

**DEPARTMENT OF STATE HOSPITALS
NOTICE OF PROPOSED ACTION
ENTRY INTO PATIENT ROOMS AND OBSERVATION ROUNDS**

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

PUBLIC NOTICE

The Department of State Hospitals (Department) hereby gives notice of the proposed regulatory actions described in this document.

PUBLIC HEARING

The Department will conduct an online public hearing to consider proposed amendments to regulations for Entry into Patient Rooms and Observation Rounds.

DATE: February 4, 2025

TIME: 10:00 am – 11:00 am

LOCATION: Microsoft Teams

To request a reasonable accommodation, please contact Rachelle Sack at DSH.Regulations@dsh.ca.gov or (916) 654-2478 by 12pm on January 21, 2025.

Those who seek to participate in this hearing virtually may do so by registering with an email for the hearing at this link:

<https://events.gcc.teams.microsoft.com/event/9bba01a7-0b1e-4ac9-a45d-9224ba53dee6@807536a6-a6b1-4893-a013-70509c59ebbb>

If you wish to participate in this virtual hearing by phone, please use the information below:

+1 (916) 382-0340, 341516232# United States, Sacramento

[Find a local number](#)

Phone conference ID:341 516 232#

During the hearing, participants will be given instructions on how the hearing will be facilitated and other expectations. Any person, or representative of that person, may present statements orally or in writing relevant to the proposed action described in the informative digest for the regulation. Per Government Code section 11346.8, the Department may impose any reasonable limitation on oral presentations. The

Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony via email.

WRITTEN COMMENT PERIOD AND SUBMITTAL OF COMMENTS

California Department of State Hospitals
Regulations, Policy, and Operations Unit
RE: Entry into Patient Rooms and Observation Rounds
1215 O Street, MS-20
Sacramento, CA 95814
Email: DSH.Regulations@dsh.ca.gov

The written comment period begins on December 13, 2024.

Statements or arguments relevant to the proposed regulatory action may be submitted to the Department in writing, or email to the address and number listed above. All comments must be received by **January 27, 2025**.

Comments sent to persons or addresses other than that specified in this document, or received after the date and time specified above, may be included in the record of this proposed regulatory action, but may not be summarized or responded to regardless of the manner of transmission.

AUTHORITY AND REFERENCE

These regulatory actions are proposed under the authority granted in Sections 4005.1, 4011, and 4101 of the Welfare and Institutions Code. These actions implement, interpret, and make specific Section 4027 and 4312 of the Welfare and Institutions Code.

INFORMATIVE DIGEST AND POLICY OVERVIEW

Summary of Existing Laws and Regulations:

Title 9, Section 883 of the California Code of Regulations provides that non-Lanterman-Petris-Short Act patients have the right to privacy, dignity, respect, and humane care, as well as the right to be free from harm, which includes harm from abuse or neglect.

Additionally, Welfare and Institutions Code section 4027 establishes that regulations may be adopted by the Department which address patients' rights and related procedures for inpatient treatment of the individuals committed to its care. Section 4312 of the Welfare and Institutions Code provides the hospital director may establish rules and regulations related to the care and treatment of patients and the government of the state hospital.

Effect of the Proposed Action:

The proposed regulations establish rules for patients entering rooms of other patients at each state hospital under the jurisdiction of the Department as well as staff entry of patient rooms. These regulations also establish minimum observation rounds to be performed by Department staff and actions staff are permitted to take during these observation rounds to ensure the general health, safety, or security of the patients, hospital staff, and the hospital grounds. These proposed regulations provide a process for each state hospital in the monitoring and observation of individuals committed to its care.

Policy Statement Overview / Broad Objectives

It is the policy of the Department and its mission to provide evaluation and treatment to individuals committed to its care in a safe and responsible manner by leading innovation and excellence across a continuum of care and settings.

Individuals committed to the Department for care and treatment have varying needs and functional ability. To ensure the safety and security of all patients, it is the policy of the Department that patients are generally disallowed from entering the room of other patients at each state hospital. Exceptions to this rule may be permitted at each state hospital at its discretion provided there are no health, safety, or security concerns. To further ensure the safety and security of patients, hospital staff, and hospital grounds, staff will perform observation rounds of all areas occupied, or may be occupied, by patients at least once every two hours during the 24-hour day. More observation rounds may be performed at each state hospital as determined necessary by that state hospital based on health, safety, or security considerations.

Anticipated Benefits from the Proposed Regulation:

These regulations establish the rule that patients are prohibited from entering the rooms of other patients, except when approved by the state hospital. With these rules in law, it is less likely that a patient may enter the room of another patient without the approval of the state hospital and the approval of any patients residing in the room. Collectively, this may prevent incidents from occurring in rooms which are not monitored constantly by hospital staff. Overnight visits are also not permitted. Also, to promote patient privacy, staff are required to knock or announce their presence prior to entering a patient's room absent an emergency. Additionally, staff will perform observation rounds of the areas occupied by patients at minimum intervals established by these regulations. Because of the various levels of need and capacities of the individuals committed to the Department, these regulations ensure the general health, safety, or security of the patients by ensuring staff are aware of the general whereabouts of the patients and performing checks for movement and breathing while the patient is sleeping. These observation rounds also serve to ensure the safety and security of the hospital grounds for a treatment environment free from items such as contrabands and issues that may diminish the effective treatment of patients.

Benefits to California Residents' Health and Welfare, Worker Safety, and the State of California's Environment:

The proposed regulations benefit the health and welfare of California residents, specifically individuals committed to the Department, by establishing rules prohibiting the ability of patients to enter rooms in which they do not reside except under the exceptions defined in the regulations. Because patients committed to the Department have unique needs and various levels of cognitive functioning, and because it is not feasible for all patients and patient rooms to be directly monitored continuously throughout the 24-hour day, these rules establish boundaries to prevent situations where a patient may take advantage of another patient. These regulations benefit worker safety by minimizing the potential of unsafe events as observation rounds are performed at minimum intervals. For the safety of both patients and state hospital staff, observation rounds, which require entry into patient rooms, are performed in pairs. Providing an environment for the optimal and safe treatment of patients, benefits all of California as patients are treated more effectively, moving them closer to the ability to reintegrate into society without additional issues. The environment may see minimal benefit because all state hospitals under the jurisdiction of the Department are subject to uniform rules and regulations. With uniform regulations, each state hospital may require fewer policies generated or revised on the same subject matter. This may reduce the Department's overall carbon footprint, resource use, and resource waste.

Substantial Difference from Existing Comparable Federal Regulations or Statute:

During the development of this proposed regulatory action, the Department did not find any differences from existing comparable federal regulation, statutes, or regulations in the California Code of Regulations.

Evaluation of Inconsistency or Incompatibility with Existing State Regulations

During the development of this proposed regulatory action, the Department reviewed any existing regulations on this topic and concluded that the proposed regulation is neither inconsistent nor incompatible with existing state regulations or statutes. In arriving at this conclusion, the Department reviewed the Welfare and Institutions Code, Penal Code, and its own regulations in title 9 of the California Code of Regulations.

LOCAL MANDATE STATEMENT

Mandate on local agencies and school districts: The Department has determined that the proposed regulations would not impose a mandate on any local agency or school district that requires reimbursement by the state under Government Code, Division 4, Part 7 (commencing with Section 17500).

COST ESTIMATES

Cost or savings to any State agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the State: None.

SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS AND INDIVIDUALS

The Department is not aware of any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACTS ON A REPRESENTATIVE PRIVATE PERSONS OR BUSINESS

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT DETERMINATION

The Department has determined that the proposed regulations will not affect small businesses. These regulations specifically affect patients committed to the Department, and the hospital staff members who provide support care to the patients and protective services. These regulations do not extend beyond the state hospitals under the jurisdiction of the Department and do not directly affect any businesses operating outside of the Department.

STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Department concludes that it is unlikely that the proposed regulations will (1) create or eliminate jobs within the State of California, (2) create new businesses or eliminate existing businesses currently doing business within the State of California, and (3) affect the expansion of businesses currently doing business within the State of California. These proposed regulations may benefit the health and welfare of California residents, worker safety, and the State's environment.

The proposed regulations benefit the health and welfare of California residents by establishing rules related to the ability of patients to enter into rooms in which they do not reside. Patients committed to the Department have various levels of cognitive functioning and need. In addition, it is not feasible for all patients to be directly monitored continuously throughout the 24-hour day. As such, these rules serve to prevent situations where a patient may take advantage of another patient by establishing general boundaries. These regulations benefit worker safety by minimizing potentially unsafe or unforeseen circumstances and events that state hospital staff may

encounter while performing wellness checks and observation rounds. These rules benefit all Californians as providing an environment for the optimal and safe treatment of patients may result in more efficient treatment, moving patients closer to the ability to reintegrate into society. The environment may see minimal benefits because uniform rules and regulations may reduce resources use and resource waste from the creation of other policies on the subject matter of these regulations.

STATEMENT OF EFFECTS ON HOUSING COSTS

The adoption of the proposed regulations will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to submit statements or arguments with respect to alternatives to the proposed regulation during the comment period.

CONTACT PERSONS

The primary contact for this regulatory action is Anna Libonati and the backup contact is Rachelle Sack. They can be reached by telephone at (916) 654-2478 or email at DSH.Regulations@dsh.ca.gov.

FORMS INCORPORATED BY REFERENCE

There are no forms or other items incorporated by reference in these regulations.

AVAILABILITY STATEMENTS

The Department has prepared an Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic impacts of the proposal and all the information upon which the proposal is based, and the proposed text (the “express terms”) of the regulation. Copies of the proposed regulation text and ISOR may be accessed on the Department’s website, listed below, or may be obtained from the Department using the contact information provided in this document.

Further, non-substantive inquiries concerning the proposed regulatory action may be directed to the contact person named in this document at (916) 654-2478. The Department has compiled a record of this rulemaking action, which includes all the

information upon which the proposal is based and is available for inspection upon request to the contact persons.

Following the close of the public comment period or date of the public hearing, if one is held, the Department may adopt the proposed regulations substantially as described in this notice or may modify the proposed regulation if the modifications are sufficiently related to the original text. Except for non-substantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the contact person identified in this document.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons (FSOR) shall be available. Copies may be requested from the contact person in this notice or may be accessed on the Department's website listed below.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

This notice, the ISOR, the proposed regulation text, and all subsequent regulatory documents, including the FSOR, when completed, will be available on the [Department website](https://www.dsh.ca.gov/Publications/Regulations.html) at <https://www.dsh.ca.gov/Publications/Regulations.html>.