

DEPARTMENT OF STATE HOSPITALS

PROPOSED EMERGENCY REGULATION TEXT Contraband Search and Confiscation

California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 16. State Hospital Operations
Article 3. Safety and Security

Adopt new sections 4351, 4352, and 4353, title 9, California Code of Regulations, to read as follows:

[Note: The entire text of sections 4351, 4352 and 4353, is new language to be added to the California Code of Regulations.]

§ 4351. Contraband Searches and Confiscation within the Secured Facility by Non-Peace Officer Staff.

- (a) Non-peace officer DSH staff may conduct searches as appropriate to locate and confiscate contraband and otherwise ensure the safety and security of the facility, patients, staff, contractors, and public.
- (b) DSH staff shall visually monitor for contraband at all times while within the secured patient area and shall take custody of contraband and/or alert Hospital Police when discovered. If a DSH staff member observes contraband outside of the secured area, Hospital Police must be contacted.
- (c) DSH staff may conduct searches of any room, common area, and/or bathroom at any time, announced or unannounced. Each DSH hospital may identify or limit position classifications of employees authorized to conduct these searches by policy as needed for the individual hospital. Patients that become intrusive or aggressive during a search may be removed from the area during the search by DSH staff or peace officers.
- (d) If there is a reasonable belief that a patient possesses contraband, DSH staff may conduct pat-down searches on the patient, in which a hand search of a patient's body over clothing is conducted. DSH employees may also contact Hospital Police to consider conducting a pat-down or other search as appropriate instead of the staff member.

April 13, 2020

Authority: Sections 4005.1, 4011, 4027 and 4101, Welfare and Institutions Code.
Reference: Sections 4011, 4109 and 7295, Welfare and Institutions Code.

§ 4352. Contraband Searches and Confiscation by DSH Peace Officers.

- (a) Hospital Police Officers and sworn Investigators of the Office of Special Investigations are peace officers pursuant to Penal Code section 830 et. seq.
 - (1) Peace officers may conduct person and property searches throughout the hospital grounds and in any location throughout the state while conducting the primary functions of their duties in accordance with the Penal Code and guided by California Peace Officer Standards and Training Standards.
 - (2) Permitted searches include but are not limited to: visual searches of all areas on the grounds of a DSH facility or while conducting duties throughout the state, vehicle searches, pat-down and physical examination searches of all persons and property on the facility, use of K-9 searches, as well as strip searches and body cavity searches of patients with probable cause and/or a warrant as appropriate.
 - (3) Nothing in these regulations is intended to limit or expand peace officer authority to conduct searches and/or confiscation.

Authority: Sections 4005.1, 4011, 4027 and 4101, Welfare and Institutions Code.
Reference: Sections 4011, 4101, 4109, 4139 and 7295, Welfare and Institutions Code;
Sections 830.3, 830.38 and 830.5, Penal Code.

§ 4353. Contraband Searches and Confiscation of those Entering the Secured Patient Area.

- (a) Contraband shall not enter the premises without written authority from the Executive Director or designee. Contractors with authority to utilize a contraband item, including but not limited to tools, metal items, or electronic devices necessary to perform the contracted work, shall log the item(s) upon entering and confirm their removal upon exiting the secured facility.
- (b) All persons entering the secured area are subject to searches of their person, including but not limited to metal detectors, wand searches, K-9, X-ray, cell phone detecting devices, devices to detect controlled substances, and pat down searches.

(c) All persons entering the secured area are subject to property searches both visually and physically. This includes but is not limited to the removal of hats, shoes, jewelry, jackets or coats for inspection; purses, bags, lunch boxes, containers, etc. K-9, X-ray, cell phone detecting devices, devices to detect controlled substances, and metal detector or wand searches.

(d) Contraband considered illegal pursuant to Penal Code provisions shall be confiscated. Persons with contraband specific to DSH or the hospital shall be instructed to return the item to the car or officers may agree to hold the item for person to retrieve when exiting the secured facility.

(e) Persons refusing searches are not permitted within the secured facility.

Authority: Sections 4005.1, 4011, 4027 and 4101, Welfare and Institutions Code.

Reference: Sections 4011, 4109, 4139 and 7295, Welfare and Institutions Code.