

**State of California
Office of Administrative Law**

In re:
Department of State Hospitals

Regulatory Action:

Title 09, California Code of Regulations

Adopt sections: 4354, 4354.1

Amend sections:

Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION

Government Code Sections 11346.1 and
11349.6

OAL Matter Number: 2025-0527-02

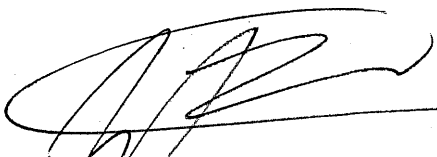
OAL Matter Type: Emergency Readopt (EE)

This emergency rulemaking action by the Department of State Hospitals seeks to readopt sections 4354 and 4354.1 within title 9 originally adopted in OAL Matter No. 2024-1202-03ER. Both of which addressing the disposing of contraband. One to define specific terms regarding contraband items and the other to prescribe the methods to dispose of contraband seized on hospital grounds based on the characteristics of the contraband seized. This action is a deemed emergency pursuant to Welfare and Institutions Code section 7295(k).

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code.

This emergency regulatory action is effective on 6/10/2025 and will expire on 9/9/2025. The Certificate of Compliance for this action is due no later than 9/8/2025.

Date: June 5, 2025



Jason W. Falina
Attorney

For: Kenneth J. Pogue
Director

Original: Stephanie Clendenin, Director
Copy: Anna Libonati

EMERGENCY

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2025-0527-02	EMERGENCY NUMBER EE
For use by Office of Administrative Law (OAL) only		PER AGENCY REQUEST JF OFFICE OF ADMIN. LAW 2025 MAY 27 AM 11:25	
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

JUN 05 2025
1:46 PM CUB

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

1. SUBJECT OF NOTICE Contraband Disposition		TITLE(S) 9	FIRST SECTION AFFECTED 4354	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Anna Libonati		TELEPHONE NUMBER (916) 654-2478
FAX NUMBER (Optional) N/A		PUBLICATION DATE PER AGENCY REQUEST JF		
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Contraband Disposition		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2024-1010-01E, 2024-1202-03ER	
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 4354, 4354.1	
TITLE(S) 9		AMEND	
		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <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 checked="" type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> File & Print <input type="checkbox"/> Print Only			
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Other (Specify) _____			
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)			
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 type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective other (Specify) 6/10/2025			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input 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 Anna Libonati		TELEPHONE NUMBER (916) 654-2478	FAX NUMBER (Optional) N/A
		E-MAIL ADDRESS (Optional) DSH.Regulations@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 <i>Stephanie Clendenin</i>	DATE 5/9/2025
TYPED NAME AND TITLE OF SIGNATORY Stephanie Clendenin, Director of Department of State Hospitals	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 05 2025

Office of Administrative Law

**DEPARTMENT OF STATE HOSPITALS
REGULATIONS TEXT**

Contraband Disposition

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

Section 4354. Definitions

- (a) The following definitions only apply to Section 4354.1.
- (b) **Criminal Contraband.** Items that are illegal to possess pursuant to State and/or Federal Law, except for items specified in Subsection (c). This includes any item prohibited as a condition of parole/probation as it applies to any patient on active parole/probation while housed in a Department of State Hospitals facility.
- (c) **Non-Criminal Contraband.** Items not otherwise prohibited by State and/or Federal Law or prohibited as a condition of parole/probation as it applies to any patient on active parole/probation while housed in a Department of State Hospitals facility, but are prohibited on the Department of State Hospitals Statewide Property Contraband List, and/or items on hospital-specific contraband lists pursuant to Section 7295 of the Welfare and Institutions Code.
- (d) **Hazardous Contraband.** Criminal Contraband or Non-Criminal Contraband that can potentially expose Department of State Hospitals staff, patients, and/or the public to a risk of loss or harm to their person or property. These items may include, but are not limited to, hazardous waste, Electronic Devices with Communication and Internet Capabilities as defined in Section 4350, drugs, chemicals, perishable goods, and potentially unsafe food items that are prohibited on the Department of State Hospitals Statewide Property Contraband List and/or items on hospital-specific contraband lists.
- (e) **Recipient.** A person designated by the patient to receive Non-Criminal Contraband.

Authority cited: Sections 4005.1 and 4101, Welfare and Institutions Code.
Reference: Section 4109 and 7295, Welfare and Institutions Code.

Section 4354.1. Contraband Disposition

- (a) The hospital shall hold onto Non-Criminal Contraband for a minimum of 30 calendar days from the date the patient receives their written notice of the seizure. The written notice shall include patient name, staff name, list of seized items, date of seizure, holding period, and the location of the items seized. Hospital staff shall not dispose of Non-Criminal Contraband prior to informing the patient.
 - (1) If the item is Hazardous Contraband, the item is not subject to the minimum 30 calendar day hold and may be disposed of immediately.
- (b) If the item is Criminal Contraband, Non-Criminal Contraband, and/or Hazardous Contraband, the item may be held by the hospital as evidence for investigations, litigation, and/or pursuant to court orders until the completion of all proceedings and is not limited to a minimum of 30 calendar days.
- (c) Criminal Contraband and Hazardous Contraband found at the hospitals that are not subject to Subsection (b), shall be disposed of by hospital staff. These items may be transferred to a waste management facility, disposed of according to the manufacturer recommended disposal method, or disposed of as hazardous waste by hospital staff.
- (d) Non-Criminal Contraband found at the hospitals that are not subject to Subsection (b), shall be disposed of in accordance with one of the following methods:
 - (1) The patient may choose to mail Non-Criminal Contraband to a Recipient.
 - (A) Non-Criminal Contraband found on hospital grounds that the patient requests to keep will be inventoried and boxed by hospital staff and mailed at the patient's expense. If the patient has insufficient funds in their Patients' Personal Deposit Fund and meets the requirements of Section 4136(a) of the Welfare and Institutions Code, the item will be stored at the hospital-designated storage locations until the patient notifies hospital staff that funds are available, at which time the hospital staff will mail out the Non-Criminal Contraband item.
 - (B) Patients shall not send Non-Criminal Contraband to any government agency, including but not limited to patients, incarcerated persons, and staff in an official capacity.
 - (C) If hospital staff determine that the incoming or outgoing package(s) or any item within the package has been tampered with, the whole

package will be investigated pursuant to Subsection (b) or be disposed of pursuant to Subsection (c).

- (2) The patient may choose to donate the Non-Criminal Contraband item to a Department-designated charitable organization that accepts the item.
 - (3) The patient may choose to release the Non-Criminal Contraband item to visitors.
 - (4) Non-Criminal Contraband not disposed of pursuant to Subsections (d)(1) through (d)(3) may be transferred to a waste management facility, disposed of according to the manufacturer recommended disposal method, or disposed of as hazardous waste by hospital staff.
- (e) Contents of Electronic Devices with Communication and Internet Capabilities shall be scanned by hospital staff for Criminal Contraband. If the patient does not consent to the scanning of the device, hospital staff shall dispose of the device pursuant to Subsection (c). If the patient consents to the scanning of the device and the device contains Criminal Contraband, then the device may be held pursuant Subsection (b). If the patient consents to the scanning of the device and the device contains Non-Criminal Contraband, the patient may choose to dispose of the device pursuant to Subsection (d).
- (1) Hospital staff shall obtain consent to scan the contents of the Electronic Devices with Communication and Internet Capabilities by utilizing a written document which shall include the printed name of the patient giving consent, date of seizure, list of seized items, patient signature, date of patient signature, staff member witness printed name, staff member witness signature, and date of staff member witness signature. A hospital staff member shall be present when the patient gives consent.

Authority cited: Sections 4005.1 and 4101, Welfare and Institutions Code.

Reference: Sections 4109, 4136, 7281, and 7295, Welfare and Institutions Code.