

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

GENERAL ISSUES	NUMBER	RESPONSES AND REGULATION MODIFICATIONS
The comments summarized and responded to in this section address issues that generally do not cite specific regulation sections.	N/A	<p>The Department received numerous comments identifying federal and state citations. As the Department was attempting to prepare responses we found that some of these citations were irrelevant, incomplete, or inaccurately applied to these proposed regulations.</p> <p>The comments contain general references, statements and opinions unrelated to one or more of the regulations.</p> <p>Many comments assert applicability to the regulations; however, they are incomplete as they fail to provide a nexus between the comment and the regulations.</p>
Sections 11346.8, 11508, 11509, 11340, Government Code, Administrative Procedure Act (APA)		APA mandates how rulemaking is done.
Pursuant to Government Codes §11346.8, §11508, and §11509 of the State of California a postponement of the public hearing is formally requested.		The Department strictly followed APA requirements for a public hearing. There was no credible basis for a postponement.
The proposed regulations purport to delegate broad authority to hospital administrators to adopt general and uniform denial of rights criteria that meet the definition of regulation under the APA. This purported delegation is invalid because it circumvents the requirements of the APA as described in Government Code §11342.600, §11346 and §11340.5(a).		The Department has removed these provisions. Please refer to Section 883.
Section 27706, Government Code		Section 27706 refers to the appointment of Counsel and has no relevance to regulation.
USCA Sections 10801 and 10802,		The cited federal statute is part of the law that requires and establishes a nationwide system of Protection and Advocacy organizations to protect and advocate the rights of individuals with mental disorders. It does not directly establish any specific rights for any particular groups of patients.
USCA Sections 9501 and 10841		42 U.S.C. 9501 and 42 U.S.C. 10841 contain essentially the same language. These sections express Congressional intent and preference by stating that states <u>should</u> review and revise, if <u>necessary</u> , its laws relating to mental health patients. These sections further state that, in conducting such reviews, the state <u>should</u> take into account the provisions in these sections. Since the word "should" is used rather than "shall," these sections do not require or mandate any action by the states, nor do these sections establish any guarantees regarding rights or protections. Nevertheless, DMH is taking these sections into account, along with all other relevant laws and factors, in the process of developing these regulations. Among these is the reality that most non-LPS patients must be housed and treated in secure treatment facilities until such time as each individual patient is found to be appropriate for a less secure facility or placement in outpatient treatment or unconditional release from commitment.
Attorneys have statutory mandate to represent the oppressed and defenseless. (Sections 6103 and 6068, Business and Professional Code).		Refers to pleas and comments made to the ACLU and does not address any specific regulation in this rulemaking.
Section 5325 enumerates certain rights that can be taken away only upon a showing of good cause. It applies to voluntary patients and to patients who have been involuntarily detained under the LPS Act. This includes any involuntarily detained individual in any type of facility who meets LPS criteria, even if the detention itself is pursuant to other statutes. See, e.g. <i>Keyhea v Rushen</i> , 178 Cal. App.3d 526, 534 (1986).		The rights listed in Section 5325 expressly apply only to the persons listed at the beginning of that section. The <i>Keyhea</i> decision addressed the issue of what type of proceedings or court hearings were necessary to involuntarily administer psychotropic medication to prisoners incarcerated in the Department of Corrections. The <i>Keyhea</i> decision did not hold that the rights listed in Section 5325 are applicable to non-LPS civilly committed patients.
All individuals found not guilty by reason of insanity on dangerousness grounds meet the LPS criteria of danger to others. Se, e.g., <i>In re Locks</i> , 79 Cal. App. 4 th 890 (2000).		It may be that many NGI patients also happen to meet LPS criteria as being dangerous to others; however, this is not automatically true. In any case, this does not mean that LPS rights apply to NGI patients. The Locks decision addressed the specific issue of involuntary administration of psychotropic medication to NGI patients.
State and federal statutes would not permit the Department to adopt these regulations.		Commentor appears to be stating the existing sections in State and federal law prevents the Department from adopting the regulations. There is no explanation as to how or why this would be the case.
PC 1370, 2974 and WIC 6300.2 provides for LPS protection and rights. <i>Qawi</i> provides for LPS protection and rights.		PC 1370 <u>does not</u> provide for LPS protection and rights. PC 2974 authorizes the Director of Corrections to initiate LPS detention for treatment for persons under CDC jurisdiction who meet LPS criteria. Only if the person becomes an LPS patient do the protection and rights of the LPS Act apply. The <i>In Re: Qawi</i> Appellate Court decision was accepted for review by the State Supreme Court, and the Appellate Court decision can not be cited or used as legal

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

		authority. WIC 6300.2 was repealed by 1981 legislation. To the extent there are any persons still under the MDSO commitment in a state hospital, WIC 4027 (added by 1986 legislation) specifically authorizes DMH to adopt regulations concerning patients' rights of "persons receiving treatment as mentally disordered sex offenders."
Civil commitments have been declared similarly situated to MDOs by the California Supreme Court.		This statement is superficially accurate, but an incomplete summary of the cited decisions. In <i>Hubbert</i> , the court <u>assumed</u> (not declared) that SVPs and MDOs are similarly situated in relation to the issue of the definition of "mental disorder" for the purpose of legally analyzing the specific equal protection argument raised. The court concluded that equal protection was not violated by the differences asserted. Even if two groups are "similarly situated" with regard to one particular issue, this does not mean the groups are <u>identically</u> situated or that they are similarly situated for <u>all</u> purposes or issues. Indeed, the <i>Buffington</i> decision cited by the commentator states (17 Cal App 4 th 1149 on page 1158) that more than one procedure may be adopted for "isolating, treating, and restraining dangerous persons and the differences will be upheld if justified." [Citing <i>Conservatorship of Hofferber</i> (1980) 28 Cal 3d 161, 172].
WIC offers protection not only to those committed under the LPS act but to those who are either voluntarily or involuntarily committed.		This statement is accurate in very broad terms. The WIC does contain a number of provisions that "offer protection" to voluntary patients. However, this is not equivalent to, nor does it amount to, conferring LPS Act patients' rights to all mentally disordered patients. The rights set forth in WIC 5325 expressly apply only to the persons listed at the beginning of the section.
All types of mental health patients have by tradition and custom been accorded LPS Act rights once placed in a California Mental Health Facility.		This statement is overly broad, and, as such, a response is not possible. However, DMH disagrees with the general premise implied. Even if some of "the rights and protections guaranteed under the LPS Act" had been accorded by "custom" to other patient groups in the past, this does not mean that the law required it or that the law requires continuing to do so.
The proposed regulations area in conflict with the State Constitution, statutory law and other judicial determinations and exceed the authority of the department.		This is a conclusory statement expressing an opinion that DMH does not agree with.
CGC requires changes be reviewed before adoption.		This is a general restatement of the cited statute that does not require a response.
Restates the definition of consistency in the Government Code.		This is a general restatement of the cited statute that does not require a response.
Contends that proposed regulations are null and void.		This is a conclusory statement expressing an opinion with which DMH does not agree.
Title 42 U. S. C. 9501 and 10841 guarantees protection to all involuntarily detained persons.		42 U.S.C. 9501 and 42 U.S.C. 10841 contain essentially the same language. These sections express Congressional intent and preference by stating that states <u>should review and revise, if necessary</u> , its laws relating to mental health patients. These sections further state that, in conducting such reviews, the state <u>should</u> take into account the provisions in these sections. Since the word "should" is used rather than "shall," these sections do not require or mandate any action by the states, nor do these sections establish any guarantees regarding rights or protections. Nevertheless, DMH is taking these sections into account, along with all other relevant laws and factors, in the process of developing these regulations. Among these is the reality that most non-LPS patients must be housed and treated in secure treatment facilities until such time as each individual patient is found to be appropriate for a less secure facility or placement in outpatient treatment or unconditional release from commitment.
The government cannot treat people afflicted with mental illness as criminals.		This is a general restatement of the cited case decisions that does not require a response. However, the state hospitals owned and operated by DMH are not run like prisons, and all patients are provided with or offered treatment for their mental disorders and other identified conditions that need treatment.
Federal law requires that all mental health patients be treated in the least restrictive environment.		With regard to 42 U.S.C. §§ 9501 and 10841, see the response to paragraph 8. These sections in federal statute do not require or mandate anything in particular. As to the assertion of a "Youngberg Standard" regarding "treatment in the least restrictive manner possible," nowhere in the <i>Youngberg</i> decision is the phrase "least restrictive" used. The closest the decision comes to this concept is the statement: "Respondent thus enjoys constitutionally protected interests in conditions of <u>reasonable</u> care and safety, <u>reasonably</u> nonrestrictive confinement conditions, and such training as may be required by these interests. Such conditions of confinement would comport fully with the purpose of respondent's commitment." (emphasis added) <i>Youngberg v. Romero</i> (1982) 457 U.S. 307, 324. So the court in <i>Youngberg</i> requires care, safety, confinement conditions, and treatment that are " <u>reasonable</u> " under the circumstances. In addition, the court also stated: " We think the standard articulated by Chief Judge Seitz affords the necessary guidance and reflects the proper balance between the legitimate interests of the State and the rights of the involuntarily committed to reasonable

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

		<p>conditions of safety and freedom from unreasonable restraints. He would have held that 'the Constitution only requires that the courts make certain that professional judgment in fact was exercised. It is not appropriate for the courts to specify which of several professionally acceptable choices should have been made.' 644 F.2d, at 178." <i>Youngberg</i>, id., page 321. In other words, the courts defer to the professional judgement of the treating clinicians regarding the assessment of the patient's needs and how best to treat and address them, as long as professional judgement is in fact exercised, and it comports with the standards of the profession.</p>
<p>Every institutionalized patient is entitled to treatment under the least restrictive conditions feasible, and the institution should minimize interference with patients' individual autonomy.</p>		
<p>The constitution requires that meaningful treatment be provided that offers a realistic opportunity to be cured.</p>		
<p>Administrative inconvenience and lack of resources cannot provide justification for deprivation for constitutional rights.</p> <p>The California Supreme Court held that a competent adult has the right to refuse medical treatment even life-sustaining treatment.</p> <p>Adults have the right to determine what should be done to their own body.</p> <p>Prisoners are entitled to judicial determination on competency to receive treatment before they can be subjected to long term and psychotropic medications.</p> <p>Congress has declared that all mental health treatment should be provided in the least restrictive environment (42 USC 9501)</p> <p>Proposed Title 9 rule changes are clearly not the least restrictive for legitimate government purposes.</p> <p>The SVP Act concerns those with a current mental disorder and placed the act in the Welfare and Institutions Code.</p> <p>Since SVPs and MDOs are similarly situated for purposes of defining the triggering mental disorder, SVPs should have LPS Act rights.</p> <p>The purpose of 42 USC 10801 is to ensure the enforcement of applicable law, and not giving SVPs LPS Act rights is punitive in effect.</p>		<p>This is a general restatement of the cited case decision that is generally accurate. However, the case in that decision involved a patient who was adjudicated to be a gravely disabled conservatee pursuant to the L.P.S. Act, who was placed in a treatment facility by the conservator, and subsequently became pregnant. The underlying lawsuit was brought by a representative of the patient and her child against the guardian and her physicians at the facility, on the basis of negligent failure to supervise her care at the facility. In other words, the guardian and the physicians failed to prevent her sexual activity and the resulting pregnancy. In the context of the placement, care and supervision of an L.P.S. Act patient, the court said that the patient had a liberty interest in making her own decisions relating to social interactions and reproductive choices, and that the guardian, physicians, and facility should not presume to make these decisions for her. The proposed regulations relating to non-L.P.S. Act patients do not attempt to limit patients' decisions regarding reproductive choices. The regulations are intended to arrive at general rules for conditions of confinement of non-L.P.S. Act patients in secure treatment facilities that are the least restrictive feasible under the circumstances (secure treatment facility) and that minimize interference with patients' individual autonomy by balancing the interests and rights of the non-L.P.S. Act patients with the safety and security interests of the State.</p> <p>These are general restatements of the cited case decisions that do not need to be responded to. However, the state hospitals owned and operated by DMH are not run like prisons, and all patients are provided with or offered treatment for their mental disorders and other identified conditions that need treatment.</p> <p>DMH does not disagree with the principle enunciated by the <i>Bounds</i> decision cited. These regulations are not depriving any patients or groups of their Constitutional rights. The nature and extent of the Constitutional rights of patients committed to or placed in treatment facilities are not exactly the same as those of non-committed persons out in the community.</p> <p>The case decision and statutes cited relate to situations governed by the Probate Code, not the Welfare and Institutions Code. In any case, these regulations do not attempt to interfere with patients' right to consent or refuse to receive treatment for a physical, medical condition.</p> <p>The cited decisions addressed issues involving the rights of a competent person of "sound mind" (who is not committed for mental health treatment) to consent to or refuse medical treatment for a physical condition that is life threatening. In any case, these regulations do not attempt to interfere with patients' right to consent or refuse to receive treatment for a physical, medical condition.</p> <p>The <u>Keyhea</u> decision that is cited involved a prisoner who had not been adjudicated to be mentally disordered. Since the person had been sentenced to prison after conviction for a crime, but had not been adjudicated to have a mental disorder, the court ruled that such an adjudication of mental disorder and either dangerousness or grave disability (<i>similar</i> to L.P.S.) was required prior to involuntary administration of psychotropic medication on a long term</p>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

	<p>basis. This differs crucially from the situation of judicially committed non-L.P.S. Act patients who have been through full court proceedings in which the patients have been found to have a mental disorder and to be dangerous to others. In any case, these regulations do not address the issue of when psychotropic medication can be administered involuntarily.</p> <p>This section expresses Congressional intent and preference by stating that states <u>should review and revise, if necessary</u>, its laws relating to mental health patients. These sections further state that, in conducting such reviews, the state <u>should</u> take into account the provisions in these sections. Since the word "should" is used rather than "shall," these sections do not require or mandate any action by the states, nor do these sections establish any guarantees regarding rights or protections. Nevertheless, DMH is taking these sections into account, along with all other relevant laws and factors, in the process of developing these regulations. Among these is the reality that most non-LPS patients must be housed and treated in secure treatment facilities until such time as each individual patient is found to be appropriate for a less secure facility or placement in outpatient treatment or unconditional release from commitment. Finally, the quotations and summaries of the cited decisions are general restatements of the cited case decisions and statutes that have already been responded to or do not need to be responded to, since they merely state broad, general principles.</p> <p>This is a conclusionary statement expressing an opinion with which DMH does not agree.</p> <p>This is a general statement that is accurate and consistent with the <i>Hubbart</i> decision cited, but only confirms that the SVP Act is a civil commitment.</p> <p>The <i>In re Qawi</i> decision was accepted for review by the State Supreme Court, so the Appellate decision can not be cited for legal authority. Section 2972(g) of the Penal Code specifically authorizes regulations that modify the rights of MDO patients. Does the first sentence apply to the comment?</p> <p>The cited federal statute is part of the law that requires and establishes a nationwide system of Protection and Advocacy organizations to protect and advocate the rights of individuals with mental disorders. It does not directly establish any specific rights for any particular groups of patients. The purpose of these regulations is not punitive.</p>
<p>42 U.S.C. 9501 and 42 U.S.C. 10841 "adhere" enumerated rights for all patients that these regulations cannot modify.</p>	<p>42 U.S.C. 9501 and 42 U.S.C. 10841 contain essentially the same language. These sections express Congressional intent and preference by stating that states <u>should review and revise, if necessary</u>, its laws relating to mental health patients. These sections further state that, in conducting such reviews, the state <u>should</u> take into account the provisions in these sections. Since the word "should" is used rather than "shall," these sections do not require or mandate any action by the states, nor do these sections establish any guarantees regarding rights or protections. Nevertheless, DMH is taking these sections into account, along with all other relevant laws and factors, in the process of developing these regulations. Among these is the reality that most non-LPS patients must be housed and treated in secure treatment facilities until such time as each individual patient is found to be appropriate for a less secure facility or placement in outpatient treatment or unconditional release from commitment.</p>
<p>By adopting these regulations, the state is seeking retribution rather than treatment and care.</p>	<p>This is a statement of an opinion with which DMH does not agree. The proposed regulations are not punitive in purpose and the right to appropriate treatment is preserved.</p>
<p>42 USC 10802 defines "individual with a mental illness."</p>	<p>This is merely a quote from a federal statute and requires needs no response.</p>
<p>WIC 4027 only gives authorization to modify rights of the patients listed in that section.</p>	<p>WIC 4027 is not the sole authority for these proposed regulations. WIC 4005.1 also provides authority for regulations regarding operation of the state hospitals and this authority is broad enough to allow inclusion of SVPs, as well as the other patient groups.</p>
<p>The Legislature intended to give SVPs LPS Act rights.</p>	<p>If the Legislature had intended to confer LPS Act rights for SVPs, it would have stated this.</p>
<p>The proposed regulations are in excess of the authority of DMH and are contrary to various court decisions and statutes.</p>	<p>This letter is essentially a request or plea to the recipient organizations (Public Defender, California Supreme Court, ACLU) to intervene and block these proposed regulations. As such, the letter is not a typical comment that requires a response. However, some parts could be construed as comments, so responses will be given to those portions.</p>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

<p>DMH is retaliating against "Johnson v. Avery writ-writers."</p>		<p>The cited <i>Avery</i> decision has no relevance to the proposed regulations, and adoption of these proposed regulations is not retaliatory.</p>
<p>The State granted rights to us by Legislative design, and once the State has granted rights or privileges or immunities, these cannot be stripped away without due process of law.</p> <p>DMH is acting in excess of its authority and that LPS Act rights apply to <u>all</u> civilly committed patients.</p> <p>Only the Constitution, statutes, and court decisions carry the force of law.</p> <p>LPS Act rights are intended to apply to all civilly committed persons, and DMH does not have authority to adopt these regulations. (See <i>Riese v. St. Mary's Hosp. & Med. Ctr.</i>)</p>		<p>This seems to be a fairly accurate summary of the cited cases, but no specific rights have been granted to SVPs by the Legislature. The nature and scope of Constitutional rights are determined in the context of the specific circumstances involved. The proposed regulations do not "strip" any rights previously granted by law, and the adoption of regulations in accordance with procedures in law is a form of due process.</p> <p>Section 4005.1 and 4027 of the Welfare and Institutions Code (WIC) provide the authority for DMH to adopt these regulations. The LPS Act rights listed in Section 5325 WIC expressly apply only to the persons listed in the beginning of that section.</p> <p>This paragraph is unclear and confusing, and it does not appear to be related to the proposed regulations or to make a comment. It is also noted these are several inaccuracies. The LPS Act was enacted by the Legislature, not voter initiative. The commentator appears to say that only the Constitution, statutes, and court decisions carry the force of law, but fails to understand that properly promulgated regulations also carry the force of law.</p> <p>The LPS Act rights only apply to persons who are being treated pursuant to the LPS Act. The <i>Riese</i> decision only addressed whether some type of court review and findings were required prior to involuntary administering psychotropic medication to persons detained pursuant to sections 5150 and 5250 WIC. DMH does have authority to promulgate regulations subject to review and approval by the Office of Administrative Law.</p>
<p>The State officials of DMH may not take away rights except by judicial process.</p>	<p>1PC2MM 1PC7NN 1PC2MM 1PC7NN 1PC34IF 1PC10LL-4 1PC5VA-VB 1PC45JG-8 1PC10LL-2 1PC34IF 1PC34IF 1PC16BA 1PC45JGO 1PC45JG-1 1PC45JG-2 1PC45JG-3 1PC45JG-4 1PC45JG-5 1PC45JG-6 1PC45JG-7 1PC45JG-8 1PC45JG-9 1PC45JG-10 1PC45JG-11 1PC45JG-12 1PC45JG-13 1PC45JL-1 1PC45JL-2 1PC45JL-3 1PC45JM-1 1PC45JM-2 1PC5VA</p>	<p>These proposed regulations do not take away any rights previously conferred. "Judicial Process" is not required for the promulgation of regulations. The remainder of the paragraph is a request for judicial intervention by the California Supreme Court.</p>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

	<p>1PC5VA 1PC5VA 1PC5VB 1PC5VB 1PC5VB 1PC5VB 1PC5VB 1PC10LL-1 1PC10LL-1 1PC10LL-2 1PC10LL-3 1PC10LL-4 1PC10LL-4 1PC10LL-4</p>	
<p>Court cases cited in letters.</p> <p>A whole new criterion of procedures need to be promulgated and implemented for civil commitments and potential Sexually Violent Predator detainees rather than to adopt Title 15 procedures used for prison applications which are directed at Penal facilities and reflect punitive measures for felons rather than sick persons having no prison commitment of pending criminal charges pending against them.</p> <p>By taking away the rights of the 1026 patients you are violating the American with Disabilities Act.</p> <p>Welfare and Institutions Code section 5325.1 specifies the rights that all state hospital patients have and section 5325 specifies the rights that all who meet LPS criteria have. Penal Code section 2972(g) and Welfare and Institutions Code section 6300.2 extend LPS rights to certain non-LPS commitment categories. The Department does not reference these statutes.</p> <p>The right to receive mental health and/or medical treatment is not deniable for prison inmates nor for any other class of persons. See <i>Thor v. Superior Courts</i>, 5 Cal. 4th725, 21 Cal.Rptr.2d 357 (1993).</p> <p>DMH does not even attempt to provide for the same right to medical care that the</p>	<p>1PC1-F</p> <p>1PC14AJ 1PC21BZ</p> <p>1PC34IF</p> <p>1PC34IQ</p> <p>1PC34IQ</p> <p>1PC34IQ</p>	<p>The Department received numerous comments identifying federal and state court cases. As the Department was attempting to prepare responses, we found that some of these citations were irrelevant, incomplete, or inaccurately applied to these proposed regulations.</p> <p>The comments contain general references statements and opinions unrelated to one or more of the regulations.</p> <p>Many comments assert applicability to the regulations; however, they are incomplete as they fail to provide a nexus between the comment and the regulations.</p> <p>The regulations are not punitive and do not copy the regulations in Title 15. These proposed regulations are intended to arrive at general rules for conditions of confinement of non-L.P.S. Act patients in secure treatment facilities that are the least restrictive feasible under the circumstances (secure treatment facility) and that minimize interference with patients' individual autonomy by balancing the interests and rights of the non-L.P.S. Act patients with the safety and security interests of the State. Among the factors that had to be considered is the reality that most non-LPS patients must be housed and treated in secure treatment facilities until such time as each individual patient is found to be appropriate for a less secure facility or placement in outpatient treatment or unconditional release from commitment.</p> <p>Since no patients' rights were specifically conferred for 1026 patients previously by statute or other law, these regulations are not taking away any rights. The ADA generally prohibits discrimination against persons with disabilities as defined and specified in that federal law, but this is not directly relevant to these proposed regulations. In any case, these proposed regulations are not discriminating against 1026 patients on the basis of their disability. Section 5325.1 WIC sets forth a listing of quite broad and general rights that are basically the general rights that patients have under the State and Federal Constitutions. Neither State regulations nor State statutes can restrict these types of rights, and these proposed regulations do not attempt to do so. The rights listed in Section 5325 WIC apply expressly only to the persons listed at the beginning of that section. Section 2972 (g) PC expressly authorizes DMH to adopt regulations modifying patients' rights for MDO patients. Although Section 6300.2 WIC conferred LPS Act rights for MDSOs, Section 6300.2 was repealed by 1981 legislation. To the extent there are any persons still under the MDSO commitment in a state hospital, WIC 4027 (added by 1986 legislation) specifically authorizes DMH to adopt regulations concerning patients' rights of "persons receiving treatment as mentally disordered sex offenders."</p> <p>The proposed regulations are not intended to and do not attempt to limit the right to receive treatment. Section 883(b)(2)-(3) was modified:</p> <p>(2) A right to receive treatment for a diagnosed mental disorder <u>that is provided in a method least restrictive of individual liberty and promotes personal independence.</u></p>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

<p>CDC provides. California Code of Regulations, Title 15 §3350.</p> <p>There is no reference to a right to confidential communications with an attorney, a right clearly recognized by the prison system. Penal Code §2601(b), California Code of Regulations, Title 15, §3144, 3141(c).</p> <p>The regulations impermissibly gives state hospitals the authority to deny patients' reasonable opportunities to exercise the religious freedom guaranteed by the first and fourteenth amendments and is clearly unconstitutional. See, <i>Cruz v. Bates</i>, 405 U.S. 319, 322, 31 L.Ed.2d 263.92 S. Ct. 1079 (1972).</p> <p>State and Federal laws mandate that all eligible students receive a full continuum of educational services that address the student's unique needs in the least restrictive environment. IDEA and the Rehabilitation Act of 1973. Education Code §56851 and §56852, Welfare and institutions Code §4011.5.</p>	<p>1PC34IQ</p>	<p>(3) A right to essential <u>prompt</u> medical care and treatment for physical ailments and conditions according to accepted clinical standards and practices.</p> <p>Section 883(b)(7) was modified to read:</p> <p>(9) A right to <u>confidential</u> communicate <u>communications</u> with an attorney, either through correspondence or through private consultation, during regularly scheduled visiting days and hours.</p> <p>DMH modified the pertinent provision in Section 883(b):</p> <p>(11) (10) A right to religious freedom and practice, within the context of the environment of a secure treatment facility.</p> <p>However, the right of a patient to exercise religious observances or practices must still be limited in some ways by the context of a secure treatment facility, and specific religious observances or practices can not be allowed if they will jeopardize safety or security or would violate the rights of others in the facility.</p> <p>The right of a patient to an opportunity for educational services is recognized by the proposed regulations (see Section 884 (b) (9)). A right to educational services will be provided in the least restrictive manner in the context of a secure treatment facility.</p>
<p>Authority develop the regulations. Proposed regs exceed statutory authority and are in conflict with constitution and law.</p>	<p>1PC30DW 1PC31HO 1PC45JG</p>	<p>Proposed regulations are consistent with the department's statutory authority under WIC Section 4005.1 and 4027. See modifications 880 Application of Chapter, Chapter 4.5</p>
<p>Regulations do not comply with Administrative Procedure Act and are "underground" regs.</p>	<p>1PC34IE</p>	<p>Proposed regulations comply with all aspects of the Administrative Procedure Act and are subject to public review and comment as required in G.C. 11340.5, 11342(g)</p>
<p>Letter written to the Department of Corrections should also be included as relevant to the proposed rulemaking.</p>	<p>1PE3CD</p>	<p>There was no letter to CDC attached to this statement.</p>
<p>Rights: Our human rights are significantly limited already. These regulations may make them disappear altogether.</p> <p>Regulations that purport to define rights should focus on their protection. A right is "that which is due to anyone by law, tradition or nature." However, the proposed regulations impermissibly restrict, and narrowly define, patients' rights.</p> <p>Concerned that the effect of these proposed regulations will be devastating in terms of patients' rights and human decency in the field of mental health.</p>	<p>1PE5DA 1PC50LE 1PC34IG 1PC33HP</p>	<p>Section 883(b)(1) is modified to ensure that constitutional rights are clearly defined.</p> <p>(1) A right to <u>privacy, dignity, respect and humane care.</u></p> <p>These proposed regulations are intended to arrive at general rules for conditions of confinement of non-L.P.S. Act patients in secure treatment facilities that are the least restrictive feasible under the circumstances (secure treatment facility) and that minimize interference with patients' individual autonomy by balancing the interests and rights of the non-L.P.S. Act patients with the safety and security interests of the State. Among the factors that had to be considered is the reality that most non-LPS patients must be housed and treated in secure treatment facilities until such time as each individual patient is found to be appropriate for a less secure facility or placement in outpatient treatment or unconditional release from commitment.</p>
<p>Non – LPS v. Title 15 The proposed regulations are more restrictive than prison regulations because of the restrictive scope of the proposed regulations, and the broad standard for denial of rights under the proposed regulations.</p>	<p>1PC34IK</p>	<p>DMH is unable to respond to this statement without specific information regarding what rights are currently more restrictive at the state hospitals and other DMH administered programs than the prisons.</p>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

<p>The rights of patients in the state hospitals will not be more restrictive than the rights of inmates in CDC. How will this ensure these rights? No way should regulations be imposed similar or identical to those of CDC under Title 15. State Hospitals already prohibit or do not allow many things that are allowable within prisons.</p>	<p>1PC20BT 1PC22CM 1PC22CR 1PC23CS 1PC49kV 1PC29IE</p>	<p>Proposed rights for non-LPS patients are the least restrictive, promote individual participation consistent with mental health treatment and provides for an independent complaint process through the PRA to ensure the protection of these rights.</p>
<p>It is apparently the Department's position that state hospital patients need not be provided any rights over and above those of prisoners. However, the Legislature has specifically provided that state hospital patients shall be treated differently than prisoners, with a focus on care and treatment. (Welfare & Inst. C. 4132 - ...mentally disordered persons are to be regarded as patients to be provided care and treatment and not as inmates of institutions for the purposes of secluding them from the rest of the public).</p>	<p>1PC34IL</p>	<p>Proposed rights for non-LPS patients are the least restrictive, promote individual participation consistent with mental health treatment and provides for an independent complaint process through the Patient Rights Advocate (PRA) to ensure the protection of these rights.</p>
<p>No requirement in proposed regulations that guarantees the "non-LPS" patient even the bare minimum protections written in the American Correctional Association standards for jails and prisons.</p>	<p>1PC33HQ</p>	<p>The correctional standards set forth by an association do not carry the force of law or regulation. In any case, such standards would apply to jails and prisons, not hospitals or treatment facilities.</p>
<p>The proposed changes are such that could only be compared to high security prisons such as Pelican Bay and Corcoran where cruel and unusual punishment is commonplace. Most of the 4,900 patients in state hospitals are 1026 commitments acquitted and found not guilty by reason of insanity.</p>	<p>1PE2AR</p>	<p>DMH is unable to respond to this statement without specific information regarding what rights are currently more restrictive at the state hospitals and other DMH administered programs than the prisons.</p>
<p>Population Issues: I would urge the consideration of the fact that SVPs housed in a maximum security facility (which is the reason often cited for these changes) are not the same as the needs of the population housed at Napa, a low to medium security facility. I would urge further consideration of these changes and amendments to address the specific needs of Napa's population as it now stands. Napa's current setting and therapeutic orientation are unique and worthy of improving, rather than moving toward the more punitive, prison-like setting which we fear these proposed changes could bring about.</p>	<p>1PE1AQ 1PC49KU</p>	<p>DMH has developed these regulations for the entire non-LPS population and is not able to consider drafting separate for each commitment classification served by the state hospitals and other DMH administered programs at this time.</p>
<p>Due Process The proposed regulations provide no due process protections and allow rights to be taken away without notice or hearing. Under the proposed regulations, the hospital is required only to document the justification for the denial and keep a copy for three years after the denial ends. The patient is not given a right of access to this documentation. The regulations contain no procedural mechanism of any kind for enforcing rights. The regulations simply facilitate the arbitrary and capricious deprivation of rights.</p>	<p>1PC34IM</p>	<p>Proposed regulations contain due process rights. Section 884 (b-g) specifies the process for denial of rights including notification and documentation, and Section 885 provides for a complaint and appeal process. Additionally patients are provided with the assistance of the independent Patients' Rights Advocate in seeking resolution to their complaints.</p>
<p>The proposed regulations are not designed to protect patients rights; rather the regulations are designed to codify the Department's current illegal practices. The "rights" proposed by the Department disregard existing rights statutorily recognized for all state hospital patients. This invites litigation.</p>	<p>1PC34IN</p>	<p>Proposing language changes in Section 883(1)-(5) and (9)-(11) reflects support and protection. Currently, there are limited existing rights (W&I 5325.1) in statute for Non-LPS patients, hence the need for these proposed regulations.</p>
<p>Safety & Security The Department's methodology includes an improper balancing test that destroys and prevents rights, and is not in accordance with settled principles of Constitutional law. The Department attempted to ensure that non-LPS patients' rights are balanced with the recognized need for the safety and security of all, including patients, staff, the facility and the public. The reason given by the Department is to reduce workload and litigation. This is not a justification for denying due process protections. Security issues do not ever justify the application of less stringent process procedures.</p>	<p>1PC34IO</p>	<p>Rights of the non-LPS patients are afforded due process protections have been identified as the least restrictive within the mental health facilities and their need to maintain security and safety protections.</p>
<p>Timeframe for Comments: The date on the package states May 2, 2002, the public comment period began May 17, 2002 and the 45 days expires July 2, 2002. The general patient population received the information about June 7, 2002.</p>	<p>1PC1D 1PC2G 1PC7JJ 1PC10KK 1PC37JA</p>	<p>The Department of Mental Health (DMH) distributed Notices of Proposed Rulemaking 45 days prior to the end of the public comment period in strict accordance with the Administrative Procedure Act. Notices were sent to a large number of stakeholders including the Office of Patients Rights and the Executive Director of each state hospital. Each Executive Director provided a copy to a patient representative and distributed to individual units. Patient</p>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

There is not enough time, therefore you are denying us the right of hearing your view and your hearing about our concerns.	1PC35IU 1PE2CB	representatives were comprised of the chair of the Patient Council or Government at each hospital as these patients is selected to serve by the other patients in the hospital. Additionally, the patient representatives from each hospital participated in a May 31 st videoconference to discuss the process for comments.
Potential Abuse by Staff: There are a few hospital staff members who seem more concerned about power over the clients, or quick compliance, than with recovery and the vagueness of some of the proposals leaves room for abuse by this small minority of staff. While the regulations try to establish that practices such as seclusion, denial of rights isolation, and other forms of restriction will not be used for staff convenience or unfair punishment, or applied selectively, it is difficult to imagine that such things will not occur. The vagueness in the working of many of the changes seems to leave much latitude for this kind of arbitrary application.	1PE2AO	Section 883 has been modified to ensure that the proposed rights are clearly defined.
Amend WIC 6600 draft bill submitted to require mental health evaluations for the purpose of initial mental health evaluations of persons recommended to DMH pursuant to WIC 6600.	1PC1F	There is specific statute in Welfare and Institutions Code 6600 that addresses the evaluation process for SVPs. These regulations were drafted to define patient rights not the commitment process.
Confidentiality: Some of those who have chosen to participate in preparing this document are concerned that they might be perceived as trouble-makers and harassed by a few staff members as a result, and so the clients have chosen not to list their names.	1PE2AI	DMH does not intend to disclose the names of any individuals who have submitted comments to these proposed regulations in a manner that would subject them to harassment or retaliation; however, under some circumstances unredacted copies of the comments might be ordered by a court.
Conflicts with Existing Law Conflict exists between the proposed regulations and Title 22 and federal laws. Need clear rules in order to apply new regulations consistently and to know which set of regulations apply.	1PC30DW	DMH has modified Section 880 as follows: Chapter 4.5 applies to patients' rights and related procedures for all non-Lanterman-Petris-Short Act (L.P.S.) patients placed in or <u>committed to a treatment program</u> in a Department of Mental Health facility, except when transferred to a federally certified program.
Treatment Issues The proposed changes are entirely punitive rather than therapeutic in nature. These regulations will prevent normalization and will dehumanize both patients and staff. Implementing a one size fits all approach to be administered by staff whom, for the most part, are not mental health professionals, will unnecessarily reduce the quality of therapeutic care. The clients are fearful that this environment will change and impede progress back into the community. It is up to you as DMH to stand up for our "rights".	1PC28DH 1PC27DG 1PE2AW 1PE2AX 1PC12AH 1PC15AT	The comment lacks specificity. These proposed regulations are not punitive as DMH provides interdisciplinary teams to develop and implement treatment objectives for release into community. Section 884 d? further addresses this issue. DMH has developed these regulations for the entire non-LPS population and is not able to consider drafting separate for each commitment classification served by the state hospitals and other DMH administered programs at this time. Denial of rights occurs on a case-by-case basis and is never part of the treatment plan. Section 884 (c) further addresses this issue. The rights patients have in a state hospital will not impede the treatment available/received to prepare them for release into the community.

880 - APPLICATION	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
LPS vs. Non-LPS Persons subject to WIC 6600 are to be afforded more or greater rights than LPS patients. LPS and SVP commitments are quite equal per their operational schemes. WIC 4027 is silent on WIC 6600 and the 6600 populous should be enumerated under the LPS Act as the Legislature intended.	1PC1E, 1PC4U 1PC5V, 1PC9JJ 1PC10LL 1PC110O 1PC12AC 1PC17BF 1PC19BO 1PC45JI 1PC46JM 1PC31HB 1PC31HC 1PC31HI 1PC49KT	There are no distinct patients' rights in statute for the non-LPS patients in the state hospitals and other DMH administered programs. The Initial Statement of Reasons indicates that AB 888, (Rogan) Chapter 763, of the Statutes of 1995, established a new commitment statute, Welfare and Institutions Code Section 6600 et seq., for the treatment of sexually violent predators (SVPs). This statute is the most recently enacted non-LPS commitment. As such these regulations will be applicable for SVPs once promulgated. The rights identified in section 5325 of the Welfare and Institutions Code were expressly designed for and apply only to persons involuntarily detained for evaluation and/or treatment under the provisions of the LPS Act or voluntarily admitted for psychiatric evaluation or treatment to any mental health facility. The LPS patients' rights are appropriate and adequate for the LPS population residing in state hospitals and community mental health facilities.
Concern about the distinction between LPS and forensic patients. Whether people are voluntarily or involuntarily committed to DMH, they should be treated in a way that	1PC32GH	DMH will continue to provide treatment to all patients in a manner that will ensure a healthy release back into the community.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

maximizes a healthy return to society .		
There is great resistance and considerable trepidation among both patients and staff at Napa about the possibility of significant numbers of SVPs being housed here as a result of this broadening of what appear to be SVP-targeted regulations and practices to the entire system.	1PE2AK	Pursuant to Section 6600.05(a), W&I Code, SVPs may only be housed in Atascadero State Hospital until a new facility is completed. The exception is a single female SVP patient at this time.
There are no SVPs at Napa State Hospital and these rules should not apply to the general population.	1PC49KS	DMH has developed these regulations for the entire non-LPS population and is not able to consider drafting separate regulations for each commitment classification served by the state hospitals and other DMH administered programs at this time.
Erroneous generalizations about "all mental patients" being violence-prone result in stigma and repressive measures aimed at the entire population of people with psychiatric conditions and disabilities.	1PC33HP	DMH does not believe the proposed regulations further stigmatize patients but rather recognizes the differences of the changing current population and need to modify its approach in the protections of rights, treatment, as well as safety and security measures.
Dangerous patients should be segregated and classified to different units from non-violent patients. Mixing patients like 1026 and 1370 shouldn't happen.	1PEAG (?)	How DMH places non-LPS patients will not affect the application of these proposed regulations.
There is a population of sick non-LPS patients who are thrown in with the criminally sophisticated patients and this manner of treatment will only lead to more hardened criminals eventually released into society.	1PC33HP 1PEAG	These regulations were designed to equally protect the rights of all non-LPS patients.
DMH has labeled 1026 patients as "criminally sophisticated, antisocial, being organized, secretive, exploitive, manipulative and often violent, based on incidents that primarily occurred at Atascadero and Patton State Hospitals. DMH stating that ALL penal code patients should be managed, treated, and supervised "differently" is very insulting, bias, and flat out discriminatory. We as patients are to receive individual treatment since we all have different mental illnesses and are individuals. DMH wishes to trample on our constitutional and human rights.	1PE2AT	It is not the intent of DMH to discriminate but to ensure a safe and secure environment that fosters treatment and protects the rights of all patients. DMH is obligated to provide treatment to all non-LPS patients admitted to the state hospitals and other DMH administered programs. The DMH treatment focus is individualized to meet each patient's needs.
Line 3 is not specific enough as it lumps SVPs and MDOs in with other categories of PC clients.	1PC12AE	Proposed regulations are consistent with the department's statutory authority under WIC Section 4005.1 and 4027.
Both LPS and non-LPS state hospital patients are confined for treatment, not punishment, and there is no basis in law or fact for treating such patients differently. The Department does not explain why the current patient protections are adequate for criminally sophisticated or potentially assaultive LPS patients but not for non-LPS patients with the same characteristics. Similarly, the Department does not explain why the current patient protections are adequate for LPS patients who are psychotic but not for non-LPS patients who are psychotic.	1PC34IH	DMH assumes a level of dangerousness exists for all patients committed to a State hospital or other DMH administered programs. All rights and protections identified in Section 5000 et seq. of the W&I Code apply specifically to LPS patients. These non-LPS regulations are based on commitment code to ensure that all rights and protections are afforded the non-LPS patients.
A major way to measure if SVPs are treated and protected as patients and not punished is if they are housed under conditions within the unit which were essentially the same as conditions for other involuntarily committed persons in mental hospitals.	1PC16BA (?)	It is not DMH's intention to punish any patient (LPS or Non-LPS) but to ensure that every patient may reside and receive treatment in a safe and secure environment.
The rationale for such a broad range of changes is not well delineated.	1PC17BG	DMH can not respond to this statement as it is vague and the statement lacks specificity.
Strongly urge you to throw out the proposed regulations regarding "non-LPS" patients and start over to design a proposal that does guarantee safety on state hospital psychiatric units without contributing to the stereotype and stigma that castigate all people with mental illness as violent.	1PC33HR	It is not the intent to label all non-LPS patients with mental illness as violent. The rationale for these regulations is to ensure that all non-LPS patients , regardless of their illness, receive treatment in a safe and secure environment.
Lumping together diverse commitments shows DMH to treat patients as a mixed group instead of as individuals. Then, when one patient misbehaves, DMH punishes all patients.	1PC45JH	DMH has developed these regulations for the entire non-LPS population and is not able to consider drafting separate regulations for each commitment classification served by the state hospitals and other DMH administered programs at this time.
The current rights administratively granted us have worked well, with little or no abuse.	1PC22CJ	The rights in Section 5325 of the W&I Code are not applicable to the non-LPS patients hence the development of these proposed regulations.
The proposed regs do not afford 6600 patients many of the rights for inmates. Because the purpose of confinement is not punitive, the state must provide the civilly committed with more considerate treatment and conditions than criminals.	1PC29DI	The court commits patients to the state hospital based on an identified treatment need while a confinement to a prison is punitive. Therefore, the proposed regulations have been developed for "patients" rather than inmates. The DMH does not separate patients committed under W&I 6600 from other non-LPS patients.
We are glad to see that the DMH has taken the initiative to establish formal rights on the behalf of non-LPS patients.	1PC22ED	DMH appreciates your support.
We're grateful to see that the new regulations will include the right not to be subjected	1PC22ED	DMH appreciates your support.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

to abuse, neglect unnecessary physical restraint or seclusion, and unnecessary administrative or protective isolations. It is very positive that these rights by definition cannot be denied except in cases of emergency.		
No changes suggested to section 880.	1PC48JO	DMH appreciates your support.
Most proposed new rights under general provision appear to be similar if not the same as rights the LPS patients receive.	1PC23CQ	While there are similarities, these regulations are specific to the current non-LPS population in state hospitals or other DMH administered programs.
881 – DEFINITIONS...	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
(i) In the definition of medical isolation , further define what the public health concerns are.	1PC3H	DMH has modified Section 881(k) as follows: "Medical isolation means the confinement of a patient alone in a room for the purpose of preventing the spread of an <u>infectious or contagious</u> diseases that may be a or for other public health concerns".
In the definition of patients , identify that patients can be committed voluntarily.	1PC3I	Non-LPS patients are not eligible for voluntary admission to a state hospital or other DMH administered programs.
In the definition of treatment plan , include the treatment modalities employed. The proposed regulations are ambiguous and not clearly define the right to refuse treatment without penalties. Changes reveal the rules are not least restrictive.	1PC3J 1PC45JK 1PC45JL 1PC45JM	Treatment modalities are very individual by nature and are determined in the method developed by the IDT to implement the specific treatment needed for each patient. The treatment modality is identified in the individual treatment plan. These regulations do not attempt to interfere with patients' right to consent or refuse to receive treatment for a physical, medical condition.
Treatment plan should be developed <u>with</u> the patient.	1PC50LD	Patient participation in the treatment planning process is a procedural issue not a rights issue.
Almost anything can be done in the name of security . It is essential to assure that a therapeutic approach rather than a law enforcement approach is governing actions.	1PC17BH	DMH has separated safety and security and modified Section 881 to read: " (v) 'Safety' security meanse protection of persons and property from potential danger, injury, harm, or damage." " (w) 'Security' means <u>the measures necessary to achieve the management and accountability of patients of the facility, staff, and visitors, as well as property of the facility.</u>
Definition of " safety & security " is overly broad and vague.	1PC30DY	See 1PC17BH
Language is too broad for "safety" and security where it states protection of persons/property from "potential" danger risk, injury, harm or damage. Unless a patient <u>does</u> physical harm to himself or others, he has the right to remain out of seclusion-period. A "potential" threat is, in fact, <u>not</u> a threat. We oppose a wanton abuse of these rules based on the fact a person has the potential of being dangerous.	1PC50LA	See 1PC17BH
883 (a) – The regulation text needs to specify under what circumstances the facility director can deny rights, particularly in Section 883, and set forth what documentation is needed in the patient's file.	1PC30EB	The proposed regulations specify under what circumstances the facility director can deny rights and documentation requirements – please see sections 884 (b)– (i).
883 (a) – The regulation text needs to contain an exceptions provision that allows patients right to be denied or limited if otherwise authorized by law.	1PC30EA	DMH has modified Section 880 as follows: Chapter 4.5 applies to patients' rights and related procedures for all non-Lanterman-Petris-Short Act (L.P.S.) patients placed in or <u>committed to a treatment program</u> in a Department of Mental Health facility, except when transferred to a federally certified program.
The regulation text needs to define terms that are not clear such as " abuse & neglect " and " essential medical care ".	1PC30EB	DMH has defined the following terms in the Section 881: <u>(a)"Abuse" means intimidation, punishment, unreasonable confinement, or willful infliction of injury in accordance with Title 42, CFR, Chapter IV, Subchapter C, Part 488, Subpart E, Section 488.301.</u> <u>(m)"Neglect" means willful disregard of the needs of a patient relating to adequate food, clothing, shelter, safety, medical care, or mental health treatment in accordance with Title 42, CFR, Chapter IV, Subchapter C, Part 488, Subpart E, Section 488.301.</u>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

		<p>(f) "Medical care" means procedures determined to be medically necessary, and that are not <u>merely cosmetic or restorative in nature</u>. (included in Section 881)</p> <p>In addition, DMH defined the following term:</p> <p>(k) "Medical isolation" means the confinement of a patient alone in a room for the purpose of preventing the spread of <u>infectious or contagious</u> diseases that may be a or for other public health concern."</p>
--	--	--

882 – NOTIFICATION	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The timeframe for notification of patients rights was <u>omitted</u> . This needs to be included because clients may not be informed of their rights for months if this is not spelled out <u>exactly</u> .	1PC12PP	Section 882 specifies that each patient will be informed of and given a copy of their rights "upon admission".
Make the term predominant language plural-pg.5/15	1PC3K 1PC3S	DMH has modified the text to read: (b) These patients' rights shall also be prominently posted in the predominant languages of the patients in patients' living areas.
Specify that a copy of the rights should be given to the patient in the language or modality the patient understands.	1PC13AI	Regulation section 882 specifies that the patients will be informed of rights in language or modality understood by the patient
Have interpreter available to give rules/regs in own language upon coming into facility. Also be given a list of allowable items.	1PC32FU 1PC32GH	Regulation section 882 specifies that the patients will be informed of rights in language or modality understood by the patient.

883 – RIGHTS- non-deniable	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
It appears there is no longer a section of "undeniable" rights for patients because every right can be denied for safety and security.	1PC49KM	DMH has modified subsections (a) and (b) per 1PC30DX. 883. Non-LPS Patients' Rights – Non-Deniable Subject to Limitation or Denial to Preserve Safety and Security.
It should be made clear what rights may be limited or denied.	1PC32HV	Only the rights specified in Section 884 may be denied and only if the denial meets good cause criteria.

	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
It appears that there is no longer a section of "undeniable rights" for clients because every right listed can be denied for – safety and security reasons – Who makes this determination?	1PC12VV	DMH deleted the regulation text under Section 883 that states !
Where is the list of rights that may not be denied? Psychosurgery (WIC 5325.g) and hazardous procedures (WIC 5325.l.i)	1PC20BU 1PC22CP	DMH modified regulation text in Section 883(b)(4): (4) A right not to be subjected to psychosurgery and other hazardous procedures.
Language in 883 (a) states that "the facility shall limit or deny these rights only in the case of an emergency and/or to ensure public safety and security" and goes too far in denying patients rights, particularly for "essential medical treatment, treatment for a mental disorder, unnecessary seclusion and restraint, and a right not to be subjected to abuse or neglect.	1PC30DX	DMH has modified subsection Section 883(b). (a) Patients have the rights listed in Subsection (c) of this Section. The patient's parent, guardian, or conservator may not waive these rights listed in this Section unless authority to waive these rights is specifically granted by court order. The facility director shall limit or deny these rights only in the case of an emergency and/or to ensure public and facility safety and security. And also deleted Subsection (b): (b) When the facility director denies or limits any rights listed in this Section, the justification for the denial or limitation shall be documented. This documentation shall be retained for a minimal period of three years after the denial or limitation of the rights ends. The Patients' Rights Advocate shall have access to review this documentation. If a limitation or denial of rights becomes permanent, the limitation or denial shall be made a formal, written policy of the facility.
883(b) The commentor wanted clarification on when formal written policy is made at the facility, who does it apply to?	1PC3M	DMH deleted Subsection (b) as a result of 1PC30DX. In addition, written policies adopted in the facilities are applicable to all patients and staff.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

Language in 883(b) that states "if a limitation or denial of right becomes permanent, the limitation or denial shall be made a formal, written policy of the facility" suggests an underground regulation.	1PC30DZ	See response to 1PC30-DX and 1PC3M
<u>Proposed Language:</u> Patients have the right to the least restrictive alternative. Patients have the right the individualized treatment and assessment. The rights of some patients may not be limited because of the behaviors or conditions of other patients. Before the facility director denies or limits any rights listed in Section 883, the facility director shall find and document that (1) only the rights of the individual patient who present a security or safety risk will be limited or denied and (2) there is no alternative that would be less restrictive.	1PC29DK	DMH agrees to amend language in Subsection 883(a) to read: (a) Patients have the rights listed in Subsection (c) of this Section. The patient's parent, guardian, or conservator, or conservator may not waive these rights listed in this Section unless authority to waive these rights is specifically granted by court order. The facility director shall limit or deny these rights only in the case of an emergency and/or to ensure public and facility safety and security. See 1PC30DZ.
Though denied rights must be documented under Title 9, Title 15 that states that the rules for documentation with greater specificity.	1PC34IT pg40	The denial of rights documentation requirements are covered for under Section 884 (d-h) is appropriate for the population served.

883 – (e)(b)(1) – Privacy	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The right to privacy and dignity should not change.	1PC6Z 1PC49KG	DMH modified Section 883(b)(1) to read: (1) <u>A right to privacy, dignity, respect and humane care.</u>
What is glaringly missing is the language that was in the earlier regulations about the respect and dignity and humane care due to every client.	1PC12QQ 1PC24DC 1PC32GH 1PC32FW 1PE1AJ 1PE2AV	DMH agrees that respect, dignity and humane care are essential to patient rights. Refer to 1PC6Z and 1PC49KG for modifications.
Currently, we have privacy during these activities. We do not think there is a problem during personal hygiene times and wonder why DMH feels there is cause to put us under more restriction that can only make us much more uncomfortable.	1PE5DB	It is not DMH's intent to make any patient feel uncomfortable. DMH will continue to provide patients with as much privacy as possible while ensuring safety and protection from harm. Refer to 1PC6Z and 1PC49KG for modifications.
Inmates have a right that reaches beyond hygiene and spans throughout prison life.	1PC34IT	Not enough specific information for DMH to respond to this comment
This proposed legislation contains a double limitation. First the regulation limits the right to toileting, bathing and other activities of personal hygiene. Second, the definition of privacy itself contains an exception for the presence of "necessary supervision staff." (881q). Therefore, there is no right of privacy from hospital staff. andard for when supervision is necessary, who should supervise, and what should be	1PC29DL	DMH will continue to provide patients with as much privacy as possible while ensuring safety and protection from harm. Refer to 1PC6Z and 1PC49KG for modifications. Standards for supervision are based on a clinical decision and the patient's individualized treatment plan and does not belong in the rights regulations.
This is indignant and humiliating and the proposal is vague in this area as it would allow room for harassment by staff who have personal issues with the clients. There have been no incidents at Napa to warrant such an invasion of privacy on a regular basis. It would also discourage patients from showering. Some of us have had bad experiences and this would affect us in a negative manner. It would contribute to the physical, sexual and psychological abuse that many of us have experienced throughout our lives.	1PE2BI	DMH will continue to provide patients with as much privacy as possible while ensuring safety and protection from harm. Patients who feel they are being abused in any way by staff may file a complaint with the hospital Patients' Rights Advocate. Refer to 1PC6Z and 1PC49KG for modifications.
Unlike prison regulations, the proposed state hospital regulations contain no stipulation that staff observing unclothed individuals be of the same sex. <u>Proposed Language:</u> The right to privacy should not be denied unless there is a specific medical or security justification for the individual patient in question. <u>Alternative language:</u> (c)(1) The right to dignity, privacy and humane care. The right	1PC29DL 1PC32FW	DMH modified Section 883(b)(1) to read: (1) <u>A right to privacy, dignity, respect and humane care.</u>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

to privacy shall include the right to be free from observation by individuals of the opposite sex during bathing and restroom use, except in emergency situations.		
--	--	--

883 (e)(b)(2)- Treatment for a Diagnosed Mental Disorder	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
883(b)(2) Add the word "timely" and "prompt" to a right to receive treatment for a diagnosed mental disorder.	1PC3 1PC12RR	Timely was not added, as it is not quantifiable. Title 22 already dictates when evaluations that include diagnosis are required.
Should have an outside doctor to confer with in treatment of patients. Have the right to competent, caring, helpful staff. A monthly reassessment of treatment.	1PC32FX	When warranted, DMH does consult with outside specialists. DMH will continue to provide treatment by competent and caring staff and continual reassessment of each patient's treatment plan.
Proposed legislation fails to recognize that there is a right to refuse treatment if competent and a right to informed consent prior to any treatment or medication.	1PC29DM	Non-LPS patients are admitted by the court for treatment services. Competent patients shall continue to have the right to refuse treatment.
Inmates are given the right to medically necessary services.	1PC34IT	This right is also provided to patients under Section 883 (b)(3).
It is troubling that the right to receive mental health and/or medical treatment is deniable for safety and security or emergency reasons. There is no exception of specifically what situations would warrant the denial of the right to receive treatment.	1PC29DM 1PC29DN	Please see the text revisions to Section 883. DMH will not deny a patient's right to necessary mental health or medical treatment. The primary care physician must authorize the need for treatment.
LPSA §5325.1 states that treatment should be provided in ways that are least restrictive of the personal liberty of the individual.	1PC29DM	DMH has modified Subsection (a) to read: (a) Patients have the rights listed in Subsection (c) of this Section. The patient's parent, guardian, or conservator may not waive these rights listed in this Section unless authority to waive these rights is specifically granted by court order. The facility director shall limit or deny these rights only in the case of an emergency and/or to ensure public and facility safety and security. A right to receive treatment for a diagnosed mental disorder that is provided in a method least restrictive of individual liberty and promotes personal independence. DMH will not deny a patient the right to mental health treatment and will continue to provide civilly committed persons with access to treatment that provides an opportunity to improve the mental condition for which they are confined.
The 14 th amendment requires state officials to provide civilly committed persons with access the MH treatment that gives them a realistic opportunity to be cured or to improve the mental condition for which they are confined. There is no adequate justification for failing to provide these rights of adequate treatment to non-LPS patients.		

883(e)(b)(3) – Medical Care	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The right to prompt medical care should not change.	1PC6Y 1PC49KH 1PE2BL	DMH modified text in Section 883(b)(3): (3) A right to essential medical care and treatment for physical ailments and conditions according to accepted clinical standards and practices.
Patients have the right to be seen within minutes of emergency. Be given on a patient-by-patient basis. Seen and treated in 2 weeks. Wide range of dental services. Those in need seen in 24 hours.	1PC32GH 1PC32FY	Refer to 1PC6Y above.
Right to a second opinion if we have a dispute with the doctor.		Requests for a second opinion can be directed to the primary care physician.
The right to partnership in treatment should not change.	1PC6CC	DMH is not clear of the intent of this comment but will state that patients will continue to be included in the development and reassessments of their treatment plan.
"Essential" is a very vague word.	1PC12SS 1PC17BK 1PC49KI 1PE2BL	DMH has modified Section 881(j) as follows: "Medical care" means procedures determined to be medically necessary, and that are not merely cosmetic or restorative in nature." In addition, please refer to 1PC6CY above.
Medications are forced upon illiterate patients and could be considered cruel because of side effects.	1PC32GF	Medication consent is provided either through an informed consent process in which the Patients' Rights Advocate can present the patient; or, via due process representation by an attorney in court. Complaints about side effects should be addressed via the treatment team.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

WIC 5325.1 provides that medication shall not be used as a punishment, for the convenience of staff, as a substitute for program or in quantities that interfere with the treatment program. The legislature gave all persons with mental illnesses this right, and there is no reason that non-LPS patients should not have the benefit of this language.	1PC29EI	DMH has modified Section 883(b)(5) to read: “(b) Patients have the following rights:...(5) A right to be free from harm including <u>abuse or neglect, and unnecessary or excessive restraint, seclusion, protective or administrative isolation, or medication. Restraint, seclusion, protective or administrative isolation, or medication shall not be used as punishment, for retaliation for filing complaints, for the convenience of staff, as a substitute for treatment program or in quantities that interfere with the treatment program.</u> ”
The Department does not recognize its obligation to provide medically necessary care. This obligation stems from the fact that the Department has custody of involuntarily confined individuals and a corresponding obligation to provide care for them since they cannot go elsewhere for care. The Department’s proposed "essential" medical care standard seems to be borrowed from hospital licensing regulations. Those regulations define the scope of minimum services that must be provided by certain categories of facilities, such as acute care hospitals in order to be licensed as such. However, licensing regulations do not define the scope of medical care that must be provided to individuals who are under the custody and control of the state. The Department is required to provide medically necessary services. LPS patients have a right to prompt medical care regardless of whether or not it is "essential." Changes right to read "(3) a right to prompt medical, dental and MH care and treatment according to currently accepted clinical standards and practices.	1PC29DN	DMH modified text in Section 883(b)(3): (3) A right to <u>essential prompt medical care and treatment for physical ailments and conditions according to accepted clinical standards and practices.</u> DMH uses the community standard of practice for emergency response. Complaints may be filed using the standard complaint process.
It is difficult to understand how the right to medical treatment can be denied in order to preserve safety and security. What is good cause to deny a person medical care?	1PE5DC	DMH has modified the regulation text to reflect medical treatment as a non-deniable right. The primary care physician must authorize the need for treatment.
Presently there is not much preventive care, let alone "prompt" care. This proposal should be more specific in reference to "communicable diseases.	1PE2BL	See 1PC29DN. Facility policy and procedures regarding public health, including infection control and communicable diseases comply with licensing and accreditation guidelines.
Does this mean a patient has the right to view his/her records and if so, can the legislation be constructed blatantly?	1PC43JE	Facility procedure describes how a patient may review their records.

883 (e)(4)(b)(6) – Confidentiality	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
<u>Proposed Language:</u> A right to confidential case discussions, consultation, examination, patient records, therapy and treatment, except as required by law. Confidential information shall only be provided to those people providing treatment or as required by law. This right shall not prevent the use of "group therapy" as a part of treatment, so long as written ad oral statements made in "group therapy" are considered confidential information. Patients also have a right to independent evaluators not employed by the Department of Mental Health for all evaluations before a court, including commitment and re-commitment proceedings. Patients shall be notified of these rights in writing on all consent to treatment forms. Patients' consent to treatment shall not be used against patients in their commitment or re-commitment proceedings. This right shall not be denied solely because a patient refuses treatment or medication.	1PC29DV	The proposed language contains general statements of philosophy or contains provisions that are much too detailed to be contained in this regulation. The intent of this non-deniable right is to specifically ensure that confidential information is provided to those people providing evaluation and/or treatment or as authorized by law.
Inmates rights are outlined with greater specificity.	1PC34IT	Inmates are a different population with a different living environment and needs, therefore Title 15 rights would not be appropriate.
Some of us feel this is a right already being violated as visiting student nurses or other interns have access to our confidential records. This reduces our sense of trust that our confidentiality rights are being observed.	1PE5DE	Interns and students are considered employees and must observe the same confidentiality laws as other staff.
There is a conspicuous lack of mention of the patient himself/herself having the right to examine their own records or to participate in case discussion or consultations. Once again, the focus of these regulations is on the facility's right to disclosure, rather than the patient's right to confidentiality.	1PC34IQ	The intent of this right is to maintain and prevent the unauthorized disclosure of confidential treatment records and discussions. Facility policies outline patients' access to records.

883 (e)(5)(b)(7) – Informed of Complaint Process	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
--	---------------	---

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

No comments submitted		N/A
883(e)(6)(b)(8) – Access to PRA	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Patients have a right to timely access of the services of a Patients' Rights Advocate.	1PC3	This regulation does not change the ability of patients to access the PRA.
The OPR is being denied and must be enforced. Please re-define advocate & patients rights. Need response by advocate within 24 hours upon calling for non-serious issues. Need weekly rounds by advocate & public appearances. Post advocate phone number by all phones. Should be (1) advocate for every 100 patients.	1PC32GM 1PC32GO 1PC32HR 1PE2BQ	These regulations ensure that all patients have the right to "access" the services of a Patients' Rights Advocate who has no clinical or administrative authority in the facility. A grievance process exists for any patient who is unsatisfied with the timeliness of response by advocacy staff.
Case workers are assigned specific duties, the assignment of which ensures inmates a right to their service. Non-LPS patients are not so ensured.	1PC34IT	It is not practical to compare case worker services for inmates (different living environment and different rights) with those services provided by a Patients' Rights Advocate.
There is no clarification as to whether patients are subject to retaliation for complaints.	1PC29EC	DMH has modified Section 883(b)(5) to read: <u>(5) A right to be free from harm including abuse or neglect, and unnecessary or excessive restraint, seclusion, protective or administrative isolation, or medication. Restraint, seclusion, protective or administrative isolation, or medication shall not be used as punishment, for retaliation for filing complaints, for the convenience of staff, as a substitute for treatment program or in quantities that interfere with the treatment program.</u>
This section states a right to access the services of patients' rights advocate that is different than the right to receive the assistance of a patients' rights advocate. It is another example of a vague regulation that contains no meaningful standards.	1PC34IQ	The state hospitals will continue to provide the availability of a PRA. It is at the patients' discretion to "access" or seek the services of the advocate.
<u>Proposed Language:</u> A right to access the services of a Patients' Rights Advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services. This right includes the right to have a telephone call made to the Patients' Rights Advocate when patients are placed in administrative isolation, medical isolation, physical restraint, protective isolation or when patients are medicated without their consent. Patients may not be subjected to retaliation for accessing the services of the Patients' Rights Advocate, registering complaints, writing to governmental officials and/or participating in legal actions. This right shall not be denied solely because a patient refuses treatment or medication.	1PC29EC	DMH has modified the definition of the Patients' Rights Advocate to read: <u>This individual shall have no direct or indirect clinical or administrative responsibilities for the person receiving mental health services.</u>
883 (e)(7)–(b)(9) – Communicate with Attorney	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Our fear that if this right is limited, we may end up without access to our attorney because there are too many people scheduled in the visitors center. Staff may take it upon themselves that we do not need to see an attorney because of their opinion of our mental health status.	1PE5DF	Facilities do not have control over the number of visitors that may arrive on any given day or time and must abide by Fire Marshall and occupancy safety measures regarding the available space in the visiting areas. Staff may not arbitrarily limit or deny a patient from seeing an attorney because of their personal opinions.
The right to attorney client visitation should not change.	1PC6DD	The right to visitation with their attorney is listed in Section 883(b)(9).
<u>Proposed Language:</u> A right to confidential and timely communications with attorneys, courts and holders of public offices through correspondence private consultation and telephone calls. Confidential consultation shall be allowed at least during regular business hours. This right includes the ability of patients and their attorneys to communicate outside of regular business hours when there is an urgent matter. This right also includes the right to meet with groups patients where there is multiple or group representatives. Those patients without funds shall be permitted postage paid letters to permit unlimited correspondence with attorneys, court and holders of public office. In order to inspect for contraband, confidential mail to or from attorneys, courts and holders of public office shall only be opened and shaken out by the patient in the presence of hospital personnel. Hospital personnel shall not read confidential communications. This right shall not be denied solely because a patient	1PC29EH	DMH partially agrees with the commentator's proposed language and agrees to revise this right to read as follows: " (7)(9) A right to <u>confidential</u> communications with an attorney, either through correspondence or through private consultation, during regularly scheduled visiting days and hours." Note that Section 884(b)(6) provides that: "A right to have access to letter writing materials and to mail and receive correspondence. Designated facility employees shall open and inspect all incoming and outgoing mail addressed to and from patients for contraband. Confidential mail, as defined in Section 881(b), shall not be read. Limitations on size, weight and volume of mail shall be specified by formal facility policy."

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

refuses treatment or medication.		
The proposal is unclear in reference to confidentiality. It could have a net effect of seriously limiting access to attorney and other legal supporters of the mentally ill. Could result in legal business being placed in their charts.	1PE2BK	See response to 1PC29EH.
Title 15 establishes specified times for meetings, thereby offering greater assurance that inmates have access.	1PC34IT	DMH specifies times for meetings pursuant to scheduled facility visiting hours. Attorneys may request different visiting time through the facility administration based on urgent matters or special circumstances.

883 (e)(9) (b)(5)– Abuse/Neglect	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Reasonable care should be taken to deal with patients subjected to verbal abuse by staff and physical abuse by some patients.	1PC32FZ	Each facility does have internal policies that outline the prevention of patient abuse and the procedures for addressing abuse allegations.
Abuse by nursing staff has caused an increase in medications/PRN.	1PC32GF	Patients or others who feel abuse has occurred should contact the Patients' Rights Advocate or use the hospital complaint system to have their concerns addressed.
<u>Alternative language:</u> "A right to be free from <u>harm</u> abuse and neglect. This right shall not be denied solely because a patient refuses treatment or medication. Inmates have a right not only to "not be abused" but also to be respected.	1PC29EI 1PC12TT 1PC34IT	DMH has modified the proposed language and will revise this right in Section 883(b)(5) to read as follows: <u>(5) A right to be free from harm including abuse or neglect, unnecessary or excessive restraint, seclusion, protective or administrative isolation, or medication. Restraint, seclusion, protective or administrative isolation, or medication shall not be used as punishment, for retaliation for filing complaints, for the convenience of staff, as a substitute for treatment program or in quantities that interfere with the treatment program.</u>
Terms in the proposal need defining, specifically "necessary" and "reasonable". It is of vital importance because the hospital is understaffed and overworked. Results can be very physically and psychologically abusive.	1PE2BW	The word "reasonable" is not used in the proposed regulations for this right. It is the goal of DMH for all patients to be free from harm, abuse and neglect.

883 (e)(9) (b)(5)– Seclusion and Restraint	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Need someone to enforce patients' rights and not just when they have been violated.	1PC32GA 1PC32GO	The Office of Patients' Rights provides annual training to facility staff and patients regarding policies and procedures on patients' rights laws to ensure that all staff enforce patients rights.
All types of physical restraint should be banned and PRN used as the alternative to handle patients.	1PC32GO	This concern/opinion cannot be addressed in this proposed rulemaking process.
<u>Proposed Language:</u> A right to be free from harm, abuse and neglect. This right shall not be denied solely because a patient refuses treatment or medication. A right to be free from unnecessary or excessive physical restraint, seclusion, or medication. physical restraint, seclusion and medication shall not be used as punishment for the convenience of staff as a substitute for program or in quantities that interfere with the treatment program. Physical restraint may be utilized only when it appears less restrictive alternatives would be ineffective in controlling the disordered behavior. Illegal discrimination in the use of physical restraint, seclusion and medication due to race, ethnicity, national origin, gender, sexual orientation, disability or other protected class shall not be allowed. This right shall not be denied solely because a patient refuses treatment or medication.	1PC29EI	DMH has modified the proposed language and will revise this right in Section 883(b)(5) to read as follows: <u>(6) A right to be free from harm including abuse or neglect, unnecessary or excessive restraint, seclusion, protective or administrative isolation, or medication. Restraint, seclusion, protective or administrative isolation, or medication shall not be used as punishment, for retaliation for filing complaints, for the convenience of staff, as a substitute for treatment program or in quantities that interfere with the treatment program.</u>
All seclusion rooms should have criteria posted outside the room for placement in the seclusion room. Seclusion rooms should not be used for disciplinary purposes.	1PC32HT 1PC32GQ	See comment in 1PC29EI. Criteria for seclusion usage is outlined in the individual facilities' policy and in the patients rights handbook.
What qualifies "unnecessary"; break it down for us. There is not enough clarification in this proposal. Seclusion is only to be used if a client is a danger to themselves and/or others – "not suspicions". There is far too much latitude in reference to their proposal. The line that separates abuse from therapy is very thin and this proposal would erase that line. This regulation seems to say patient CAN be placed in restraints to preserve safety and security and may	1PC39AE 1PC50LD 1PC48JR 1PE2BM	DMH has modified the proposed language and will revise this right in Section 883(b)(5) to read as follows: <u>(5) A right to be free from harm including abuse or neglect, unnecessary or excessive restraint, seclusion, protective or administrative isolation, or medication. Restraint, seclusion, protective or administrative isolation, or medication shall not be used as punishment, for retaliation for filing complaints, for the convenience of staff, as a substitute for treatment program or in quantities that interfere with the treatment program.</u>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

further encourage the use of restraints to deal with issues more restrictively due to staff shortages.		The current law and the proposed regulations do not allow a patient to be placed in restraints due to staff shortages. It is DMH policy to utilize the least restrictive interventions prior to the use of restraints.
Right used to read: a right to be free from harm , including unnecessary seclusion and restraint.	1PE5DG	
Rules for non-LPS patients are vague. They are not stated with specificity, as are the rules in Title 15. Further, they lack rules outlining the meaning of "unnecessary" and lack rules outlining the method of judgment (i.e. reasonable person).	1PC12TT 1PC49KJ 1PC34IT	

883 (c)(10) (b)(5)– Administrative or Protective Isolation	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Yes on section 883(c)(10), there is a need for patient protection from isolation just for the convenience of staff. This would benefit many patients in these hospitals, against abuse and neglect.	1PC15AZ 1PC50LD 1PC39AE	Thank you for your support. Patients should continue to notify staff or the Patients' Rights Advocate any time they do not feel safe or feel they are being abused or neglected.
"Administrative Isolation" is the same as the term used in prison "administrative segregation", it only sounds different. This would be abused and used as a punitive tool by staff, when they become upset at a client they will just lock him/her up, "put them in the hole".	1PE2BN	Section 881(b) defines Administrative isolation as: "...the temporary separation of a patient from other patients and the normal living environment for the purpose of protecting possible evidence and maintaining safety and security during a criminal investigation."
Regulations should clearly specify that if a person is put in isolation they follow the psychiatric standard described by the APA in <u>Psychiatric Services in Jails and Prisons</u> (Second Edition, 2000). Standards need to be specified and a limited time period set forth for isolation.	1PC17BI	The standards described by the APA in this publication are not applicable in treatment facilities run by DMH, nor should they apply. DMH has its own protocols for administrative or protective isolation that are different from the protocols for restraint and seclusion.
What qualifies as "necessary?" The right used to read – a right to be free from "unnecessary".... isolation,	1PC29EI 1PC12TT	DMH has modified the proposed language and will revise this right in Section 883(b)(5) to read as follows:
<u>Proposed Language:</u> A right to be free from unnecessary or excessive administrative or protective isolation. Administrative or protective isolation shall not be used as punishment for the convenience of staff, as a substitute for program, or in quantities that interfere with treatment program. Administrative isolation shall consist of separate and secure housing but shall not involve any further deprivation of privileges than is necessary to obtain the objective of protecting the patients and staff. Illegal discrimination in the use of administrative or protective isolation due to race, ethnicity, national origin, gender, sexual orientation, disability or other protected class shall not be allowed. Patients confined in administrative or protective isolation shall not be limited in their access to courts. This right shall not be denied solely because a patient refuses treatment or medication.	1PC29EI	<u>(5) A right to be free from harm including abuse or neglect, unnecessary or excessive restraint, seclusion, protective or administrative isolation, or medication. Restraint, seclusion, protective or administrative isolation, or medication shall not be used as punishment, for retaliation for filing complaints, for the convenience of staff, as a substitute for treatment program or in quantities that interfere with the treatment program.</u>
Trusting the care of mentally ill clients to hospital police would be risky as it is known many clients have transferred to county jails for court proceedings and have decompensated because of care and treatment. Hospital police are not trained enough to be given this responsibility on a regular basis.	1PE2BV	Treatment and supervision of patients will continue to be provided by clinical staff while in administrative or protective isolation.
Patients need to be told what could result in administrative or protective isolation.	1PC32HW	The criteria for administrative or protective isolation will be outlined in each facility policy and in the patients rights handbook.

883 (c)(10) (b)(10)– Religion	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The right to religious freedom and practice should not change.	1PC6EE 1PC12UU 1PC34IT 1PC41AJ	DMH has modified Section 883(b) to make the right to religious freedom and practice a non-deniable right. It now reads:
Title 15 outlines specific measures for ensuring religious practice. Title 9 does not.		<p align="center">883. Patients' Rights – Non-Deniable Subject to Limitation or Denial to Preserve Safety and Security.</p> <p>(a) Patients have the rights listed in Subsection (c) of this Section. The patient's</p>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

		parent, guardian, or conservator, or conservator may not waive these rights listed in this Section unless authority to waive these rights is specifically granted by court order. The facility director shall limit or deny these rights only in the case of an emergency and/or to ensure public and facility safety and security. <u>(b) Patients have the following rights:...</u> (11) A right to religious freedom and practice, within the context of the environment of a secure treatment facility.
Religious freedom should not be restricted. The qualifying phrases give unlimited discretion to deny religious freedom. Feel the right should be: the right to religious freedom and practice showing respect & courtesy to others. This would clear up the matter of loud chanting during normal sleeping hours. Should not limit religious readings, material, prayer drugs, yamikas, religious medallions, tutius, crowns, prayer beads, etc.	1PC37JC 1PC17BJ 1PC49KL 1PC32HX 1PC32GR	DMH will not deny a patient their right to choose and practice a recognized religion but may limit any religious practice, prayer drugs, or item that could be used to harm the patient or others. Patients who believe they have had a right inappropriately limited or denied may contact the Patients' Rights Advocate or have their concern responded to via the hospital complaint process.
<u>Proposed language:</u> A right to religious freedom and practice, within the context of the environment of a secure treatment facility. A patient of a "minority" religion shall be given a reasonable opportunity to pursue his or her faith comparable to the opportunity afforded other inmates who practice more conventional religions. The provisions of this Chapter shall not be construed to deny treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or denomination for any person detained for evaluation or treatment who desire such treatment. This right shall not be denied solely because a patient refuses treatment or medication.	1PC29EJ	The proposed language contains general statements of philosophy or contains provisions that are much too detailed to be contained in this regulation. The intent of this non-deniable right is to specifically ensure that patients are not prohibited from exercising their religious freedom and practice consistent with Section 883(b)(10).
If some of us choose to attend a different church each week because it gives us more variety of thought, we are told we have to pick one denomination and stick with it. This is not religious freedom as we understand it. Going to more than one denomination of church is not a safety and security issue.	1PE5DH	Patients who believe they have had a right inappropriately limited or denied may contact the Patients' Rights Advocate or have their concern responded to via the hospital complaint process.
We are concerned that the vagueness and generality of this clause in the regulations creates and unacceptably low threshold of protection for patients' religious liberty. There needs to be a more deliberate effort in these regulations to insure that staff have some standard to meet before denying the right to worship, pray read Scripture and communicate personal matters of faith with others.	1PC36IY	DMH will not deny a patient their right to choose and practice a recognized religion but may limit any religious practice, prayer drugs, or item that could be used to harm the patient or others. Patients who believe they have had a right inappropriately limited or denied may contact the Patients' Rights Advocate or have their concern responded to via the hospital complaint process.

883(c)(12) 884(b)(9) - Education	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Include all ages to have the right to an education. Why only up to age 22? The most appropriate programs of publicly supported education to 1026 population is online. GED and higher education should be offered. The inclusion of education is great till 22 years old. But patients in college should be allowed to continue if able to do the work. The correction Officers will not allow materials into the facility, so why have school? I oppose the regulation requiring educational opportunities being given to patients 22 years or younger.	1PC14AR 1PC20BV 1PC21CH 1PC22CQ 1PC32GS 1PC32HY 1PE1AH 1PC35IV	Federal law only requires educational opportunity; up to the age of 22; however, DMH will not prevent opportunities for further education as provided by each facility. DMH has determined that the internet is a public safety issue and will not make it available to the patients. Any education provided or allowed beyond the public education required by law shall be up to each individual facility based on safety and security needs.
No on section 883(c)(12) Grandson participates in programs and because of age (22 years old) he cannot finish or continue his education. This has given him a loss of self-esteem, which he needs to get well.	1PC15AW 1PC37JB	Comment is unclear and DMH is unable to respond. Comment not related to rulemaking. Needs to be discussed at the local level.
A right to participate in programs of publicly supported education, and other forms of	1PC29EK	The proposed language contains general statements of philosophy or contains provisions that

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

education and vocational training. The facility director shall request of appropriate public officials a patient education program. When such services are not made available by the appropriate public officials, then the facility director shall develop and implement an education program. Such as plan shall provide for the academic and/or vocational education of patients. This right shall not be denied solely because a patient refuses treatment or medication.		are much too detailed to be contained in this regulation. The intent of this right is to specifically ensure that patients have a right education.
State and Federal laws mandate that all eligible students receive a full continuum of educational services that address the student's unique needs in the least restrictive environment. California law specifically provides that "special education and related services shall be provided to each individual residing in a state hospital pursuant to the individualized educational plan for that individual" in compliance with the IDEA and the Rehabilitation Act of 1973. Education Code Section 56852 (emphasis added). The individualized education plan for a state hospital resident must be developed by an interdisciplinary team that includes a representative of the school district or SELPA or county office where the hospital is located and the individual's state hospital teacher. Ed. Code Section 56851. The proposed regulations, however, give the state hospital director unilateral authority to determine which special education programs, if any, a resident may participate in. In doing so, the proposed regulation impermissibly narrows the state and federal special education rights of the state hospital residents.	1PC34IQ	DMH will continue to follow all laws regarding the provision of required public supported education.
Welfare and Institutions Code Section 4011.5. The regulations do not implement this statute. Instead, the regulations permit the state hospitals to deny educational benefits based on claims that behavioral problems of patients preclude the provision of an education. This has, in fact, been happening at Metropolitan State Hospital.	1PC34IQ	DMH will continue to follow all laws regarding the provision of required public supported education including the special education requirements of Section 4011.5 of the Welfare & Institutions Code.

883 (e)(13)-884(b)(10)- Social Interaction	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
We need the right to associate and have relationships with proper accommodations. The road to normalization is intimate relationships. This is a violation of basic human needs-sex.	1PC20BW (?) 1PC22DO	The right to social interaction does not mean that patients have the right to have intimate relationships. DMH supports and encourages the development of interpersonal skills and relationships that, within a shared living environment, assists each patient to function successfully in society upon the patients' release.
Due to vague terms, staff would be allowed to make decisions based on stereotypes, racism, religious beliefs, and/or simply personal opinion. Client's treatment plan is to follow all rules. If one falls short of this, they can be isolated, cut off from clients who are a support to one another, or forced to socialize only with clients approved by staff based on their personal likes and opinions.	1PE2BU	Any patient who feels they have had the right to social interaction limited or denied may contact the Patients' Rights Advocate or file a complaint via the facility complaint process.
Inmates are provided the opportunity to take part in leadership activities, voting, committee membership, group service, representation and activity groups that promote social goals. Title 15 also gives prisoners the right to retain membership to outside organizations. Title 9 only offers a vaguely defined right to social activity.	1PC34IT	DMH allows patients to take part in leadership activities, such as patient government, participation on facility committees that promote social goals within the facility living environment. Eligible patients can participate in the electoral process.
<u>Proposed Language:</u> A right to social interaction. The formation of supervised patient leisure time activity groups that promote education, social, cultural and recreational interests of the participating patients shall be permitted, except for activities that pose a threat to safety and security. This right shall not be denied solely because a patient refuses treatment or medication. Patient may assist others in the preparation of legal documents but shall not receive any forms of compensation from the patient assisted. Legal papers, books, opinions and forms being used by one patient to assist another may be in the possession of either patient with the permission of the owner. A patient will not be barred from giving or receiving legal assistance for violations of regulations and procedures which are unrelated to providing or receiving legal assistance.	1PC29EL	DMH modified and moved the text from Section 883(c)(13) to Section 884(b)(10): <u>(10) A right to social interaction. The formation of supervised patient leisure time activity groups that promote educational, social, cultural and recreational interests of participating patients shall be permitted, except for activities that pose a threat to safety and security.</u>

883 (e)(14)-(b)(11)- Exercise	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
We need unsupervised socialization, leisure activities and games that are not a danger to others.	1PC14AS	The right to social interaction is covered under section 883(b)(10). DMH provides supervised socialization or exercise due to the facility's obligation to ensure the safety of all patients. See response to 1PC 29EL above.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

Napa is a medium to low security facility. The present policy needs revision to allow more clients "grounds" cards based solely on security – and not being extreme, by linking nearly any rule violation into security.	1PE2BT	This issue is unrelated to the rulemaking process.
An increase in funding for recreational and rehab therapy.	1PC32GB	This proposed rulemaking does not include a process to obtain additional funding for recreation or rehabilitation therapy.
Title 15 offers the opportunity to acquire trophies and to compete with public teams. Patients under Title 9 are not reserved such an opportunity. Additionally, compare the phrase "shall be provided" athletic programs in Title 15 to the less secure phrase "have a right to exercise" in Title 9.	1PC34IT	DMH will continue to allow non-LPS patients the same right to healthy and safe exercise as is provided to all other patients in the facility environment.
<u>Proposed Language:</u> A right to regular physical exercise, recreational opportunities, and access to the outdoors. This right shall not be denied to some patients because of the medical condition or inappropriate behavior of other patients. This right shall not be denied solely because a patient refuses treatment or medication.	1PC29EM	DMH has modified this right from a deniable to a non-deniable right to read: <u>Section 883(b)(11)</u> A right to opportunities for physical exercise and recreational opportunities.

884 – Deniable Rights (General)	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The clients at NSH are not inmates and their rights should be less restrictive than the rights of inmates.	1PC12AF	Proposed rights for non-LPS patients are the least restrictive and promote individual participation consistent with mental health treatment.
The DMH proposal states that patients' rights can be limited or denied if the pose a "potential" threat to safety and security of the facility, patients or others. Extremely vague with emphasis on the word "potential".	1PE2BS	This deniable right refers to the specific right to social interaction, the DMH agrees to remove the word "potential", as follows: "... (10) A right to social interaction. The formation of supervised patient leisure time activity groups that promote educational, social, cultural and recreational interests of participating patients shall be permitted, except for activities that pose a potential threat to safety and security."
Patients should get a notice of the denial in writing within 30 days.	1PC32FV	DMH has revised Section 884(e) to read: (e) The patient/ resident shall be told of the content of the notation <u>and the process for restoration at the time of the denial</u> .
Patients in skilled nursing should have the right to wear own clothes. I want to wear my own clothes. Visitors should be able to wear what they want.	1PC51LF 1PC48KC	All patients within the secured perimeter are required to wear clothing that enables these patients to be readily identified. These regulations do not specify guidelines for appropriate attire for non-patient visitors.

884 (a)(1) – Possessions	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Statement of Reasons cites "contraband" such as pieces of hardware and saws introduced into hospitals in food containers. They do not run through the metal detectors. Also staff does not pass through metal detectors at Patton State Hospital.	1PE3CE	These regulations do not change the current practice for preventing contraband from being introduced into State Hospitals. Security measures used by staff are in accordance with hospital policies and directives.
A patient was told that he was only able to keep an 8-inch stack of paper in his locker. Lockers are currently not full and are often limited for no reasonable cause.	1PE5DI	Each facility must comply with the State Fire Marshall. Complaints regarding storage space should follow the complaint process.
Right to have space in the dayroom for personal space as in having small lockers installed for every access.	1PC32GC	Storage space for personal possessions must be in accordance with the formal policies and procedures of the facility.
<u>Proposed Language:</u> A right to keep and use personal possessions as permitted by applicable safety, security and fire regulations. Limits on the volume of personal property shall recognize that this is the long-term home for patients and shall allow at least as much volume as inmates in correctional facilities. Each facility shall make a copy of the contraband listing available on all treatment units and public areas within the facility. Each patient shall receive a copy of the contraband listing upon admission and shall be provided at least one month's advance notice of any changes to the contraband listing. Patients shall be allowed to send contraband out of the facility before it is confiscated. The hospital shall permit patients to possess in their living quarters, in addition to state issued property, personal property items that present no threat to hospital security or to the safety of persons. Patients may be allowed the following items in their living quarters: television receiver, musical instrument, radio, recorded tape/disk playback unit, typewriter and computers.	1PC29EP	The regulations provide adequate language for personal possessions.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

884 (a)(2) – Storage Space	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Two storage spaces to avoid conflicts with personal property & food.	1PC32GP	These regulations provide for the right to have access to individual space. There currently exists separate additional space for the storage of food items.
Proposed Language: A right to have access to individual secured storage space, for personal possessions in accordance with the formal policies and procedures of the facility. Limits on the volume of individual secured storage space for personal possessions shall recognize that this is the long-term home for patients and shall allow at least as much volume as inmates in the correctional facilities. Access shall be in compliance with Title 22, Sections 71543 and 73507.	1PC29EO	Each facility must comply with the State Fire Marshall. Storage space for personal possessions must be in accordance with the formal policies and procedures of the facility. No modification to the regulation.

884 (a)(3) - Money	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The right to possession of money should not change.	1PC6FF 1PE2BO	The right to keep and spend a sum of the patient's own money via the facility monetary replacement system is listed in 884(b)(3).
If patients are not allowed access to money they will not be prepared for release into the community.	1PC12WW 1PC49KN	Each hospital has an established policy for discharge planning that includes tools for transition into the community.
We need to be allowed \$15.00 in change. PSH allows patients to keep \$15.00 in change to make phone calls.	1PC14AO 1PC21CE 1PC23CT 1PE2BO	Patients spending limits are established consistent with facility policy.
Title 15 establishes a specific right to donate money. Title 9 does not.	1PC34IR	Donations of money may occur consistent with facility policy.
While inmates have a specific right to funds, patients are given no specified right.	1PC34IT	Specific rights regarding the patients right to keep and spend a sum of the patients' own money is provided in these regulations, please see Section 884(b)(3).
If the monetary replacement system were implemented, then this would affect our use of the pay phones dramatically. Clients would only be allowed to make collect calls which costs those receiving them more than it does to call direct. Clients should at least be allowed to purchase phones cards or receive them in the mail.	1PE2BO	The hospitals will continue to work with the patients and the phone companies to ensure availability of phone cards or an equivalent system.
We are concerned that the hospital will have more control over our money management than it currently has. We are worried that without access to our own cash, we may lose other privileges as well, for example, telephone options.	1PE5DJ	Good cause for denying a patient the exercise of a right must exist prior to denial of any right. Please see Section 884(c).
No change at the canteen we disagree with.	1PC24DA	These regulations do not specify canteen policies.
Constant access to trust fund. Want a financial statement to see how much money we spend each month.	1PC32GL	These regulations do not address trust fund access.
Proposed Language: A right to keep and spend a sum of the patient's own money via the facility monetary replacement system. The amount of money allowed to be kept in the patient's account shall recognize that the facility is the patient's long-term home and that the patient will need funds when released. A patient shall be allowed to send money for the immediate support of his or her family and/or to an outside account as a means to save money for use upon his or her release. A patient shall not be charged for cost of care from money sent for the support of family or savings intended for use upon his or her release.	1PC29EO	The regulations allow the hospitals to keep any alternate monetary replacement systems currently in place or may be considering for security purposes. Sections 7281 and 7282 of the W&I Code specifies the procedures for patient accounts.

	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Visits patients should be allowed to have contact visits. This is part of BPSR (Biopsychosocial Rehabilitation). An embrace from a family member is supportive and humane.	1PC1C 1PC6AA 1PC12AG 1PC25DE 1PC49KO 1PC49KV 1PC44JF 1PC31HE 1PE2BR	The right listed in this Subsection does not prohibit contact visits.
The right to visitation from friends and family should not change.	1PC6GG	DMH agrees and modified Section 884(b)(4) to read:

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

	1PC12XX 1PC46JN 1PC48JU	“(4) A right to personal visits during regularly scheduled visiting days and hours. <u>The right to have visits will not be denied except as is necessary for reasonable security of the institution and the safety of persons.</u> The length and frequency of visits and the number of persons permitted to visit a patient at the same time may be limited consistent with safety, security, and available space , and to ensure that all patients have a fair opportunity to have visitors.”
Prisoners' rights to visitors are stated with greater specificity.	1PC29EP	These rights were developed for patients, not inmates.
Limiting the patient's visits is non-therapeutic since the hospital does not have 24-hour treatment plans. Keeping the food brought in motivates patients in recovery.	1PC14AK 1PC21CA 1PC22CO 1PC26DF 1PC50LC 1PE1AB 1PE3CA 1PE2BR	The right listed in this Subsection does not prohibit outside food consistent with facility policy.
No on section 884(a)(4)	1PC15AU	Not enough information for response.
Establish minimum standards-such as there will be at least three visiting days per week to each patient.	1PC17BL	There are no restrictions on the number of weekly visits.
Such a right shouldn't be subjected to unnecessary restriction as visitors bringing in food, property or gifts and non-contact visits.	1PC23CV 1PC24CY 1PC24CZ	Individual hospital policies define parameters for food, gifts and contact.
Per original patients' rights, visiting is allowed everyday. We don't want it qualified as to frequency of space concerns.	1PC50LC 1PC40AI 1PC39AD 1PE1AE	DMH agrees to deleting text "...and available space" 884(4) to read as follows: “(b)(4)...“A right to personal visits during regularly scheduled visiting days and hours. <u>The right to have visits will not be denied except as is necessary for reasonable security of the institution and the safety of persons.</u> The length and frequency of visits and the number of persons permitted to visit a patient at the same time may be limited consistent with safety, security, and available space and to ensure that all patients have a fair opportunity to have visitors.”
Family/friends coming to visit from a distance could be turned away. This is unsatisfactory.		Visitors from a far distance can often be accommodated with advance approval.
Visitors and patients should be able to use outside patio for smoke breaks.	1PC32GD	These regulations do not change current smoking policies and procedures.
Half of the Visitor's area is roped off now (Napa) and this situation appears to be the beginning of denial of visitation rights, much like the CDC is attempting to do as well.	1PE5DK	A right to personal visits during regularly scheduled visiting days and hours. The right to have visits will not be denied except as is necessary for reasonable security of the institution and the safety of persons.
Visits are limited to 2 hours for family members/friends traveling more than 100 miles. Visits are limited to 1 hour for family members/friends traveling 100 or less. Further limitation of length and frequency of visits is ridiculous.	1PC35IW 1PE5DK	The length of visits and the number of persons permitted to visit a patient at the same time may be limited consistent with the safety and security concerns and to ensure that all patients have a fair opportunity to have visitors. Individual hospital policies define guidelines for visiting protocols.
Why should hospital visiting, considered by DMH to be rehabilitation, be turned into prison punishment. Is DMH seeking retribution because we pressed to keep food in visiting?	1PE1AB 1PE1AF 1PC1A	The Initial Statement of Reasons included recommendations on security audits. Not all recommendations were accepted. Individual hospital policies define parameters for food during visits.
I think your proposed rules are for drug infractions. If patient wanting or needing drugs and get them from visiting, they should be sent to Atascadero Hospital or prison – others should not be punished.		These comments are not relevant to the rulemaking.
Page 2 of the statement of reasons specifically states the rights of patients in state hospitals will not be more restrictive than the rights of patients incarcerated in Corrections.	1PE2AN 1PE2BR	This regulation is not more restrictive than the prison requirements.
Certainly, these proposed bans on physical contact go far beyond the restrictions which apply to incarcerated persons. In prison, visitors are permitted to visit more than one inmate at a time. Napa presently does not allow this, therefore, Napa is more restrictive.		Individual hospital policies define guidelines for visiting protocols. Individual hospital policies define contact, which includes the ratio of patients to visitors.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

<p><u>Proposed Language:</u> A right to personal visits during regularly scheduled visiting days and hours. Visiting policies and practices shall recognize that voluntary visits with supportive family and individuals are an important means of maintaining family and community relationships. Visitors shall be treated with dignity and respect. The right to have visits will not be denied except as is necessary for reasonable security of the institution and the safety of persons. The privacy of individuals and of their visits will not be imposed upon except as necessary for the identification of persons, to maintain order and acceptable conduct, and to prevent the introduction of contraband. Patients and visitors shall be allowed appropriate physical contact during visits. Statements made by visitors during visits or therapy shall not be used against patients in their commitment proceedings. Each facility shall implement a minimum visiting schedule that is adequate for the number of patients at the facility and provides for day time, evening and weekend visits. Any reduction of a facility's visiting schedule shall require the prior approval of the director. Any changes to the facility's visiting procedures shall be in writing and shall require the prior approval of the director. The length of visits and the number of persons permitted to visit a patient at the same time may be limited consistent with safety and security concerns and to ensure that all patients have a fair opportunity to have visitors.</p>	<p>1PC29EP</p>	<p>The proposed language contains general statements of philosophy or contains provisions that are much too detailed to be contained in this regulation. The intent of this right is to specifically ensure that patients have a right to visitors.</p>
---	----------------	---

884 (a)(5) - Telephones	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
<p>Telephone monitoring and recording telephone conversations is a violation of the Federal Privacy Act.</p>	<p>1PC1C 1PC6W</p>	<p>The DMH does not intend to monitor or record communications via telephone.</p>
<p>All units should have (2) phones to allow equal time for the number of patients on each unit. To be monitored by staff.</p> <p>Only (1) phone on each unit for all patients to share.</p> <p>We need the right for 1 incoming and outgoing phone for every 10 people.</p>	<p>1PC32GE 1PE5DL 1PC31HG 1PC14AP 1PC21CF</p>	<p>This regulation does not determine the ratio of telephones per unit.</p>
<p>I'm also concerned that DMH is changing the telephone system so patients have less time and frequency to be allowed to express treatment concerns to family/friends who act as advocates for them.</p>	<p>1PC35IX</p>	<p>The hospitals must have the flexibility to modify the telephone system; however, the principal of patients' access to telephones will be maintained.</p>
<p><u>Proposed Language:</u> A right to reasonable access to telephones both to make and receive confidential telephone calls. Telephone hours, frequency and duration of telephone calls, and method of payment may be reasonably limited by a vote of the patients on a particular unit or ward to ensure access by all patients. Each facility shall install and maintain a sufficient number of phones to ensure adequate access for all patients. Telephone calls between patients and attorneys shall be exempt from any limits on hours, frequency of duration.</p> <p>Each facility shall also install and maintain sufficient equipment to afford hearing-impaired patients the right to make and receive confidential telephone calls.</p>	<p>1PC29EQ</p>	<p>The proposed language contains general statements of philosophy or contains provisions that are much too detailed to be contained in this regulation. The intent of this right is to specifically ensure that patients have a right to telephone access.</p> <p>The DMH maintains equipment necessary to accommodate hearing-impaired patients.</p>
<p>The word confidential was omitted.</p> <p>Should also add back "to have such calls made for them". If patients are abusing this privilege, this should be dealt with on an individual basis via the denial of rights process mentioned in 884(a)(6).</p>	<p>1PC12YY 1PC22DP 1PC49KP</p>	<p>DMH has modified Section 884(b)(5) to read:</p> <p>(5) A right to access telephones to make and receive <u>confidential</u> telephone calls, <u>or to have such calls made for them</u>. Telephone hours, frequency and duration of telephone calls, and method of payment may be limited to ensure access by all patients.</p> <p>DMH has modified Section 881(d) to read:</p> <p><u>"Confidential telephone calls" means telephone calls are not monitored or recorded by hospital staff.</u></p>
<p>No on section 884(a)(5).</p>	<p>1PC15AV</p>	<p>Non-specific comment: No response possible.</p>
<p>The right to access telephones to make and receive calls preserves the integrity and</p>	<p>1PC23CU</p>	<p>DMH agrees. No modifications are necessary.</p>

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

operation of treatment.		
At Patton, patients may only make collect calls with a surcharge being added that is in part "kicked back" to the state, and paid for by the recipient.	1PE3CF 1PE5DL	This is not a comment on a regulation; however, it may be addressed via the hospital complaint process.
It is unclear in reference to clients being able to call 1-800 numbers as most organizations supporting the mentally ill have 1-800 numbers. Clients would be denied access to these supports, family, and attorneys.	1PE2BP	Individual hospitals have procedures for telephone usage. These policies do not necessarily preclude access to 800 numbers. In addition, hospital staff and the Patient Rights' Advocate may assist patients with accessing this information.
Presently at Napa, the telephone times, number of calls and duration of calls are "solely" decided and controlled by staff (not clients). Staff is in control of phones for female clients on closed units.		This is not a comment on a regulation; however, it may be addressed via the hospital complaint process.
No unit to unit communication by phone we disagree with.	1PC24DB	This is not a comment on a regulation; however, it may be addressed via the hospital complaint process.
We need more access to make calls-phones are blocked. We need to have long distance phone cards. Phone calls should be free.	1PC48JV	The hospitals must have the flexibility to modify the telephone system; however, the principal of patients' access to telephones will be maintained.

884 (a)(6) – Mail and Letter Writing Materials	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Under Title 9 the right to mail is subject to denial for good cause. The right remains uninhibited under Title 15 except for purposes of safety and security.	1PC34IT	DMH cannot determine what the comment is addressing.
Mail - For staff to open mail is a violation of the Federal Privacy Act.	1PC1A 1PC6X 1PC50LB 1PC39AC 1PE5DM	These regulations provide for monitoring of mail for contraband. The DMH does not intend to read mail, but intends to inspect for contraband.
Add a statement that patients shall be advised of these policy limits on admission to the rights to mail.	1PC3P. 1PC3Q 1PC3R	DMH agrees: Section 882(a) addresses these concerns; however, it was determined not to add this statement to the end of each right, as it would be redundant.
The words mail and receive unopened correspondence have been eliminated. Leave the language of unopened correspondence left as it is.	1PC12ZZ 1PC49KQ	This regulation is based on security issues specifically related to Non-LPS patients. No modifications will be made.
Opening mail in front of staff is adequate for security.	1PC14AL	DMH agrees with this policy.
Opening mail and reading it would be a violation of our freedom of speech.	1PC21CB	A good cause denial can be implemented on an individual basis.
No on section 884(a)(6).	1PC15AX	Not a complete comment; no response necessary.
Thought control is the objective and can only be obtained in the DMH view if it has power to determine what any patient may access in the way of information, education, communication, etc.	1PC16BD	Non-specific comment. No response necessary.
What would stop DMH under the added burden of having to inspect and read all incoming and outgoing mail to say we don't have time to do anything but First Class mail?	1PC19BP	These regulations were designed to insure the right of patients to receive and mail correspondences. Limitations on mail are specified by the policy of each facility. Complaints regarding removal of specific types of mail should be made via the patient complaint process.
Current policy under WIC 5325 already allows for screening of mail that may contain contraband.	1PC20BX 1PC22DQ	Section 884(b)(6) states confidential mail, as defined in Section 881(b), <u>shall not be read</u> . DMH has modified Section 881(d) to read: "Confidential telephone calls" means telephone calls are not monitored or recorded by hospital staff.
More will be at stake of loss than mere items of contraband to patients. Employees are always present at mail call to view patients' mail as they must open it in their presence.	1PC23CW	Non-specific comment, no response necessary.
Restrictions on the use of or possession of writing materials and instruments makes it next to impossible for a patient to communicate with the outside world or to take correspondence courses.	1PE3CH	These regulations allow for patients to have access to the necessary writing materials. Patients may purchase additional writing materials at canteen if needed.
Censored mail will affect the patients as a whole.	1PC24CX	Not enough information provided to respond.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

<p><u>Proposed Language:</u> A right to have ready access to letter writing material and to mail and receive unopened correspondence. The privacy of correspondence between patients and persons outside correctional facilities shall not be invaded except as necessary for safety and security. If there is a safety and security reason, mail be will be opened and inspected for contraband only and only by patients in the presence of facility staff. Non-confidential correspondence may be disallowed only if the text presents danger, or threat of danger, to any person. A disagreement with the sender's or receiver's apparent moral values, attitudes, veracity or choice of words will not be used by staff as a reason for disallowing or delaying mail. There shall be no restriction on the number of communications/correspondence mailed or received by patients. Each indigent patient shall be provided paper, envelopes an postage without charge to the future deposits to that patient's trust account. After mail is delivered to the facility, patients shall receive the mail on a timely basis. Inspecting officials will not read any of the contents of the confidential mail as defined in Section 881(b).</p>	1PC29ER	The proposed language contains general statements of philosophy or contains provisions that are much too detailed to be contained in this regulation The intent of this right is to specifically ensure that patients have a right to have access to letter writing material and to mail and receive correspondence.
Outgoing mail is paid for by clients, therefore, volume should not be of concern to DMH.	1PE2BF	Not all out-going mail is paid for by the patients. DMH assumes a portion of the cost.
We have access to writing materials-no problem.	1PC48JW	No response required.
Staff has the right to open letters in front of patients and clearly see nothing is in with the letters. We feel this is enough for safety and security. Patients need to feel safe in telling family how things are going without threat that staff might read comments and misunderstand and take action against them.	1PC40AH 1PE2BE 1PC31HJ	Section 884(b)(6) states confidential mail, as defined in Section 881(b), <u>shall not be read.</u> DMH has modified Section 881(d) to read: "Confidential telephone calls" means telephone calls are not monitored or recorded by hospital staff.
The wording the proposal is vague and open to interpretation, whereas staff would have the power to stop ALL communication through the mail, thereby violating our right to access the courts, invading our right to private and confidential communication with attorneys, family, friends and other supports. Most of all, our right to access the courts, due process can be denied based on someone's opinion or interpretation.	1PE2BE	The rights described in Section 884(b)(6) may only be denied for good cause, and when there is no less restrictive alternative. Complaints regarding the denial of any right can be addressed via the complaint process with the assistance of the Patients' Rights Advocate.

884 (a)(7) - Packages	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Add a statement that patients shall be advised of these policy limits on admission to the rights to packages.	1PC3P 1PC3Q 1PC3R	It was determined not to add this statement to the end of each right, as it would be redundant. Section 882(a) addresses these concerns.
Packages and mail should not have limits on size, weight or frequency. There should not be a limit on the number of packages when the items are allowed. Limitations on the size, weight and volume or packages shall be specified by formal facility policy.	1PC14AM 1PC21CD 1PC29ES	Each facility must comply with the State Fire Marshall storage space requirements for personal possessions and must be in accordance with the formal policies and procedures of the facility, In addition, limitations regarding packages is necessary to provide patients with adequate space for storage.
Patients are concerned these limits will affect mail order from legitimate vendors and family members.	1PC22DR	This comment does not specify what the concern is. DMH cannot respond without further information.
Anything legal, personal correspondence, or pictures not a package. Anything non-violent should be allowed like Sega games. Anything cosmetically/hermetically sealed by a factory should be allowed.	1PC32GQ 1PC32HS	Limitations must be in accordance with the formal policies and procedures of the facility. Patients may provide recommendations regarding the types of package patients would prefer through their facility's patient government. This group serves as the advisory body to the Executive Director.
Mentioned here is stamps being used as currency for the purpose of drug dealing. This is not an issue at Napa State Hospital. Everything allowed in packages can be purchased through the canteen, whether or not clients have cash. Clients presently pay more for these items through the canteen than what the public pays for these items.	1PE2BG	While each regulation may not present a current problem for each facility, these regulations intend to provide consistent guidelines for all applicable facilities. Suggestions regarding the prices of items available for purchase in the canteen should be raised at the patient government that serves as the advisory body to the Executive Director.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

Do not open our packages-we want to be allowed to get more packages.	1PC48JX	Packages are opened and inspected to provide for the safety and security of the facility. The numbers of packages allowed per patient is accordance with the policy and procedures of each facility.
A right to receive packages. Designated facility employees may open and inspect all incoming and outgoing packages addressed to and from patients for contraband only and only in the presence of the patient, unless the patient waives the right to be present. Limitations on the size, weight and volume of packages shall be specified by formal facility policy and shall recognize that the facility is the long-term home of many patients. There shall be no limit on the number/frequency of packages. After a package is delivered to the facility, the patient shall receive the package on a timely basis. Confidential packages shall also be subject to the rights as described in section 884(a)(6).	1PC29ET	The proposed language contains general statements of philosophy or contains provisions that are much too detailed to be contained in this regulation. The intent of this right is to specifically ensure that patients have a right to receive packages as specified in Section 884(b)(7). No modification to regulation required.
884 (a)(8) –Legal Reference Material	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Add a statement that patients shall be advised of these policy limits on admission to the rights to legal reference material.	1PC3P 1PC3Q 1PC3R	It was determined not to add this statement to the end of each right, as it would be redundant. Section 882(a) addresses these concerns.
DMH is seeking a more restrictive policy than CDC for access to the law library. This proposal could theoretically result in no access. Napa has “one” computer for 800 non-LPS clients and have a difficult time getting access to the legal material made available through Westlaw. There is no confidentiality and there is a record of everything referenced by the client.	1PE2BH	Patients will continue to have access per facility policy unless a individual good cause denial is enacted. Requests for additional computers may be processed within the patient government and sent to facility management. Staff supervision is necessary for patients accessing legal reference material via the internet; the facilities will make the information available offline via other media in the future. DMH has no information in regard to a “record of everything referenced by the client.”
Inmates are ensured better access to legal materials through a law library.	1PC29EU 1PE5DN	DMH has agreed to provide access to legal materials via a law library.
At Patton, patients are denied or limited to access law libraries.	1PE3CG	Patients will continue to have access per facility policy unless an individual good cause denial is enacted.
Library needs to be open Saturday and Sunday. It should be open 8-4. Our access is not adequate and needs a lot of improvement. No time restrictions for law libraries.	1PC49JY 1PC31HK	This issue is a facility policy decision and not related to the rulemaking. The request regarding modification in policy should be addressed via the unit government and forwarded to facility management.
<u>Proposed Language:</u> A right to have access to legal reference material. Each facility shall provide current and adequate legal materials to provide patients with meaningful access to the courts. Patients with established court deadlines shall be given higher priority access to legal material than those with longer deadlines or without a deadline. Limitations on the time, duration, frequency and method of access shall be specified by formal facility policy to ensure opportunity for meaningful access by all patients. The size and hours of operation of any legal library shall be sufficient to accommodate the patient population at the facility. Patients who are denied access to any legal library shall be provided with another means to access legal reference materials. Patients who lack capacity to research the law independently shall be provided with attorneys or legal assistance at the pleading stage(s). Patients may assist one another in the preparation of legal documents but shall not receive any form of compensation from the patients assisted. Legal papers, books, opinions and forms being used by one patient to assist another may be in the possession of either patient with the permission of the owner. Patients will not be barred from giving or receiving legal assistance for violations of regulations and procedures which are unrelated to providing or receiving legal assistance. Patients shall also have some means of accurate duplication as required to access the courts.	1PC29EV	The proposed language contains general statements of philosophy or contains provisions that are much too detailed to be contained in this regulation. The intent of this right is to specifically ensure that patients have a right specified in Section 884(b)(8). No modification to regulations required.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

884 (b)-(g) – Good Cause Criteria for Denials	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
Does the PRA need to be notified? Is there a time limit to notify?	1PC3L	Patients may notify the Patients' Rights Advocate and/or file a complaint if their right(s) are denied. There is no time limit for notification.
Who does the written policy for making a denial formal apply to?-pg. 6/15	1PC3M	Written policies adopted in the facilities are applicable to all patients and staff.
The good cause for safety and security is too vague.	1PC12AB 1PC49KR	DMH has separated safety and security and modified the definitions in Section 881 to read: (e)(v) " (v) 'Safety' security means protection of persons and property from potential danger, injury, harm, or damage." " (w) 'Security' means <u>the measures necessary to achieve the management and accountability of patients of the facility, staff, and visitors, as well as property of the facility.</u>
The plan to restore rights has been eliminated	1PC12AB	DMH modified Section 884(f) to read: (e) The patient/ resident shall be told of the content of the notation <u>and the process for restoration at the time of the denial.</u>
No on section 884(d)(1-5)	1PC15AY	No response needed
844(e) recommend that a written copy be provided for the patient.	1PC20BY 1PC22DT	Nothing in this Section prohibits the facility from providing a written copy to the patient.
Documentation requirements should include: 1. A full description of the incident/behavior which necessitates denial of rights. 2. Other less restrictive methods attempted prior to denial of rights and noted in the patient's clinical records. All pre-denial attempts must be documented.	1PC22DS	Subsections e) thru (g) provide documentation requirements for the denial of rights.
Information in patients' treatment records pertaining to denials of rights shall be available upon request to patients, their attorneys, the Department of Mental Health, or a member of the State Legislature, if patients consent to such a release of information.	1PC29EV	DMH has added Subsection (i) to Section 884 to read: (h) Information in the patients' treatment record <u>pertaining to a denial of rights shall be available on request to the patient, his attorney/conservator/guardian, the Department, or a member of the State Legislature.</u>

885 - Complaints and Appeals	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The right of appeal to a denial should be included in the documentation required when a right is denied.	1PC3T	In section 885(a) thru (g) outlines the appeal provisions via the complaint process for the denial of rights.
Inmates who have difficulty writing in English have access to assistance.	1PC34IT	Patients at the state hospitals and other DMH administered programs have access to interpreter services, staff or the Patients' Rights Advocate if assistance is needed to fill out a complaint form.
Inmates have access to specific forms for appeal that are readily accessible.	1PC34IT	The DMH does not currently require a specific form for filing appeals. The current appeal process is provided on the back of all complaint forms. Complaint forms are accessible on every unit and upon request from the Patients' Rights Advocate.
Specific forms and procedures are available to inmates with disabilities.	1PC34IT	Specific forms and procedures are available to the Non-LPS patients in the state hospitals and other DMH administered programs. The forms are available on each unit and from the Patients' Rights Advocate.
Specific guidelines enable the group to work efficiently.	1PC34IT	This comment is not specific to develop a response. These proposed regulations do not prohibit a group of Non-LPS patients from filing a complaint.
Multiple appeals on the same issue are recorded.	1PC34IT	This comment is not specific to develop a response.
Specific level of review ensure greater success.	1PC34IT	This comment is not specific to develop a response.
Emergency appeals must be resolved within the shortest practical time.	1PC34IT	DMH attempts to resolve all appeals in the shortest practical time, however, the complaint process must allow time for an investigation of the facts pertaining to the complaint.
Inmates have the right to appeal for lost or damaged property and may be reimbursed.	1PC34IT	The proposed regulations do not address this issue. The DMH has a process for Non-LPS patients to claim lost or damaged property.
Inmates may appeal to transfer.	1PC34IT	These proposed regulations do not prohibit Non-LPS patients from requesting a transfer.
Inmates have a right to submit a written grievance regarding health and safety standards.	1PC34IT	These proposed regulations do not prohibit Non-LPS patients from filing a complaint regarding health and safety standards.
Inmates have a right to appeal movie choices.	1PC34IT	These proposed regulations do not prohibit patients from suggesting movies they would like to view.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

Inmates, in general, are guaranteed an interview regarding the subject matter of the appeal.	1PC34IT	These proposed regulations do not prohibit the Patients' Right Advocate from interviewing the non-LPS patient during the investigation of a complaint.
Inmates have the right to appeal as a group.	1PC34IT	These proposed regulations do not prohibit a group of Non-LPS patients from filing a complaint.
Current policy has implemented procedures for filtering of complaints through the same kind of screening process described.	1PC22CN	DMH appreciates your support.
The realm of patients' rights that are to be addressed by the Patients' Rights Advocate may not be limited by the mere "consideration of hospital experience" as suggested in the Initial State of Reasons.	1PC29EW	The Department cited its experience with Non-LPS patients in the initial statement of reasons to demonstrate the difference and the need for different approaches between LPS and NON-LPS patients. The experience acquired with this group does not limit the rights of the Non-LPS patients or the responsibilities of the Patients' Rights Advocate.
Patients are to be afforded the right of access to the courts and a significant limitation upon patient's access to photocopying machines may result in cognizable denial of this right. Therefore, any blanket statement that patient's complaints regarding the use of copy machines do not relate to patients' rights issues is unfounded and in disregard of the law.	1PC29EX	The Department is not requesting any blanket denials or limitations in these proposed regulations. The Department is establishing reasonable parameters on copying to ensure all patients have access and are treated equally.
Complaints regarding meal selection may relate to issues including inadequate nutrition, insufficient sanitation, and religious dietary restrictions, they may not properly be dismissed as not relating to patients' rights issues.	1PC29EY	Individualized meal preferences for cultural and religious reasons are taken into consideration upon assessment and development of the treatment plan. Patients maintain the right to file a complaint and the Patients' Rights Advocate will assess the complaint and advise the patient if it is a rights violation or a complaint.
Proposed section 885(a) requires that the list of rights that must be posted, provided and explained the patients pursuant to section 884 shall also contain a series of statements regarding the procedures relevant to the complaint and appeal process. This section purports to facilitate patients' abilities to have complaints heard in a fair and timely fashion. However, it should require that all the rights listed in both sections 883 and 884 be posted, provided and explained to the patients.	1PC29EZ	Section 882 Notification of Rights states that each patients shall be informed of the rights in Sections 883 and 884 and they shall be prominently posted in the predominant language of the patients. DMH has modified the language in Section 885 to read: Non-LPS patients shall be informed of and provide with a written procedure for filing complaints or appeals alleging violations of any right(s) contained in Section 883 and 884.

886 - Quarterly Reports	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
You get to file a complaint but nothing else is done about it.	1PC48KA	Section 885 (a-g) outlines the process that includes assigning the Patients' Rights Advocate to investigate the complaint and respond as well as the appeal options and timeframes available to patients.
Complaints should have an immediate response for emergencies and one working day for non-emergencies.	1PC32IB	Section 885 outlines the process that includes assigning the Patients' Rights Advocate to investigate the complaint and respond. Timeframes were developed to expedite the process but allow for fact finding.
Request complaints go to facility director for response within 5 days.	1PC32IB	Timeframes were developed to expedite the process but allow for fact finding.
Reports should be available to patients. We don't know if these reports are filed or not- we'd like to see these reports.	1PC32GT 1PC48KB	The quarterly reports are required by Section 866, Title 9 and are tools used by the Director of DMH and his designees for quality improvement purposes.

890 - General Limitations	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The proposed text is not the least burdensome alternative available (to patients) to effectively implement the required result. <u>Proposed Language:</u> The facility's director shall require all hospital staff to wear a readily identifiable uniform. Patients shall be permitted to wear clothing that may not be reasonably confused with the clothing worn by hospital staff.	1PC29FI	Requiring staff to wear uniforms while allowing patients to wear personal clothing would create serious and burdensome problems for the secure treatment facilities both in relation to visitation of patients by family and other members of the public and in relation to the frequent reviews and visits made by representatives from licensing and oversight agencies.

891 - Internet Usage	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The internet is needed for education and legal use. Blocks can be used.	1PC14AQ 1PC21CG	The DMH provides alternative methods of education and a law library at each state hospital for legal use.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

	1PC32GV	
DMH is not missioned with controlling forms, degrees, types, etc of information those under its care participate in.	1PC16BC	The mission of DMH includes care and treatment of patients and the protection of patients, staff, visitors and the public.
Access to the internet should not be banned, as it is a violation of our First Amendment Right.	1PC19BQ	These proposed regulations do not violate First Amendment rights.
This section should not be construed to prohibit access to computers.	1PC29FJ	Hospitals may continue to provide access to computers, in accordance with facility policy, with a restriction on internet usage.
Allowed to the rest of society. Prisoners have access to computers and Internet.	1PC3HL	The DMH believes it is in the best interest of public safety to prohibit Non-LPS patients access to the internet.
Correspondence can currently be limited by clinical decision. This same discretion, possibly even more strictly applied could be applied to internet access.	1PC22DU	The DMH believes it is in the best interest of public safety to prohibit Non-LPS patients access to the internet.
I don't need Internet access. It may cause problems, criminal activity, hacking, porno.	1PC48KD	The DMH appreciates your support.

892 - Operating Business	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
This rule is ludicrous and wishes to foreclose any individuals entrepreneurial drive.	1PC16BE	Non-LPS patients are committed to the state hospitals and other DMH administered programs for treatment services. While the DMH provides vocational training and preparation for release, the purpose of hospitalization is not to support individual entrepreneurial endeavors.
This is a right to free enterprise.	1PC31HN	There is no right to free enterprise. The rights of a patient committed to the state hospitals and other DMH administered programs are different from a person in the community.
Patients are given no rights. Inmates can operate a business selling handcrafts.	1PC34IT	The proposed regulations outline the rights for Non-LPS patients. While the DMH provides vocational training and preparation for release, the purpose of hospitalization is not to support individual entrepreneurial endeavors.
No comments about this.	1PC48KE	Thank you.

892 - Other Comments	NUMBER	DEPARTMENT OF MENTAL HEALTH (DMH) RESPONSE
The right to purchase food from outside vendors should not change.	1PC6BB	This is not a right. It was not given nor taken away
The right to use calling cards should not change.	1PC6HH	This is not a right. It was not given nor taken away. The patients can purchase calling cards for the facility phone system from their trust accounts and that process should not change.
The right to have sex.	1PC8II 1PC22EH	This is not a right. It was not given nor taken away.
AT NSH there is a built in process for clients when they are concerned about global hospital wide issues.	1PC12AD	The DMH is supportive of the process at NSH.
SVPs should be in a category of their own.	1PC15AT 1PC21CI	The DMH has developed these regulations for the entire Non-LPS population and is not able to consider drafting separate regulations for each commitment classification served by the state hospitals at this time.
What is purpose to dress non-LPS patients differently from all patients?	1PC17BM	W&I Code Section 7232 reads: "the State DMH shall issue a state hospital administrative directive by no later than 30 days following the effective date of the Budget Act of 1997 to require patients whose placement has been required pursuant to provisions of the Penal Code, and other patients within the secured perimeter at each state hospital, to wear clothing that enables these patients to be readily identifiable."
It is illegal to house 1026 and 1370 patients with prisoners. These regulations would be unnecessary if the law was honored.	1PC20BR	DMH is unaware of any statute stating it is illegal to house patients committed under Sections 1026 and 1370 of the Penal Code together with prisoners. How DMH places non-LPS patients will not affect the application of these proposed regulations.
It is inappropriate to label all of the different commitments by the actions of a small minority.	1PC20BS 1PC22CL	It is not the intent of DMH to label patients.
The material is very complicated to understand and splitting the Statement of Reasons and Proposed Regulation Text into separate sections complicated matters.	1PC22CK	The DMH developed the documents per the rules established by the Office of Administrative Law. The DMH will provide all patients and staff with training once the regulations are approved.
Other DMH facilities allow patients to own computers so PSH should also.	1PC22EF	Individual facility policy determines if patients may own their own computer. Patients that are allowed to own computers must have approval from their treatment team.
While proposed DMH regulation recognizes no apparent right to marry, inmates have rights.	1PC34IT	The right of a patient to get married is not addressed in these proposed regulations.

PUBLIC COMMENTS Received During the 45 Days Ending July 2, 2002

The new regulations should verify the voting rights of 1026 patients.	1PC22EG	Patients committed pursuant to Section 1026 of the Penal Code are ineligible to vote. This information is set forth in Section 2211 (a)(1) of the Elections Code.
Patients are given no rights to earn money for any work they might do, nor do they have workers compensation. Inmates can be compensated for their work.	1PC34IT	The court commits patients to the state hospital based on an identified treatment need while a confinement to a Prison is punitive. Therefore, the proposed regulations have been developed for "patients" rather than inmates.