprints, and energy costs.

CONSIDERATION OF ALTERNATIVES

Before taking final action on the proposed regulatory action, the Department must determine, pursuant to Government Code section 11346.5, subdivision (a)(13), 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 the action is proposed, as effective and less burdensome to affected private persons than the proposed action, or more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

During the written comment period, DSH invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation.

CONTACT PERSONS

Interested persons may direct inquiries concerning the substance of the proposed regulatory action to the following agency representatives: primary contact, Michael Gomes, Clinical Administrator at (909) 425-7295; or back-up contact, Carrie Friend, Acting Clinical Administrator, at (805) 468-2032.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULMAKING FILE

DSH staff has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic impacts of the proposal and all the information upon which the proposal is based, including an Initial Statement of Reasons (ISOR) for the proposed regulatory action and the proposed text (the “express terms”) of the regulation.

Copies of the proposed regulation text and the ISOR may be accessed on DSH’s website listed below or may be obtained from DSH, located at 1600 9th Street, First Floor, Sacramento, California 95814, starting March 29, 2019.

Further, interested persons may direct non-substantive inquiries concerning the proposed regulatory action to Trini Balcazar, Regulations Coordinator, at (916) 652-2824. DSH has compiled a record of this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

If a request for public hearing is received by April 29, 2019 it will be conducted in accordance with the Administrative Procedure Act, Government Code, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340). After the Department holds a public hearing and considers all timely and relevant comments, it may adopt the

proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, with the exception of grammatical changes, it will make the modified text, with the changes clearly indicated, available to the public for at least 15 days before the Department adopts the regulation as revised. Please send requests for copies of any modified regulation to the attention of the contact persons indicated above. The Department will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons (FSOR) shall be available and copies may be requested from the contact persons in this notice or may be accessed on the Department's Internet web site listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

This notice, the ISOR, the proposed regulation text, and all subsequent regulatory documents, including the FSOR, when completed, are available on the Department's web site for this rulemaking at <http://www.dsh.ca.gov/Publications/Regulations.aspx>