

**DEPARTMENT OF STATE HOSPITALS
THIRD 15-DAY NOTICE OF PUBLIC AVAILABILITY OF MODIFIED TEXT
PROPERTY TRANSFER BETWEEN PATIENTS**

California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 4.5. Patients' Rights and Related Procedures for Non-Lanterman-Petris-Short
Act Patients in Department of Mental Health Facilities
Article 3. General Limitations Applicable to Non-LPS Patients

PUBLIC NOTICE

This notice announces a third 15-day comment period in which the public may comment on the modifications to the originally proposed text for the Property Transfer Between Patients regulation. This notice is issued pursuant to Government Code sections 11346.8, sub. (c) and 11347.1, and California Code of Regulations, title 1, section 44.

This regulatory action was originally noticed on May 7, 2021, published in the California Regulatory Notice Register, and mailed to all interested parties. The originally proposed regulatory action is described in the Initial Statement of Reasons provided with the originally proposed regulation which can be found on the website of the Department of State Hospitals (Department) at <https://www.dsh.ca.gov/Publications/Regulations.html>. The original modified regulations were noticed during the initial 15-day comment period (March 30, 2022, through April 14, 2022), and again for a second 15-day comment period (August 4, 2022, through August 19, 2022) and all documents can be found on the website at <https://www.dsh.ca.gov/Publications/Regulations.html>.

The modified regulations, called the "Third 15-Day Modified Regulations Text," as well as the first and second 15-day notice, are available on the Department's website as provided in the above paragraph.

No action by the public is necessary unless persons wish to comment specifically on the proposed modified text.

This rulemaking and all documents relevant to the rulemaking shall be available at the address provided below under section named "Written Comments," between 8:00 AM and 5:00 PM beginning December 7, 2022, through December 21, 2022, or by request to the contact person indicated below.

SUMMARY OF MODIFICATIONS TO THE PROPOSED REGULATIONS

Third 15-day Notice of Proposed Modifications:

The originally proposed regulatory language and its proposed modifications are shown in the document named "Third 15-Day Modified Regulations Text." The original

regulatory language is shown in plain text. Proposed modifications from the initial 15-Day Notice are shown with single underline (e.g., single underline) to indicate addition to the regulatory language, and single strikethrough (e.g., ~~single strikethrough~~) to show deletion to the regulatory language. Proposed modifications from the Second 15-Day Notice are shown with double underline (e.g., double underline) to indicate addition to the regulatory language, and double strikethrough (e.g., ~~double strikethrough~~) to show deletion to the regulatory language. Proposed modifications from the Third 15 Day Notice are shown with bold double underline (e.g., **bold double underline**) to indicate addition to the regulatory language, and bold double strikethrough (e.g., ~~**bold double strikethrough**~~) to show deletion to the regulatory language.

Section 893(a):

Text Change: The text “patients of that state hospital. To determine if the hospital will prohibit the buying, selling, trading, or gifting of property between patients, the hospital executive staff will weigh the factors in Section (a)(2)(B) as they apply to the hospital as a whole.” has been added. “Hospitals” has been changed to “hospital”

Purpose/Rationale: This text has been added to clarify that this section applies only to patients within the same state hospital. The second sentence has been added to provide a reference to Section (a)(2)(B) for how the hospital executive staff will weigh the factors relevant for prohibiting patients from buying, selling, trading, or gifting property. “Hospitals” was changed to “hospital” to clarify that we are referencing one hospital instead of multiple.

Section 893(a)(1)(A):

Text Change: The text “Either before or after confiscation,” “in violation of the prohibition,” and “If the patient demonstrates they did not violate the prohibition, then the patient will retain the property, and if confiscated, hospital staff will return that property to the patient” has been added.

Purpose/Rationale: The text “Either before or after confiscation,” has been added to clarify when the patient will be asked to verify property ownership. The text “in violation of the prohibition” has been added to clarify that this rule will not be applied retroactively. The text “If the patient demonstrates they did not violate the prohibition, then the patient will retain the property and if confiscated, hospital staff will return that property to the patient” has been added to clarify that the property will be returned to the patient if they can verify property ownership and show they did not violate the prohibition.

Section 893(a)(1)(C):

Text Change: The text “cannot be,” has been removed and is returned to “is not”.

Purpose/Rationale: The proposed amendment is necessary because the Department inadvertently changed the meaning of the section by changing "is not" to "cannot be" and is reverting back to the original language to keep the interpretation consistent.

Section 893(a)(1)(D):

Text Change: The text "within 10 working days of the date of confiscation" has been moved to the middle of the first sentence.

Purpose/Rationale: This text has been moved for clarity and ease of readability for the readers of these regulations.

Section 893(a)(1)(D)2.:

Text Change: The text "program director or designee finds the property was not transferred in violation of the prohibition, then the program director or designee will approve the request and" has been added. The text "request contesting the confiscation is approved," and "If the request contesting the confiscation is denied, or the property remains unidentified, the state hospital may arrange for an alternate disposition of the property, including destruction" has been removed.

Purpose/Rationale: This text has been amended to clarify the program director or designee's findings and what will happen with property that was not transferred in violation of the prohibition. The text at the end of this subdivision has been removed because there are already statutes in place regulating unidentified property, and it is unnecessary for the Department to regulate it ourselves.

Section 893(a)(2)(A):

Text Change: The text "Rev" has been changed to "New" and the number "9269" has been added. The word "Request" has been changed to "request"

Purpose/Rationale: This text has been added as a non-substantive change, since the form was recently approved. The word "request" was changed to lower case for grammar reasons and is a non-substantive change.

Section 893(a)(2)(B)1., 893(a)(2)(B)2., 893 (a)(2)(B)4., and 893 (a)(2)(B)5.:

Text Change: The text "involved" has been added.

Purpose/Rationale: This text has been added to clarify and specify who this list applies to.

Section 893(a)(2)(B)3.:

Text Change: The text “Safety or” and “risks associated with the transaction and” has been added. “Security” has been changed to “security” as a grammatical non-substantive change.

Purpose/Rationale: This text has been added to combine Section 893(a)(2)(B)3. and Section 893(a)(C)1.

Section 893(a)(2)(C):

Text Change: The text has been repealed.

Purpose/Rationale: This text has been repealed because any item can be considered to have value, therefore this list has been combined with the list in Section 893(a)(2)(B).

Section 893(a)(2)(C)1.:

Text Change: The text has been repealed.

Purpose/Rationale: This text has been repealed because this section has been combined with Section 893(a)(2)(B)3..

Section 893(a)(2)(C)2., 893(a)(2)(C)3., and 893(a)(2)(C)4.:

Text Change: The text has been changed from 893(a)(2)(C)2., 893(a)(2)(C)3., and 893(a)(2)(C)4. to 893(a)(2)(C)9., 893(a)(2)(C)10., and 893(a)(2)(C)11.

Purpose/Rationale: This text has been amended to renumber the sections as a non-substantive change.

Form:

Text Change: The word “give” has been replaced with the word “transfer.” The text “without receiving property, service or financial reimbursement in exchange” and “without providing property, service or financial compensation in exchange” has been removed from both bullet points.

Purpose/Rationale: This text has been amended to include not only gifts, but all transfers of property between patients. The text was removed because the form applies to buying, selling, and trading, as well as gifting, and this text appeared to limit the use of the form to only gifting.

WRITTEN COMMENTS

The Department invites all interested persons to provide comments relevant to the specific changes made in the Third 15-Day Modified Regulations Text. The public may provide comment only in writing, submitted by postal mail or electronically using the contact information below:

California Department of State Hospitals
Regulations and Policy Unit
RE: Property Transfer Between Patients (3rd 15-Day)
1215 O Street, MS-20
Sacramento, CA 95814
Phone: (916) 654-2478
Email: DSH.Regulations@dsh.ca.gov

All written comments received by December 21, 2022, which pertain to the changes proposed in the Third 15-Day Modified Regulations Text will be considered and responded to by the Department in a document prepared by the Department named the Final Statement of Reasons.

CONTACT PERSONS

The primary contact for this regulatory action is Anna Libonati, and the backup contact is Janna Lowder. They can be reached by contacting the Regulations and Policy Unit phone number at (916) 654-2478.