

Proposed 3rd 15-Day Modifications

INCOMPETENT TO STAND TRIAL ADMISSIONS PROCESS

[NOTE: The originally proposed text for adoption was released on January 13, 2017, and is printed in normal type. The first 15-day modifications released for public comment from April 21, 2017 through May 9, 2017, is shown in underline to indicate additions and ~~strikeout~~ to indicate deletions to the originally proposed text. The second 15-day modifications released for public comment from August 14, 2017 through August 29, 2017, is shown in double underline to indicate additions and ~~double strikeout~~ to indicate deletions. This third notice of public availability of modified text shows the modifications in **bold double underline** to indicate additions, and ~~**bold double underline**~~ ~~strikeout~~ to indicate deletions. Portions of the original proposal for which no additional changes are proposed, the text has been omitted and is indicated by **[**No Change**]**

TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES
DIVISION 1. DEPARTMENT OF MENTAL HEALTH
Chapter 16. State Hospital Operations

Article 7. Admissions

§ 4700. Definitions.

[No Change**]**

- (c) “Psychiatric acuity” means that an individual’s mental illness is causing complications which put the individual at risk of death or serious injury while awaiting admission. An individual’s aggressive behavior alone shall not be sufficient to support a finding of psychiatric acuity.

Note: Authority cited: Sections 4005.1 and 4027, Welfare and Institutions Code.
Reference: Sections 1370 and 1370.01, Penal Code; and Sections 7228 and 7230, Welfare and Institutions Code.

§ 4714. Security Risk Assessment of Individuals Found Incompetent to Stand Trial.

[No Change**]**

- (b) To determine the security risk of an individual, the Department may shall~~The security risk assessment shall~~ consider the following:
- (1) The individual’s risk of escape, based on the individual’s history of escape or attempted escape from any locked facility;
 - (2) Any new or additional information about the individual, including but not limited to a change in commitment status, divorce by spouse, death of a family member of the individual, or birth of the individual’s child, received by the Department within 30 days prior to completion of the security risk assessment;

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- (3) The individual's age;
- (4) Any diagnosis of the individual, based on the Diagnostic and Statistical Manual of Mental Disorders, 5th edition (~~May 18, 2013~~), ~~or current edition~~, hereby incorporated by reference, of an antisocial, borderline, or narcissistic personality disorder;
- (5) The number of the individual's prior felony convictions;
- (6) The individual's pending criminal charges and the maximum exposure the individual is facing for each pending charge, at the time of assessment; and
- (7) The individual's current medical condition.

[No Change**]**

Note: Authority cited: Sections 4005.1 and 4027, Welfare and Institutions Code.
Reference: Sections 7228 and 7230, Welfare and Institutions Code.

§ 4717. Psychiatric Acuity Review of Individuals Found Incompetent to Stand Trial.

[No Change**]**

- (c) To request a psychiatric acuity review of an individual, the committing county's clinician who is responsible for the individual's clinical assessment or its designee shall contact the Department's medical director or designee about the individual's psychiatric acuity and the psychiatric acuity needs of the individual.
- (d) The committing county or its clinician or designee shall provide the Department's medical director or designee medical information and documentation supporting psychiatric acuity. Such documentation may include but is not limited to:
 - (1) Any notes on use of safety cell;
 - (2) Current medication and dosage or lack of medication;
 - (3) Medical laboratory results; or
 - (4) Any additional treatment records from local health care providers.

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- (e) Within ~~72 hours~~ 3 business days after the committing county's clinician or designee contacts the Department's medical director or designee and after receipt of sufficient documentation, the Department's medical director or designee shall determine whether the individual's psychiatric acuity may indicate the need for admission to a state hospital notwithstanding the date the court committed the individual to the Department. The determination of the Department's medical director or designee shall be based only on documentation provided by the committing county pursuant to Section 4717, subdivision (d) and, if warranted, discussions with the county's clinician or designee.

Note: Authority cited: Sections 4005.1, 4027 and 7225, Welfare and Institutions Code.
Reference: Sections 1370 and 1370.01, Penal Code; and Sections 7228 and 7230, Welfare and Institutions Code.