

**State of California
Office of Administrative Law**

In re:
Department of Health Care Services

Regulatory Action:

Title 09, California Code of Regulations

Adopt sections:

Amend sections: 811, 812, 823, 836.2, 862,
865, 865.4, 865.5

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL Matter Number: 2016-0422-03

OAL Matter Type: Nonsubstantive (N)

This change without regulatory effect filing by the Department of Health Care Services amends eight sections in title 9 of the California Code of Regulations to revise the existing references to the Department of Mental Health to the Department of Health Care Services, revise internal cross references, clarify acronyms, improve grammar, and update authority and reference citations.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: June 6, 2016

Original Signed

Lindsey S. McNeill
Attorney

For: Debra M. Cornez
Director

Original: Jennifer Kent
Copy: Greg Rodriguez

RECEIVED
JUN 10 2016
OFFICE OF ADMINISTRATIVE LAW
STATE OF CALIFORNIA

NONSUBSTANTIVE

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2016-0422-03N	EMERGENCY NUMBER
NOTICE		REGULATIONS	

For use by Office of Administrative Law (OAL) only

2016 APR 22 P 1:55
OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUN 06 2016
1:38PM

AGENCY WITH RULEMAKING AUTHORITY
Department of Health Care Services

AGENCY FILE NUMBER (if any)
DHCS-15-023

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

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)
Patients Rights

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

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
	AMEND Sections 811, 812, 823, 836.2, 862, 865, 865.4. and 865.5
TITLE(S) Title 9	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 type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" 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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<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 checked="" type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
---	--	--	--

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: Greg Rodriguez
TELEPHONE NUMBER: (916) 440-7766
FAX NUMBER (Optional):
E-MAIL ADDRESS (Optional): greg.rodriguez@dhcs.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: Original Signed
TYPED NAME AND TITLE OF SIGNATORY: Jennifer Kent, Director

DATE: 4/21/16

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 06 2016

Office of Administrative Law

Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 4. Community Mental Health Services
Under the Lanterman-Petris-Short Act

(1) Amend Section 811 to read:

§ 811. Department.

“Department” means the State Department of Mental Health Care Services.

Note: Authority cited: Sections ~~4012 and 5400~~, and 14700, Welfare and Institutions Code. Reference: Chapter ~~1252~~, Statutes of 1977 Section 14700, Welfare and Institutions Code.

(2) Amend Section 812 to read:

§ 812. Shall and May.

No change except to the Note as shown below.

Note: Authority cited: Sections 5400 and 14700, Welfare and Institutions Code.
Reference: Section 5400, Welfare and Institutions Code.

(3) Amend Section 823 to read:

§ 823. Attending Staff.

No change except to the Note as shown below.

Note: Authority cited: Sections 5400 and 14700, Welfare and Institutions Code.
Reference: Section 5150, Welfare and Institutions Code.

(4) Amend Section 836.2 to read:

§ 836.2. Facility: Definition.

No change except to the Note as shown below.

Note: Authority cited: Sections 5326.95, ~~and 5400, and 14700~~, Welfare and Institutions Code. Reference: Sections 5325, 5326.6, 5326.7, ~~5326.15~~ and 5326.75, Welfare and Institutions Code.

(5) Amend Section 862 to read:

§ 862. Notification of Rights.

(a) A list of the rights set forth in Section 5325 of the Welfare and Institutions Code ~~and in Section 864~~, as well as the complaint procedure, prescribed in Section 864, shall remain posted, in English and Spanish, in all wards and common living areas of facilities specified in Section 860.

(b) Each person admitted to a facility specified in Section 860 shall be personally notified of his or her rights in writing, in a language he or she can understand, or shall have his or her rights brought to his or her attention by other means if he or she is unable to read or understand the information provided him or her.

(c) – No Change

Note: Authority cited: Sections 5325, 5400 and 14700, Welfare and Institutions Code.
Reference: Section 5325, Welfare and Institutions Code.

(6) Amend Section 865 to read:

§ 865. Authority for Denial of Rights.

(a) – No Change

(b) "Professional person in charge of the facility" is defined in Section 822 of this subchapter, Title 9, California ~~Administrative Code~~ of Regulations; in community care facilities it is the administrator of the facility. Prior to denying the rights, as listed in Section ~~8645325~~ of the Welfare and Institutions Code, of a resident for good cause, the administrator of a community care facility shall first obtain concurrence from the resident's physician or social worker that good cause for denial exists.

(c) – No Change

(d) Any person who has the lawful right on his or her own choice to discharge himself from a facility shall be informed of said right at the time of admission to the facility. If the person elects to discharge himself from the facility rather than voluntarily accepting any denial of his or her rights, such election shall be documented in his or her treatment record, and the person shall be permitted to leave the facility.

Note: Authority cited: Sections 5326, 5400 and 14700, Welfare and Institutions Code.
Reference: Section 5326, Welfare and Institutions Code.

(7) Amend Section 865.4 to read:

§ 865.4. Seclusion and Restraints.

(a) – No Change

(b) Each instance of seclusion and/or restraints shall be noted in the patient's record in accordance with Section 865.3.

(c) Documentation of the Section ~~864~~ 5325 of Welfare and Institutions Code rights actually denied a person in seclusion or restraints shall be entered in the patient's record.

(d) In addition to the foregoing, all of the provisions contained in Sections 70577(j) (General Acute Care Hospitals), 71545 (Acute Psychiatric Hospitals), 72407, 72409, 72411, 72413 (~~SNF~~Skilled Nursing Facilities), and 73403, 73405, 73407, 73409 (~~ICF~~Intermediate Care Facilities) of Title 22 of the California ~~Administrative Code of~~ Regulations shall prevail as applicable rules for the respective health care facilities.

(e) The authority for the use of seclusion and/or restraints on any resident of a community care facility shall be in accordance with provisions of Title 22, California ~~Administrative Code of~~ Regulations, Section 80403(f).

Note: Authority cited: Sections 5400 and 14700, Welfare and Institutions Code.
Reference: Sections 5325, 5325.1 and 5326, Welfare and Institutions Code.

(8) Amend Section 865.5 to read:

§ 865.5. Restoration of Rights.

No change except to the Note as shown below.

Note: Authority cited: Sections 5400 and 14700, Welfare and Institutions Code.
Reference: Sections 5325, 5325.1 and 5326, Welfare and Institutions Code.