

**DEPARTMENT OF STATE HOSPITALS
INITIAL STATEMENT OF REASONS
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

THE PROBLEM(S) ADDRESSED BY THE PROPOSED REGULATION

The Department of State Hospitals (Department) is responsible for the safety and security of individuals committed to its care. The patient population residing within each state hospital has varying levels of need and cognitive functioning, all of which must be accounted for by the Department in planning and ensuring that each state hospital performs its required duties.

Patients committed to the care of the Department are forensic and civil commitments. As such, the patient population of each state hospital has freedom of movement within hospital grounds that must also be considered when planning the safety and security needs of the Department. While the Department has level-of-care staff, hospital police, and other personnel dedicated to the needs of each patient and ensuring a safe and secure treatment environment, every patient cannot be watched around the clock by staff members.

Because of the spectrum of need and functioning among the patient population, the relative freedom of movement on hospital grounds for the patients, and the inability to watch every patient at every moment, general rules must be in place to limit the ability of patients to be unaccounted for. Specifically, patients are generally not permitted to be in the single room or dormitory of another patient. This restriction is essential because staff will not always be present to regulate patient-to-patient visitation. As such, it is not always possible to ascertain whether there is consent for a patient to be in the room of another patient. This may lead to potential abuse which will negatively impact the treatment of patients. To mitigate this potential problem, Department staff will perform observation rounds of all areas occupied, or may be occupied, by patients at least once every 2 hours throughout the 24-hour day. These regulations establish a minimum frequency for these rounds but leave the discretion to each state hospital to perform more rounds as needed to ensure the health, safety, or security of the patients and hospital grounds.

THE SPECIFIC PURPOSE AND NECESSITY FOR EACH REGULATION ADOPTED, AMENDED, OR RESCINDED

Section 4335(a)

Purpose

This section is adopted to establish that patients shall not enter rooms, either single or dormitory, in which they do not reside or overnight except as defined elsewhere in the regulation. "Rooms," for purposes of this regulation, means a single room in which a patient resides, or dormitory room in which multiple patients reside.

Necessity

The Department is responsible for individuals committed to its care. Patients residing at each state hospital have varying levels of cognitive functioning, needs, and other considerations. While the Department has many staff, from level-of-care staff to police officers at each facility, patient rooms are not monitored continuously in a 24-hour day and there are times when state hospital staff are not physically monitoring a room. As such, the Department has determined it necessary that patients shall not enter or stay overnight in rooms which they do not reside. These rules ensure safety of patients by reducing the threat of actions which could occur in unmonitored areas. These may include assaults, sexual assault, theft, and battery, where hospital staff may not be able to identify and prevent before injury occurs. These conditions are made more threatening during overnight hours when there is generally less visibility, staffing, and ability for rapid intervention. A room is also defined to mean a single room or dormitory room for concise writing and to prevent confusion with other common rooms at the state hospital which patients can enter, when permitted, such as a library.

Section 4335(b) through (b)(3)

Purpose

These sections are adopted to establish that each state hospital, at its discretion, may permit patients to enter the room of other patients after all parties approve, patients reside in the same unit, and after staff considers conditions that could pose a health, safety, or security risk.

Necessity

Generally, as defined in Section 4335(a) of these proposed regulations, the Department does not permit patients entering a room in which they do not reside. However, each state hospital may permit patients that reside within the same unit to enter the room of other patients for visits. This decision is necessary because while the Department seeks to generally prohibit patients from entering rooms they do not reside in for health, safety, or security reasons, not all instances of patients visiting other patients (i.e., entering the

rooms of other patients) are negative or detrimental. The Department recognizes all patients have varying levels of functioning, and patients who can interact with other patients in a manner that is not detrimental to their treatment goals and objectives may be allowed to such visits. To ensure the general health, safety, or security of patients, the conditions of Section 4335(b)(1) through (b)(3) are necessary to establish a framework for which visits may be permitted or rejected for state hospitals, which permit patients entering the rooms of other patients.

Section 4335(b)(1) is necessary because it is important that patients feel safe and secure in their assigned room. This sense of safety and security for the patient is potentially compromised if non-residing patients are permitted entry into the room without approval. A room in which the patient can reside without potentially unwanted interactions from patients who do not reside in that room is part of providing a safe and therapeutic environment for patients. This need for approval also establishes a level of privacy for the patient and security of their environment.

Section 4335(b)(2) is necessary for the state hospital to maintain a sense of knowledge and control of general whereabouts of each patient. In addition, because each unit has different safety and security needs, and its patients may have different levels of cognitive functioning and need, it is important to not create a scenario where patients may take advantage of other patients. For state hospitals which permit visiting (or entry into rooms belonging to other patients), restricting the visits to the same unit ensures state hospital staff of that unit know approximately which patients are in the area and what interactions between these patients are appropriate.

Section 4335(b)(3) is necessary because regardless of whether the patient(s) residing in the room approves the visit of another patient, health, safety, or security concerns are the top priority of the state hospital and its staff. The state hospital and staff must always consider actions and interactions which may jeopardize the treatment environment and the safe and effective treatment and care of the patients. If staff are aware of issues between patients, using their professional judgement, staff may determine whether that issue poses a threat to the health, safety, or security of the patients, hospital, and hospital staff. Because minor conflicts and incidents may occur at times, the regulation is written with the intent that conflicts be evaluated individually with consideration to whether the incident is likely to cause additional problems. In the judgement of staff, if known issues will not rise to a level where significant harm or threat to safety may occur, then the visit may be permitted to occur if the state hospital permits such visits.

Section 4335(c) through (c)(1)

Purpose

These sections are adopted to establish that if staff observe a patient in a room in which they do not reside, the staff member shall determine if the patient has approval to be in that room. Patients in a room without the approval of the residing patients will be

escorted out of that room if there is a reasonable belief that a health, safety, or security concern may exist or occur.

Necessity

These regulations are necessary because if a patient is in a room without approval, authority must reside with the state hospital to remove the patient from that room. Permission for a patient to enter the room of another patient is granted only at the discretion of the state hospital and under the conditions found within Section 4335(b). If these conditions are not met, the patient shall not be in the room in which they do not reside per Section 4335(a) of these regulations. This process vests control of the occupation of a room to the state hospital and establishes a mechanism for staff to check any visits for appropriateness. These proposed regulations also create a transparent process which will be applied uniformly at the state hospital.

Section 4335(d)

Purpose

This section is adopted to establish that clinical and unit staff shall either knock on the room door of the patient or announce their presence prior to entering the room, except in emergency situations, to respect the privacy of the patient(s) occupying the room.

Necessity

This regulation is necessary to establish the rule that state hospital staff will not enter the room of a patient without knocking or announcing their presence ahead of entry. This is necessary so patients may be prepared for hospital staff members to enter the room. While complete privacy is not an expectation at the state hospital, by developing this regulation, the Department seeks to enhance the sense of privacy, health, safety, or security of each patient by limiting unannounced entries of staff to only the entries necessary in emergency situations. While unannounced entries may still be performed as necessary by hospital police, and staff may perform unannounced entries in emergency situations, this rule establishes that under non-emergency circumstances, patients are alerted and aware that state hospital staff will be entering their assigned room.

Section 4335(d)(1)

Purpose

This section is adopted to define emergency situations within the hospital environment as any situation that can threaten the clinical environment, safety, or security of patients and staff.

Necessity

This regulation is necessary because the Department is responsible for a safe and secure treatment environment. Defining an emergency situation allows staff to take immediate action to address various situations that may pose an immediate threat to life, health, property, or environment in order to prevent further harm.

Section 4340(a)

Purpose

This section is adopted to establish that state hospital staff may inspect, visualize, and monitor any area of the hospital during observation rounds.

Necessity

This regulation is necessary to clarify and make transparent that the state hospital may direct its staff to perform observation rounds of any area of the hospital. This regulation promotes additional transparency in the processes of the Department and its state hospitals. Establishing that each state hospital has the authority to inspect any part of the hospital is also necessary as the remainder of Section 4340 established additional rules related to observation rounds at each state hospital. During observation rounds, staff may observe what's happening on the unit, investigate safety concerns, address inappropriate behavior, report active problems, ascertain patient locations, check if the appropriate doors are locked, submit tickets for facility damages, or otherwise monitor the environment for any unforeseen circumstances.

Section 4340(a)(1)

Purpose

This section is adopted to allow staff to escalate an observation round to an investigation if there is reasonable belief of a threatening condition.

Necessity

The proposed regulation is necessary to authorize staff to perform an investigation when there is reasonable belief that a condition exists that may threaten the health and safety of patients and/or staff. This regulation provides additional safety and security to the hospitals by providing an immediate mechanism to address an identified threat. An investigation is necessary because contraband or other items may be hidden that are not detectable by vision alone. These regulations refer to the current California Code of Regulations Title 9 section 4351 et seq. Contraband Searches Within the Secured Treatment Area and Patient Living Areas by Department of State Hospitals Non-Peace Officer Staff for guidance.

Section 4340(b)

Purpose

This section is adopted to establish that hospital staff will perform observation rounds of areas which may be occupied by patients at least once every two hours, except under emergency situations. The purpose of these regulations is to establish a minimum frequency of observation rounds that each hospital is expected to meet or exceed.

Necessity

This regulation is necessary to establish a minimum frequency of observation rounds at each hospital. Each state hospital is responsible for the safety and security of those who reside and work within the state hospital. It is also responsible for providing a safe environment for the treatment of its patients. As such, state hospital staff must remain alert to any issues or items that may endanger those within the state hospital. Performing observation rounds serves to check on the general welfare of the patient population, ensure hospital grounds are free from items such as contraband or items which may otherwise be a threat, and either report or act on any emergency situations. To meet these responsibilities, state hospital staff will perform observation rounds a minimum of once every two hours, barring any unforeseen emergency circumstances. During emergency situations, observation rounds may be increased based on the needs or may be suspended in case of emergency shutdowns.

Section 4340(b)(1)

Purpose

When the entrance door for each unit is locked for the night, staff may inspect any area of the hospital as directed to account for the patients.

Necessity

These regulations are necessary to ensure the general health, safety, or security of the patients, hospital staff, and the hospital grounds. Establishing that staff may check any area of the hospital when the unit doors will be locked provides transparency in operations, due diligence in accounting for the whereabouts of each patient, and to further ensure every part of the state hospital is secure.

Section 4340(c)

Purpose

This section is adopted to establish that based on the needs of each hospital, more observation rounds may be performed by staff than what is established in Section 4340(b) of these regulations.

Necessity

This regulation is necessary because each state hospital must have the ability to perform as many observation rounds as it deems necessary for health, safety, or security purposes. The level of need of each patient will vary at each state hospital, and in some instances, will vary by unit within the state hospital. Some patient populations have needs requiring more frequent observation rounds, while other patient populations may be more self-sufficient and require less direct observation. Because this level of need is dynamic and may vary significantly, discretion is established at each state hospital to perform the number of observation rounds necessary to ensure the health, safety, or security of the patient population, staff, and hospital grounds.

Section 4340(d) through (d)(1)

Purpose

These sections are adopted to establish that during observation rounds, state hospital staff will identify the patients. If the patient is sleeping, state hospital staff will observe that the patient is not in duress. As necessary, staff may use systems and items, such as flashlights, to provide the illumination necessary to perform a sufficient wellness check of the patient.

Necessity

This regulation is necessary because the Department is responsible for the general health and safety of the individuals committed to its care. To meet this responsibility, designated staff at each state hospital will perform observation rounds to identify the patient and check on their general welfare. The identification of each patient during observation rounds ensures that the state hospital is aware of the general whereabouts of the patient. This awareness is necessary because each patient has unique needs, and some patients may need more attention than others to ensure their general health and safety. As such, it is both important and necessary to ascertain approximately where each patient is located during observation rounds. When patients are sleeping, it is necessary for staff to visually check and confirm that the patient is breathing and otherwise not in duress. This check ensures staff are able to act quickly if the patient is in duress. During conditions of low lighting, such as overnight or in situations where lighting is reduced, flashlights or other additional illumination may be used by hospital staff to properly visualize the patient and confirm their general welfare. When a patient

is asleep, a flashlight or other illumination methods may be used to the degree necessary to make a proper assessment of the status of the patient.

Section 4340(e)

Purpose

This section is adopted to establish that state hospital staff who perform observation rounds shall be accompanied by at least one other staff member when entering the rooms of patients.

Necessity

This regulation is necessary to ensure the general health, safety, or security of state hospital staff and patients when performing the observation rounds. For example, risk to staff is increased when entering a room with no illumination; therefore, a second staff member is required to assist in case of an unsafe scenario. Additionally, a second staff member becomes an accountability witness in case of an event.

ANTICIPATED BENEFITS FROM THE REGULATORY ACTION

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. 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 contraband and issues that may diminish the effective treatment of patients.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed action does not mandate the use of specific technologies or equipment. Thus, no prescriptive standards are mandated.

ECONOMIC IMPACT ASSESSMENT

The proposed regulations establish restrictions and exceptions for patients entering rooms of other patients at each state hospital of the Department. These regulations also establish minimum numbers of observation rounds to be performed by Department staff and actions staff are permitted to take during these observation rounds to ensure the health, safety, or security of the patients, hospital staff, and the hospital grounds. These rules apply only to the state hospitals under the jurisdiction of the Department and its operations. As a result, within California, these proposed regulations will not (1) create or eliminate jobs, (2) create new businesses or eliminate existing businesses and will not (3) affect the expansion of businesses currently doing business within the state.

The proposed regulations benefit the health and welfare of California residents 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 varied levels of cognitive functioning and need, and because it is not feasible for all patients to be directly monitored at all hours, these rules serve to prevent situations where a patient may take advantage of another patient. These regulations may benefit worker safety by minimizing the potential of unsafe events as observation rounds are performed to check on the general welfare of the patients. For the safety of both patients and staff, observation rounds in patient rooms are performed in pairs. The environment may see minimal benefits 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 on the same subject matter. This may reduce the Department's overall carbon footprint, resource use, and resource waste.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDIES OR REPORTS

None.

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 these regulations are proposed; would be as effective and less burdensome to affected private persons than the proposed regulations; would lessen any adverse impact on small businesses; 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.

SMALL BUSINESS IMPACT DETERMINATION

The Department anticipates no adverse impacts on small businesses.

STATEMENT OF SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Department has made an initial determination that the proposed regulations will have no significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. These regulations generally prohibit patients of the Department from entering rooms of other patients but allows for exceptions at the discretion of each state hospital. In addition, staff are required to perform a minimum number of observation rounds at the state hospital. These rules do not apply beyond each state hospital.

DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS OR STATUTES

The Department does not anticipate a duplication or conflict with federal regulations to occur.