

State of California  
Office of Administrative Law

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)

In re:  
Department of Health Care Services  
Regulatory Action:  
Title 09, California Code of Regulations

Adopt sections: [Blank]  
Amend sections: 811, 812, 823, 836.2, 862, 865, 865.4, 865.5  
Repeal sections: [Blank]

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

[Stamp]  
[NONSUBSTANTIVE]

**STATE OF CALIFORNIA – OFFICE OF ADMINISTRATIVE LAW  
NOTICE PUBLICATION/REGULATIONS SUBMISSION**

STD. 400 (REV. 01-2013)  
OAL FILE NUMBERS  
NOTICE FILE NUMBER: **Z-**  
REGULATORY ACTION NUMBER: 2016-0422-03N  
EMERGENCY NUMBER: [Blank]

For use by Office of Administrative Law (OAL) only  
NOTICE: [Blank]

REGULATIONS: [Date Stamp]  
2016 APR 22 P.M. 1:55  
OFFICE OF ADMINISTRATIVE LAW

For Use by Secretary of State Only  
[Date Stamp]  
Endorsed Filed in the office of the Secretary of State of the State of California  
JUN 6 2016  
1:38 pm

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: [Blank]  
TITLES: [Blank]  
FIRST SECTION AFFECTED: [Blank]
2. REQUESTED PUBLICATION DATE: [Blank]
3. NOTICE TYPE  
Notice re Proposed Regulatory Action: [Blank]  
Other: [Blank]
4. AGENCY CONTACT PERSON: [Blank]  
TELEPHONE NUMBER: [Blank]  
FAX NUMBER (Optional): [Blank]

**OAL USE ONLY**

**ACTION ON PROPOSED NOTICE**

Approved as Submitted: [Blank]  
Approved as Modified: [Blank]  
Disapproved/Withdrawn: [Blank]  
NOTICE REGISTER NUMBER: [Blank]  
PUBLICATION DATE: [Blank]

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATIONS: Patients Rights

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBERS:

[Blank]

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLES AND SECTIONS

**(Including Title 26, if toxics related)**

SECTIONS AFFECTED **(List all section numbers individually. Attach additional sheet if needed.)**

ADOPT: [Blank]

AMEND: 811, 812, 823, 836.2, 862, 865, 865.4, and 865.5

REPEAL: [Blank]

TITLES: 9

3. TYPE OF FILING

Regular Rulemaking (Gov. Code Section 11346): [Blank]

Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code Sections 11349.3, 11349.4): [Blank]

Emergency (Gov. Code, Section 11346.1(b)): [Blank]

Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code Sections 11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute: [Blank]

Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, Section 11346.1): [Blank]

Emergency Readopt (Gov. Code, Section 11346.1(h)): [Blank]

File & Print: [Blank]

Changes Without Regulatory Effect (Cal. Code Regs., Title 1, Section 100): [Checked]

Print Only: [Blank]

Other (Specify): [Blank]

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs, Title 1, Section 44 and Gov. Code Section 11347.1): [Blank]

5. EFFECTIVE DATE OF CHANGES (Gov. Code, Sections 11343.4, 11346.1(d)); Cal. Code Regs, Title 1, Section 100):

Effective January 1, April 1, July 1, or October 1 (Gov. Code Section 11343.4(a)): [Blank]

Effective on filing with Secretary of State: [Blank]

Section 100 Changes Without Regulatory Effect: [Checked]

Effective other (Specify): [Blank]

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY.

Department of Finance (Form STD. 399) (SAM Section 6660): [Blank]

Fair Political Practices Commission: [Blank]

State Fire Marshal: [Blank]  
Other (Specify): [Blank]

7. CONTACT PERSON: Greg Rodriguez  
TELEPHONE NUMBER: 916-400-7766  
FAX NUMBER (Optional): [Blank]  
EMAIL ADDRESS (Optional): greg.rodriguez@dhcs.ca.gov

8. I certify that the attached copy of the regulations is a true and correct copy of the regulations 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

[Date Stamp]  
Endorsed Approved  
JUN 06 2016  
Office of Administrative Law

## **METHOD OF INDICATING CHANGES**

This Accessible PDF version of the approved Rule 100 regulation text includes the phrase [begin underline] at the beginning of each addition, [end underline] at the end of each addition, [begin strikeout] at the beginning of each deletion, and [end strikeout] at the end of each deletion.

A standard PDF version of this approved Rule 100 regulation text is also available on the Department's Office of Regulations Internet site.

**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.

[begin underline]Note: Authority cited: Sections 5400 and 14700, Welfare and Institutions Code. Reference: Section 5400, Welfare and Institutions Code.[end underline]

(3) Amend Section 823 to read:

**§ 823. Attending Staff.**

No change except to the Note as shown below.

[begin underline]Note: Authority cited: Sections 5400 and 14700, Welfare and Institutions Code. Reference: Section 5150, Welfare and Institutions Code.[end underline]

(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~~[begin underline], [end underline] [begin~~  
~~strikeout]and[end strikeout] 5400[begin strikeout],[end strikeout] [begin underline]and~~  
~~14700,[end underline] Welfare and Institutions Code. Reference: Sections 5325,~~  
~~5326.6, 5326.7[begin strikeout],5326.15[end strikeout] 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~~[begin strikeout] and in Section 861[end strikeout]~~, 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 ~~[begin underline]or her[end underline]~~ rights in writing, in ~~[begin underline]a[end underline]~~ language he ~~[begin underline]or she[end underline]~~ can understand, or shall have his ~~[begin underline]or her[end underline]~~ rights brought to his ~~[begin underline]or her[end underline]~~ attention by other means if he ~~[begin underline]or she[end underline]~~ is unable to read or understand the information provided him ~~[begin underline]or her[end underline]~~.

(c) – No Change

~~[begin underline]Note: Authority cited: Sections 5325, 5400 and 14700, Welfare and Institutions Code. Reference: Section 5325, Welfare and Institutions Code.[end underline]~~

(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 ~~864~~ 5325 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.

[begin underline]Note: Authority cited: Sections 5400 and 14700, Welfare and Institutions Code. Reference: Sections 5325, 5325.1 and 5326, Welfare and Institutions Code.[end underline]