

**State of California
DEPARTMENT OF STATE HOSPITALS**

UPDATED INFORMATIVE DIGEST

HOSPITAL ACCESS SYSTEM (HAS) REGULATIONS

Sections Affected:

Proposed adoption of sections 4355, 4356, 4357, 4358, 4359, and 4360, title 9, California Code of Regulations (CCR).

Background and the Effect of the Rulemaking:

The Department of State Hospitals (DSH or the Department) manages the California state hospital system, which provides mental health services to patients committed to DSH care and custody. DSH strives to provide effective treatment in a safe environment and in a fiscally responsible manner.

DSH operates five hospitals: Department of State Hospitals - Atascadero, Department of State Hospitals - Coalinga, Department of State Hospitals - Metropolitan, Department of State Hospitals - Napa, and Department of State Hospitals - Patton. All five state hospitals are fully licensed and must comply with regulatory standards to continue providing care. DSH employs more than 11,000 staff and serves more than 12,000 patients annually in an inpatient hospital system.

These patients are most often judicially committed to DSH; more than 90 percent of which are committed through the criminal justice system.

DSH, in balancing its interest in maintaining the safety and security of patients, staff, and the public with its interest in encouraging patient autonomy, treatment participation, and overall wellness, developed a standardized hospital access system to enable patients to move about on the hospital grounds.

Creating a standardized hospital access system for patient movement on hospital grounds ensures that each patient can expect to receive a fair evaluation according to the same criteria. Consequently, a standardized assessment of patient movement increases staff efficiency, reduces waste and redundancy, and improves morale.

Description of Regulatory Action:

On March 29, 2019, the Notice of Proposed Regulatory Action for the proposed regulations was posted, marking the beginning of a 45-day comment period. The 45-day comment period closed on March 13, 2019.

DSH did not receive a request for a public hearing as outlined in the Notice of Proposed Action. DSH did not receive any comments during this notice period.

The Department made modifications (with the changes clearly indicated) which are sufficiently related to the originally proposed text and made them available for a supplemental 15-day comment period through a "Notice of Public Availability of Modified Text."

The notice and modified text were mailed on November 6, 2019 to all interested parties. The 15-day notice listed the DSH Internet Web site where interested parties could obtain the complete modified regulation text, with the modifications clearly indicated. These documents were also published on the DSH Internet Web site. The 15-day notice and modified regulatory text are incorporated by reference herein. No comments were received during the 15-day public comment period.

The Department made subsequent modifications (with the changes clearly indicated) which are sufficiently related to the originally proposed text and made them available for an additional supplemental 15-day comment period through a "Notice of Public Availability of Modified Text."

The second 15-day notice and modified text were mailed on November 22, 2019 to all interested parties. The 15-day notice listed the DSH Internet Web site where interested parties could obtain the complete modified regulation text, with the modifications clearly indicated. These documents were also published on the DSH Internet Web site. The second 15-day notice and modified regulatory text are incorporated by reference herein. Two comments were received during the second 15-day public comment period.

MODIFICATIONS MADE TO THE ORIGINAL PROPOSAL

The text of the modified regulatory language is shown below. The originally proposed regulatory language is shown in plain text. The modifications proposed as part of the 15-day changes are shown in single underline to indicate addition, and ~~single strikethrough~~ to show deletion.

The following 15-day modification was made to the Regulation Text:

In original section 4356.

TEXT: "Monitoring" was added to the heading of this section.

RATIONALE: This proposed modification is necessary to briefly describe the further modifications made to this section.

In original section 4356, subdivision (c).

TEXT: Add "A patient's access level shall also be indicated on an identification card, to be worn by each patient when off unit."

RATIONALE: This proposed modification is necessary to ensure the safety and security of DSH staff and patients. Wearing the access level allows staff to easily identify which patients have which access level and whether unescorted patients are appropriately unescorted for the safety and security of the hospital.

In original section 4356, add new subdivision (d).

TEXT: Unit Staff shall keep a log, noting a patient's access level and destination and location while off the unit.

RATIONALE: This proposed modification is necessary to ensure the safety and security of DSH staff and patients. A log of patients' access levels allows staff to easily identify which patients have which access level and whether unescorted patients are appropriately unescorted for the safety and security of the hospital.

In original section 4356, add new subdivisions (e)(1)(A) through (e)(1)(B).

TEXT: (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 meal times.

RATIONALE: This proposed modification is necessary to specify when the patients' access on hospital grounds is restricted. Locking units during curfew hours is necessary to ensure that each patient is accounted for at the end of the day, for the safety and security of the hospital. Locking units during count and meal times is also necessary to ensure that each patient is accounted for throughout the day, for the safety and security of the hospital.

In original section 4356, add new subdivisions (e)(2)(A) through (e)(2)(C).

TEXT: (2)Unit-Wide or Hospital-Wide Lockdown.

(A) In cases of emergency or to ensure the safety and security of the hospital, the patients, and staff, a unit or a state hospital may be placed on lockdown.

(B) A unit or a state hospital may be locked for no more than 48 continuous hours, unless with the approval of the particular 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 or hospital-wide lockdown, unless escorted.

RATIONALE: This proposed modification is necessary to specify when the patients' access on hospital grounds is restricted. If there is an emergency, it is necessary that DSH has the ability to lock down a unit, for the safety and security of the hospital. It is also necessary that a lockdown not be more than 48 continuous hours, unless approved by a state hospital's executive director – because (1) an initial 48-hour upper limit may be enough to deal with the emergency or otherwise secure the safety and security of the hospital and (2) a state hospital's executive director needs to have the ability to extend a lockdown depending on the emergency or other safety and security risk. Also to ensure the safety and security of all persons in the hospital, it is necessary that during a lockdown, patient movement be restricted, unless escorted, regardless of each patient's actual access level.

The following second 15-day modifications were made to the Regulation Text:

The modifications proposed as part of the Second 15-day changes are shown in double underline to indicate addition, and ~~double strikethrough~~ to show deletion.

In original section 4356, add new subdivisions (e)(2)(A) through (e)(2)(C).

TEXT: (2) Unit-Wide ~~or Hospital-Wide~~ Lockdown.

(A) In cases of emergency or to ensure the safety and security of the hospital, the patients, and staff, a unit ~~or a state hospital~~ may be placed on lockdown.

(B) A unit ~~or a state hospital~~ may be locked for no more than 48 continuous hours, ~~unless with the approval of~~ without the approval of the particular 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 ~~or hospital-wide~~ lockdown, unless escorted.

RATIONALE: This proposed modification is necessary to specify when the patients' access on hospital grounds is restricted, regardless of HAS level. If there is an emergency, it is necessary that DSH has the ability to lock down a unit, for the safety and security of the hospital. It is also necessary that a lockdown not be more than 4 continuous hours, unless approved by a state hospital's executive director – because (1) an initial 4-hour upper limit may be enough to deal with the emergency or otherwise secure the safety and security of the hospital and (2) a state hospital's executive director needs to have the ability to extend a lockdown depending on the emergency or other safety and security risk. Also, to ensure the safety and security of all persons in the hospital, it is necessary that during a lockdown, patient movement be restricted, unless escorted, regardless of each patient's actual access level.

In section 4356, add new subdivisions (e)(3)(A) through (e)(3)(C).

TEXT: (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 48 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.

RATIONALE: This proposed modification is necessary to specify when the patients' access on hospital grounds is restricted, regardless of HAS level. If there is an emergency, it is necessary that DSH has the ability to lock down hospital-wide, for the safety and security of the hospital. It is also necessary that a lockdown over 48 hours is approved by the Executive Director with consultation with Director/Chief Deputy Director of the Department because (1) an initial 48-hour upper limit may be enough to deal with the emergency or otherwise secure the safety and security of the hospital and (2) a state hospital's executive director needs to have the ability to extend a lockdown depending on the emergency or other safety and security risk. Also, to ensure the safety and security of all persons in the hospital, it is necessary that during a lockdown, patient movement be restricted, unless escorted, regardless of each patient's actual access level.

Non-Substantive Modifications to the Regulation Text:

Any modification correcting grammar and changes in numbering and formatting may have been made to improve clarity. These modifications are non-substantive changes made to the regulatory text for clarity and to more accurately reflect the numbering of sections, correct spelling, and correct grammar, but they do not materially alter the requirements, conditions, rights, or responsibilities in the originally proposed text.

Changes to Underlying Laws or Effect of the Regulation:

There have been no other changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

Comparable Federal Regulations:

There are no federal regulations comparable to the HAS regulation.