

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2019-0319-04	REGULATORY ACTION NUMBER 2020-0316-015	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of State Hospitals			
AGENCY FILE NUMBER (If any)			

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

APR 06 2020

1:49 p.m.

2020 MAR 16 A 10:10
 OFFICE OF
 ADMINISTRATIVE LAW

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

1. SUBJECT OF NOTICE Hospital Access System Regulations (HAS)	TITLE(S) Title 9	FIRST SECTION AFFECTED 4355	2. REQUESTED PUBLICATION DATE March 29, 2019
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Dennalee Folks	TELEPHONE NUMBER (916) 651-8544	FAX NUMBER (Optional) (916) 651-3090
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER 2019-13-2	PUBLICATION DATE 3/29/2019	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Hospital Access System Regulations (HAS)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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 4355, 4356, 4357, 4358, 4359, and 4360
TITLE(S) 9	AMEND REPEAL
3. TYPE OF FILING	
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input 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 Resubmittal of disapproved or withdrawn nonemergency filing (Gov.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 Resubmittal of disapproved or withdrawn emergency filing (Gov.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"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only	
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) November 6, 2019 - November 21, 2019, November 22, 2019 - December 9, 2019	
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" 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 checked="" 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 Tarik Allen - Regulations Coordinator	TELEPHONE NUMBER (916) 573-1056
FAX NUMBER (Optional) (916) 651-3090	E-MAIL ADDRESS (Optional) Tarik.allen1@dsh.ca.gov

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
Stephanie Clendenin
 TYPED NAME AND TITLE OF SIGNATORY
 Stephanie Clendenin, Director

DATE
 3/12/2020

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 06 2020

Office of Administrative Law

Hospital Access System (HAS)

FINAL REGULATION TEXT

Adopt new sections 4355, 4356, 4357, 4358, 4359, and 4360, title 9, California Code of Regulations, to read as follows:

(Note: The entire text of sections 4355, 4356, 4357, 4358, 4359, and 4360, set forth below is new language in "normal type" proposed to be added to the California Code of Regulations.)

§ 4355. Definitions and Terms.

(a) The following definitions apply.

- (1) "Access" shall mean a patient's privilege to move about on state hospital grounds.
 - (A) "Escorted Access" shall mean a patient's privilege to move about on state hospital grounds when accompanied by staff.
 - (B) "Unescorted Access" shall mean a patient's privilege to move about on hospital grounds when unaccompanied by hospital staff.
- (2) "Commitment Type" shall mean the statutory basis for each patient's commitment to the Department of State Hospitals:
 - (A) Penal Code sections 1026 et seq.;
 - (B) Penal Code section 1026.5;
 - (C) Penal Code section 1370;
 - (D) Penal Code section 1370.01;
 - (E) Penal Code section 1372, subdivision (e);
 - (F) Penal Code section 1610;
 - (G) Penal Code section 2684;
 - (H) Penal Code section 2962;
 - (I) Penal Code section 2970;
 - (J) Penal Code section 2972;
 - (K) Penal Code section 2974;

(L) Welfare and Institutions Code section 702.3;
(M) Welfare and Institutions Code section 1756;
(N) Welfare and Institutions Code section 5008, subdivision (h)(1)(A);
(O) Welfare and Institutions Code section 5008, subdivision (h)(1)(B);
(P) Welfare and Institutions Code section 5150;
(Q) Welfare and Institutions Code section 5250;
(R) Welfare and Institutions Code section 5260;
(S) Welfare and Institutions Code section 5303;
(T) Welfare and Institutions Code section 5304;
(U) Welfare and Institutions Code section 5353;
(V) Welfare and Institutions Code section 5358;
(W) Welfare and Institutions Code section 6316;
(X) Welfare and Institutions Code section 6000; or
(Y) Welfare and Institutions Code sections 6600 et seq.

- (3) "DSH" shall mean the Department of State Hospitals.
- (4) "Executive Staff" shall mean a state hospital's Executive Director or designee, Clinical Administrator or designee, Medical Director or designee, Hospital Administrator or designee, Chief of Hospital Police or designee, and Nurse Administrator or designee.
- (5) "Hospital Access System" shall mean the Department of State Hospitals' system for the state hospitals to regulate the movement of patients in each state hospital.
- (6) "Program Staff" shall mean a state hospital's Program Director or designee, Nursing Coordinator or designee, Unit Supervisor or Supervising Registered Nurse or designee, Program Assistants or designees, Discipline Chiefs or designees, and Senior Clinicians or designees.
- (7) "State Hospital" or "State Hospitals" shall mean one or all of the hospitals operated by the Department of State Hospitals:

- (A) Department of State Hospitals - Atascadero;
 - (B) Department of State Hospitals - Coalinga;
 - (C) Department of State Hospitals - Metropolitan;
 - (D) Department of State Hospitals - Napa; and
 - (E) Department of State Hospitals - Patton.
- (8) "Treatment Team" shall mean the unit staff who provide treatment to a patient, composed of multidisciplinary professionals who observe the patient, evaluate the extent of a patient's progress in treatment progress, and identify impediments to progress.
 - (9) "Treatment Team Conference" shall mean a regularly scheduled meeting between the Treatment Team and the patient to discuss progress in treatment, identify any impediments to progress, and offer support to the patient in accomplishing their treatment goals.
 - (10) "Unit Staff" shall mean any staff member assigned to a patient's unit, including but not limited to the Treatment Team, Registered Nurse, Licensed Vocational Nurse, Psychiatric Technician, Psychiatric Technician Assistant, shift lead, and Unit Supervisor.

NOTE: Authority cited: Sections 4005.1, 4011, 4027, 4101 and 4312, Welfare and Institutions Code. Reference: Sections 4005.1, 4011, 4027, 4101 and 4312, Welfare and Institutions Code.

§ 4356. Hospital Access System Levels; Monitoring.

- (a) The Department of State Hospitals' Hospital Access System provides two levels of patient access to move about on state hospital grounds.
 - (1) Escorted Access is a patient's privilege to move about on state hospital grounds when accompanied by staff.
 - (2) Unescorted Access is a patient's privilege to move about on state hospital grounds when unaccompanied by staff.
- (b) Pursuant to the provisions of section 4358 of this regulation, a patient's access level is determined by their Treatment Team and, if necessary, Program Staff or Executive Staff. Any Program Staff review, or any Executive Staff review shall be in collaboration with the Treatment Team.

- (c) A patient's access level shall be indicated in the patient's medical record. A patient's access level shall also be indicated on an identification card, to be worn by each patient when off unit.
- (d) Unit Staff shall keep a log, noting a patient's access level and destination and location while off the unit.
- (e) Locked Units.
 - (1) Routine.
 - (A) All units shall be locked during a state hospital's respective curfew hours, with the exception of units requiring enhanced security which shall be locked at all times for safety and security.
 - (B) All units shall be locked during count and mealtimes.
 - (2) Unit-Wide Lockdown.
 - (A) In cases of emergency or to ensure the safety and security of the hospital, the patients, and staff, a unit may be placed on lockdown.
 - (B) A unit may be locked for no more than 4 continuous hours, without the approval of the state hospital's Executive Director or designee.
 - (C) Regardless of patient access level, all patients are prohibited from leaving a unit during a unit-wide lockdown, unless escorted.
 - (3) Hospital-Wide Lockdown
 - (A) In cases of emergency or to ensure the safety and security of the hospital, the patients, and staff, a state hospital may be placed on lockdown.
 - (B) A hospital-wide lockdown must be approved by the Executive Director, or designee. A hospital-wide lockdown of more than 8 continuous hours, must be approved by the state hospital's Executive Director or designee in consultation with the Director or Chief Deputy Director of the Department.
 - (C) Regardless of patient access level, all patients are prohibited from leaving a unit during a hospital-wide lockdown, unless escorted.

NOTE: Authority cited: Sections 4005.1, 4011, 4027, 4101 and 4312, Welfare and Institutions Code. Reference: Sections 4011 and 4312, Welfare and Institutions Code.

§ 4357. Patient Access Level Upon Transfer or Admission.

(a) Escorted Access.

- (1) Upon arrival at a state hospital, a patient's access level shall be immediately set to Escorted Access.
- (2) Upon admission to a state hospital, a patient's access level shall be immediately set to Escorted Access.
- (3) Upon transfer from one state hospital to another state hospital, a patient's access level shall be immediately set to Escorted Access.

(b) Unescorted Access.

- (1) Before or at the first post-admission Treatment Team Conference, the Treatment Team shall evaluate the factors listed in section 4359 of this regulation and determine whether a patient's access level shall be set to Unescorted Access.
- (2) If at the first post-admission Treatment Team Conference, the Treatment Team determines that the patient's access level shall remain set to Escorted Access, it shall discuss with the patient any impediments to setting their access level to Unescorted Access and assist them with overcoming those impediments. The Treatment Team shall reevaluate the factors listed in section 4359 of this regulation and determine whether a patient's access level shall remain set to Escorted Access or change to Unescorted Access at the regularly scheduled Treatment Team Conferences or at any time the Treatment Team deems appropriate.

(c) Subsequent Review.

- (1) Upon transfer from one unit to another unit in the same state hospital, a patient's access level remains set to the same access level that they had on the previous unit. If the Treatment Team deems it appropriate, it may evaluate the factors listed in section 4359 of this regulation and determine whether a newly transferred patient's access level shall remain as set or change.
- (2) The Treatment Team may reevaluate the factors listed in section 4359 of this regulation and determine whether a patient's access level shall remain as set or change, at each Treatment Team Conference or at any time the Treatment Team deems appropriate.

- (3) Program Staff or Executive Staff may conduct its own review of the factors listed in section 4359 of this regulation and determine whether a patient's access level shall remain as set or change. Any Program Staff review, or Executive Staff review shall be in collaboration with the Treatment Team.

NOTE: Authority cited: Sections 4005.1, 4011, 4027, 4101 and 4312, Welfare and Institutions Code. Reference: Sections 4011 and 4312, Welfare and Institutions Code.

§ 4358. Determination of Patient Access Level.

- (a) A patient's Treatment Team shall evaluate the factors listed in section 4359 of this regulation and determine a patient's access level.
- (b) Program Staff or Executive Staff may also review the factors listed in section 4359 of this regulation and determine a patient's access level. Any Program Staff review, or any Executive Staff review shall be in collaboration with the Treatment Team.

NOTE: Authority cited: Sections 4005.1, 4011, 4027, 4101 and 4312, Welfare and Institutions Code. Reference: Sections 4011 and 4312, Welfare and Institutions Code.

§ 4359. Factors Considered for Patient Access.

- (a) To determine a patient's access level, the Treatment Team, Program Staff, or Executive Staff shall consider the following factors:
 - (1) Hospital grounds, physical structure of the hospital, or layout of the hospital and units;
 - (2) Staffing ratios or other licensing requirements;
 - (3) Patient's Commitment Type;
 - (4) Patient's participation in treatment;
 - (5) Patient input;
 - (6) History of verbal or physical aggression toward self or others while at DSH;
 - (7) History or allegations of criminal activity while at DSH;
 - (8) History of possession of contraband while at DSH;
 - (9) History of escape attempts or otherwise unauthorized movement while at DSH;

- (10) History of exploiting, strong-arming, or inciting others or being exploited, strong-armed, or incited by others while at DSH;
- (11) History of destroying property while at DSH;
- (12) History of suicide ideation, threats, or attempts while at DSH;
- (13) Medical condition;
- (14) History of unauthorized possession or use of prescribed medication, drugs, or illicit substances or refusal to comply with a drug screen while at DSH; and
- (15) Other relevant information.

NOTE: Authority cited: Sections 4005.1, 4011, 4027, 4101 and 4312, Welfare and Institutions Code. Reference: Sections 4011 and 4312, Welfare and Institutions Code.

§ 4360. Change in Patient Access Level.

- (a) Unit staff may place a patient's access level immediately on hold if clinically indicated, in cases of emergency, or when there has been significant change in any of the factors listed in section 4359 of this regulation.
- (b) A patient's access level, on hold pursuant to subsection (a) of section 4360 of this regulation, shall be reviewed before or at the next Treatment Team Conference. In this review, the Treatment Team shall evaluate the factors listed in section 4359 of this regulation, identify the impediments, if any, to the patient receiving back their access level, and assist them with overcoming those impediments. If there are no impediments, the Treatment Team may return the patient's access level to them. This review and any subsequent review of the patient's access level shall be conducted pursuant to subsection (c) of section 4357 of this regulation.

NOTE: Authority cited: Sections 4005.1, 4011, 4027, 4101 and 4312, Welfare and Institutions Code. Reference: Sections 4011 and 4312, Welfare and Institutions Code.