

**DEPARTMENT OF STATE HOSPITALS
PROPOSED REGULATION TEXT
CONTRABAND SEARCH AND CONFISCATION REGULATIONS**

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 sections 4351, 4352, and 4353 to read as follows:

§ 4351. Contraband Searches within the Secured Treatment Area and Patient Living Areas by Department of State Hospitals Non-Peace Officer Staff

- (a) Non-peace officer staff must visually monitor for contraband at all times within the Secured Treatment Area and patient living areas, and may conduct searches of any room, common area, or bathroom at any time, either announced or unannounced, to locate and secure contraband. Non-peace officer staff must alert hospital police as soon as possible when contraband is discovered. Secured Treatment Area, as applied to sections 4351, 4352, and 4353, are secured areas of the facility located behind the outermost doors of any sally port, all fenced areas, courtyards, visiting rooms, and the sally port interiors.
- (b) If there is a reasonable belief that a patient possesses contraband or a condition exists that poses a threat to the safety and security of the hospital, patients, and employees, non-peace officer staff may conduct a pat-down search on the patient. A “pat-down search”, as applied to sections 4351, 4352, and 4353, is a process in which a hand search of a patient’s body over clothing is conducted.
- (c) Each hospital executive director, or designee, may identify or limit position classifications of hospital employees authorized to monitor and conduct searches for contraband.
- (d) Patients that become intrusive, aggressive, or noncompliant during a search may be removed from the area during the search. A patient may also be removed from the area due to the nature of the search to be performed.

Authority cited: Sections 4005.1, 4011, 4027, 4101, and 4312, Welfare and Institutions Code. Reference: Sections 4109 and 7295, Welfare and Institutions Code.

§ 4352. Contraband Searches by Department of State Hospitals Peace Officers

(a) Hospital police officers and sworn investigators are peace officers pursuant to Sections 830.3 and 830.38 of the Penal Code. 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.

- (1) Permitted searches include, but are not limited to, visual searches of all areas on the grounds of a Department of State Hospitals' facility or while conducting peace officer duties. Vehicle searches, inventory searches, pat-down searches, use of canine-sniff searches, and physical examination searches of all persons and property on the facility grounds, may be conducted under applicable federal laws, state laws, and exemptions.
- (2) Permitted searches, as listed in subdivision (a)(1), for patients and property on facility grounds, may be conducted at random or with reasonable suspicion, based upon information obtained from investigation and observation under applicable federal laws, state laws, and exemptions.
- (3) A strip search (removal of clothing for a visual inspection) or visual body cavity search (visual inspection of body cavity) must be based upon reasonable suspicion and information obtained from investigation and observation that the item sought is small enough to be hidden under clothing or within a person based upon reasonable suspicion.
- (4) A body cavity search (inspection of body cavity) will only be justified upon execution of a duly authorized search warrant.

Authority cited: Sections 4005.1, 4011, 4027, 4101, and 4312, Welfare and Institutions Code. Reference: Sections 4101, 4109, 4139 and 7295, Welfare and Institutions Code; Sections 830.3, and 830.38, Penal Code.

§ 4353. Contraband Searches of those Entering the Secured Treatment Area, Visiting Centers, and Patient Living Areas

- (a) Contraband must not enter the Secured Treatment Area, or patient living areas, without written authority from the executive director, or designee, or hospital police chief.
 - (1) 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, must log the item(s) with the designated officer upon entering and confirm their removal upon exiting the Secured Treatment Area or patient living area.
- (b) All persons entering the Secured Treatment Area, visiting centers, and patient living areas are subject to searches of their person using tools and methods including, but not limited to, metal detectors or metal detector wands, canine-sniffs, x-ray devices, cell phone detecting devices, devices to detect controlled substances, and pat-down searches.
- (c) The property of all persons entering the Secured Treatment Area, visiting centers, and patient living areas are subject to searches, both visually and physically, using tools and methods including, but not limited to, the removal of hats, shoes, jewelry, jackets or coats for inspection; inspection of purses, bags, lunch boxes, and containers; the use of canine-sniffs, x-ray devices, cell phone detecting devices, devices to detect controlled substances, and metal detectors or metal detector wands.
- (d) Persons found with contraband listed on the Department of State Hospitals' statewide contraband list, or the specific state hospital's contraband list, must be instructed to return the contraband to their vehicle, if the person arrived in a vehicle, or to remove the contraband from the hospital grounds. Failure to comply may result in a confiscation of the item or the person may be removed from the hospital grounds for failure to comply.
 - (1) Possession of any illegal contraband item(s), in violation of state or federal law, must be confiscated and violators may be subject to criminal prosecution under the full extent of the law.
- (e) Persons refusing searches are not permitted within the Secured Treatment Area and patient living areas, and may be subject to removal from facility grounds.

Authority cited: Sections 4005.1, 4011, 4027 and 4101, and 4312 Welfare and Institutions Code. Reference: Sections 4109, 4139 and 7295, Welfare and Institutions Code.