

Proposed Regulation Text

Enhanced Treatment Program Regulations

California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health

Adopt new Chapter 17, Article 1, section 4800; Article 2, sections 4900, 4901, 4902, 4903, 4904, 4905; Article 3, section 5000; Article 4, section 5100; and Article 5, section 5200 to Title 9, California Code of Regulations to read as follows.

Chapter 17. Enhanced Treatment Program

Article 1. General Provisions

§ 4800. Definitions.

- (a) “DSH” shall mean the Department of State Hospitals.
- (b) “Enhanced Treatment Program” or “ETP,” as used in this chapter, as defined in Health and Safety Code section 1265.9, is a pilot program aimed at treating Patients at High Risk of Most Dangerous Behavior who may benefit from concentrated, evidence-based clinical therapy and structured milieu or treatment with the goal of reducing the risk of violent behavior in a standard hospital setting.
- (c) “Forensic Needs Assessment Panel” or “FNAP,” as used in this chapter, is a panel that consists of one psychiatrist, one psychologist, and the medical director of the hospital or designee. The FNAP convenes a placement evaluation meeting for each ETP patient in accordance with Welfare and Institutions Code section 4144, subdivisions (c) and (d). None of the FNAP members shall be involved in an ETP patient’s treatment or diagnosis at the time of that patient’s placement evaluation meeting.
- (d) “Forensic Needs Assessment Team” or “FNAT,” as used in this chapter, is a panel of psychologists, not part of the ETP Treatment Team, with expertise in forensic assessment or violence risk assessment. Each FNAT shall have a supervising psychologist, who shall assign an ETP case or group of cases to each FNAT psychologist.

- (e) “Individualized Treatment Interventions,” as used in this chapter, means interventions provided to a patient to address patient-specific risk factors for highest risk of violence.
- (f) “Most Dangerous Behavior,” as used in this chapter, means aggressive acts that may cause substantial physical harm upon others in an inpatient setting.
- (g) “Standard Treatment Environment,” as used in this chapter, means any non-ETP setting at a DSH state hospital.
- (h) “Standardized Violence Risk Assessment,” as used in this chapter, is a violence risk assessment of an ETP patient using the Standardized Violence Risk Assessment Methodologies defined in subdivision (i) of this section.
- (i) “Standardized Violence Risk Assessment Methodologies,” as used in this chapter, are reliable and valid methods used in violence risk assessment, which may include but are not limited to an analysis of the severity, frequency, and intensity of a patient’s past violent behavior and an evaluation of the static and dynamic violence risk factors.
- (j) “Treatment Team,” as used in this chapter, is a group of ETP treatment providers assigned to an ETP patient and generally includes a primary psychiatrist, psychologist, a clinical social worker, rehabilitation therapist, registered nurse, and psychiatric technician.
- (k) “Patient at High Risk of Most Dangerous Behavior,” as used in this chapter, means a patient has a history of physical violence and currently poses a demonstrated danger of inflicting substantial physical harm upon others in an inpatient setting, as determined by an evidence-based, in-depth violence risk assessment conducted by DSH.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.

Article 2. Admissions

§ 4900. Referral Process.

- (a) A Standard Treatment Environment psychiatrist or psychologist may refer a patient to the Enhanced Treatment Program when all the following conditions are met:
- (1) A Standard Treatment Environment Treatment Team has determined that a patient may be at high risk for Most Dangerous Behavior in a standard treatment setting.
 - (2) A Standard Treatment Environment Treatment Team has attempted, without success, to provide Individualized Treatment Interventions or a Standard Treatment Environment Treatment Team has determined that a patient's high risk for Most Dangerous Behavior precludes safely providing Individualized Treatment Interventions in a Standard Treatment Environment.
 - (3) There is no existing contract or memorandum of understanding that provides alternative and clinically appropriate treatment outside of DSH.
 - (4) A Standard Treatment Environment Treatment Team has concluded that a patient has no medical issues that would contraindicate treatment in the ETP.
 - (5) A Standard Treatment Environment Treatment Team has completed the ETP Referral Form, DSH-9220 (Rev. 9/17), hereby incorporated by reference.
 - (6) A Standard Treatment Environment Treatment Team or designee has forwarded the completed ETP Referral Form to the FNAT.
- (b) Upon receipt of a completed ETP Referral Form, the FNAT supervising psychologist or designee shall review and determine whether it includes all requisite conditions pursuant to subdivision (a) of this section and whether to approve the referral for initial evaluation pursuant to section 4901.
- (c) The FNAT Supervising Psychologist or designee will verify that the referring hospital has notified the patients' rights advocate and conservator, if applicable, of the ETP referral.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.

§ 4901. Initial Evaluation.

- (a) Once the FNAT supervising psychologist or designee approves a patient referral pursuant to section 4900, they shall assign that referred patient to an FNAT psychologist. The assigned FNAT psychologist shall conduct an initial evaluation to verify a referred patient's need for treatment in the ETP. The initial evaluation shall follow the timelines set forth in Welfare and Institutions Code section 4144, subdivision (b), and shall include, but not be limited to, the following:
- (1) An interview of a referred patient's Standard Treatment Environment Treatment Team.
 - (2) A review of a referred patient's medical record.
 - (3) A review of a referred patient's history of violence.
 - (4) A review of a referred patient's violence risk level.
 - (5) A review of a referred patient's need for treatment in the ETP.
- (b) Upon completion of the initial evaluation, the FNAT shall provide the initial evaluation to the FNAP for a Placement Evaluation Meeting pursuant to section 4902.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.

§ 4902. Placement Evaluation Meeting.

Upon receipt of the initial evaluation from the FNAT psychologist, the FNAP shall convene a placement evaluation meeting in accordance with Welfare and Institutions Code section 4144, subdivisions (c) and (d), including the 72-hour notice to the patient and patient rights advocate of this meeting. A patient and their patients' rights advocate shall be provided instructions as to how a patient may submit documents to the FNAP to consider in making its placement evaluation decision. If a patient is unable to safely participate in the placement evaluation meeting in person, alternate modalities for participation, such as teleconference, shall be considered.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.

§ 4903. Admission Criteria.

A patient shall be accepted for ETP treatment if the FNAP determines all of the following:

- (a) A referred patient is determined to be a Patient at High Risk of Most Dangerous Behavior.
- (b) Individualized Treatment Interventions provided to a referred patient have not been successful or that a patient's high risk for Most Dangerous Behavior precludes safely providing Individualized Treatment Interventions in a Standard Treatment Environment.
- (c) A referred patient has no medical issues that would preclude safe treatment in the ETP.
- (d) A referred patient is appropriate for ETP treatment, in consideration of the number of ETP referrals across DSH facilities and the number of available ETP beds.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.

§ 4904. Emergency Placement.

- (a) A referred patient may be placed in the ETP prior to completion of the initial evaluation by the FNAT psychologist, pursuant to section 4901, if they present a high risk of Most Dangerous Behavior such that placement in the ETP is immediately necessary for the preservation of life or the prevention of serious bodily harm to others. Within three days of placement in the ETP, the FNAT psychologist shall complete the initial evaluation of a patient placed in the ETP pursuant to this section in accordance with section 4901 and the requirements set forth in Welfare and Institutions Code section 4144, subdivision (b).
- (1) The FNAT Supervising Psychologist or designee will verify that the referring hospital has notified the patients' rights advocate and conservator, if applicable, of the ETP placement.
- (2) Within seven business days of placement in an ETP and with 72-hour notice to the patient and patients' rights advocate, the FNAP shall conduct a placement evaluation meeting with the referring psychiatrist or psychologist, the patient and patients' right advocate, and the FNAT psychologist who performed the initial evaluation. The FNAP shall make a determination as to whether the patient clinically requires ETP treatment pursuant to Welfare and Institutions Code section 4144, subdivision (c)(1).
- (3) If a patient has shown improvement during his or her placement in an ETP, the FNAP may delay its certification decision for another seven business days.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.

§ 4905. Certification Requirement.

- (a) Each ETP patient shall be certified in accordance with the requirements set forth in Welfare and Institutions Code section 4144, subdivisions (c), (d), (f), (g), (h), and (i).

- (b) An ETP Certification Form, DSH-9219 (Rev. 4/18), hereby incorporated by reference, shall be completed for each patient referred to the ETP, documenting the final decision of the FNAP is completed by the FNAT supervising psychologist or designee after each certification meeting or hearing. An ETP Certification Form shall be completed at the initial certification, after 90 days, and at each subsequent meeting or hearing concerning the patient's ETP treatment. The ETP Certification Form shall be completed after each meeting or hearing regardless whether the patient was certified or de-certified for ETP treatment.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.

Article 3. Services

§ 5000. Individualized Treatment Plan.

- (a) For each ETP patient, after the FNAT psychologist consults with the Treatment Team and in collaboration with the patient, if possible, the FNAT psychologist shall develop an Individualized Treatment Plan, which shall comply with the requirements set forth in Welfare and Institutions Code section 4144, subdivision (e).

- (b) The Individualized Treatment Plan shall include a determination of whether it is clinically indicated to be the least restrictive treatment for a patient to have their room locked at a certain time, as determined in consultation with the Treatment Team.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 1265.9, Health and Safety Code; and Section 4144, Welfare and Institutions Code.

Article 4. Discharge

§ 5100. Discharge and Transition.

- (a) Subsequent to certification for ETP treatment, at least every 90 days, and prior to expiration of the one-year certification, the FNAP shall review each certified ETP patient to determine whether they no longer clinically require treatment in the ETP, pursuant to Welfare and Institutions Code section 4144, subdivisions (g) and (h).
- (b) If the FNAP determines that a certified patient no longer clinically requires treatment in the ETP, an ETP patient shall be discharged in accordance with their aftercare plan pursuant to Welfare and Institutions Code section 4144, subdivisions (e)(2)(l) and (e)(7), based on clinical progress reports, along with any other relevant information, and a determination that a patient should be transferred to a Standard Treatment Environment or any other appropriate placement or referred to a more secure treatment environment pursuant to Welfare and Institutions Code section 7301. The FNAP shall transfer an ETP patient within 30 days of its determination.
- (c) If the FNAP determines that a certified patient continues to clinically require treatment in the ETP, an ETP patient shall remain in the ETP, pursuant to provisions set forth in Welfare and Institutions Code section 4144, subdivisions (i) and (k).
- (d) At any point during the ETP placement, if a patient's Treatment Team determines that the patient no longer clinically requires ETP treatment, a recommendation to transfer the patient out of the ETP shall be made to the FNAT or FNAP, pursuant to Welfare and Institutions Code section 4144, subdivision (j).

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.

Article 5. Audio and Visual Monitoring/Recording

§ 5200. Audio and Visual Monitoring/Recording

- (a) DSH may monitor or record via video or audio the ETP patient rooms and common areas.
- (b) DSH shall retain as private and confidential, with restricted access, any audio or video recordings of ETP patient rooms and common areas.
- (c) With the written permission of the executive director or designee of the hospital where the ETP is located, DSH shall grant access to the audio or video recordings of patient rooms and common areas to the hospital police to investigate an allegation of patient abuse or neglect or an incident involving the safety and security of ETP patients or staff.
- (d) In accordance with Welfare and Institutions Code sections 4902, subdivision (b)(1), and 4903, DSH shall grant access to the audio or video recordings of ETP patient rooms and common areas to a protection and advocacy agency investigating incidents of abuse, neglect, injury, or death.
- (e) DSH shall destroy all audio or visual recordings after 45 calendar days, unless the executive director or designee of the hospital where the ETP is located has provided authorization to retain the audio or video recordings beyond the 45 calendar days for a purpose noted in either subdivision (c) or subdivision (d) of this section.

Authority cited: Sections 4005.1, 4027, 4101, 4143 and 4144, Welfare and Institutions Code. Reference: Section 4144, Welfare and Institutions Code.