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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 4. MENTAL HEALTH [4000 - 4390] (Heading of Division 4 amended by Stats. 1977, Ch. 1252.)

PART 1. GENERAL ADMINISTRATION, POWERS AND DUTIES OF THE DEPARTMENT [4000 - 4098.5] (Heading of Part 1 amended by Stats. 1977, Ch. 1252.)

CHAPTER 1. General [4000 - 4027] (Heading of Chapter 1 added by Stats. 1978, Ch. 1393.)

4000. There is in the California Health and Human Services Agency a State Department of State Hospitals.
(Amended by Stats. 2012, Ch. 24, Sec. 63. (AB 1470) Effective June 27, 2012.)

4001. As used in this division "state hospital" means any hospital specified in Section 4100.
(Amended by Stats. 2012, Ch. 24, Sec. 64. (AB 1470) Effective June 27, 2012.)

4004. The department is under the control of an executive officer known as the Director of State Hospitals.
(Amended by Stats. 2012, Ch. 24, Sec. 65. (AB 1470) Effective June 27, 2012.)

4005. With the consent of the Senate, the Governor shall appoint, to serve at his or her pleasure, the Director of State Hospitals. He or she shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150), Part 1, Division 3, Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550), Part 1, Division 3, Title 2 of the Government Code.

Upon recommendation of the director, the Governor may appoint a chief deputy director of the department who shall hold office at the pleasure of the Governor. The salary of the chief deputy director shall be fixed in accordance with law.
(Amended by Stats. 2012, Ch. 24, Sec. 66. (AB 1470) Effective June 27, 2012.)

4005.1. The State Department of State Hospitals, the State Department of Health Care Services, and the State Department of Social Services may adopt and enforce rules and regulations necessary to carry out their respective duties under this division.
(Amended by Stats. 2012, Ch. 34, Sec. 42. (SB 1009) Effective June 27, 2012.)

4005.4. All regulations heretofore adopted by the State Department of Health pursuant to authority now vested in the State Department of Mental Health by Section 4005.1 and in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Mental Health.
(Amended by Stats. 1978, Ch. 429.)

4005.5. All regulations relating to state hospitals previously adopted by the State Department of Mental Health pursuant to authority now vested in the State Department of State Hospitals by Section 4005.1 and in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the Director of State Hospitals.
(Added by Stats. 2012, Ch. 24, Sec. 67. (AB 1470) Effective June 27, 2012.)

4005.6. All regulations heretofore adopted by the State Department of Mental Health pursuant to authority vested in the State Department of Health Care Services by Section 4005.1 and in effect immediately preceding the operative date of the act that added this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the Director of Health Care Services.
(Added by Stats. 2012, Ch. 34, Sec. 43. (SB 1009) Effective June 27, 2012.)

4005.7. All regulations heretofore adopted by the State Department of Mental Health, and its successor, pursuant to authority vested in the State Department of Health Care Services by Section 4005.1 and in effect immediately preceding the operative date of the act that amended this section in the first year of the 2013–14 Regular Session shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the Director of Health Care Services.

(Amended by Stats. 2013, Ch. 23, Sec. 29. (AB 82) Effective June 27, 2013.)

4005.8. (a) The Deputy Director of the Office of Protective Services of the State Department of State Hospitals has oversight of all protective service components within the department's law enforcement and fire protection services, including those at each state hospital. The deputy director shall be an experienced law enforcement officer who has completed the management training course prescribed by the Commission on Peace Officer Standards and Training, with extensive management experience directing uniformed peace officers and investigation officers.

(b) Wherever the term "Chief of the Office of Protective Services" is used in reference to the State Department of State Hospitals, the term shall be deemed to mean the Deputy Director of the Office of Protective Services of the State Department of State Hospitals.

(Added by Stats. 2018, Ch. 424, Sec. 6. (SB 1495) Effective January 1, 2019.)

4006. With the approval of the Department of Finance and for use in the furtherance of the work of the State Department of State Hospitals, the director may accept any or all of the following:

(a) Grants of interest in real property.

(b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in the scientific, educational, charitable, or mental health fields.

(Amended by Stats. 2012, Ch. 24, Sec. 68. (AB 1470) Effective June 27, 2012.)

4007. The department may expend in accordance with law all money now or hereafter made available for its use, or for the administration of any statute administered by the department.

(Repealed and added by Stats. 1967, Ch. 1667.)

4008. (a) The department may expend money in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business.

(b) For the purposes of this section and of Sections 11030 and 11032 of the Government Code, the following constitutes, among other purposes, official business for officers and employees of the department for which these officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this state upon approval of the Governor and Director of Finance:

(1) Attending meetings of any national or regional association or organization having as its principal purpose the study of matters relating to the care and treatment of mentally ill persons.

(2) Conferring with officers or employees of the United States or other states, relative to problems of institutional care, treatment or management.

(3) Obtaining information from organizations, associations, or persons described in paragraphs (1) and (2) which would be useful in the conduct of the activities of the State Department of State Hospitals.

(Amended by Stats. 2012, Ch. 24, Sec. 69. (AB 1470) Effective June 27, 2012.)

4009. The department may appoint and fix the compensation of such employees as it deems necessary, subject to the laws governing civil service.

(Repealed and added by Stats. 1967, Ch. 1667.)

4010. Except as in this chapter otherwise prescribed, the provisions of the Government Code relating to state officers and departments shall apply to the State Department of State Hospitals.

(Amended by Stats. 2012, Ch. 24, Sec. 70. (AB 1470) Effective June 27, 2012.)

4011. (a) The State Department of Health Care Services has jurisdiction over the execution of the laws relating to the care, custody, and treatment of persons with mental health disorders only to the extent and in the manner provided in this code. The State Department of State Hospitals shall have jurisdiction over the execution of the laws relating to care and treatment of persons with mental health disorders under the custody of the State Department of State Hospitals.

(b) As used in this division, "establishment" and "institution" include every hospital, boarding home, or other place receiving or caring for persons with mental health disorders.

(Amended by Stats. 2014, Ch. 144, Sec. 59. (AB 1847) Effective January 1, 2015.)

4011.5. In counties where hospitals under the jurisdiction of the State Department of State Hospitals are located, the state hospitals shall ensure that appropriate special education and related services, pursuant to Chapter 8 (commencing with Section 56850) of Part 30 of Division 4 of Title 2 of the Education Code, are provided eligible individuals with exceptional needs residing in state hospitals.

(Amended by Stats. 2012, Ch. 24, Sec. 71. (AB 1470) Effective June 27, 2012.)

4012. The State Department of State Hospitals, the State Department of Health Care Services, and other departments as necessary, may:

(a) Disseminate educational information relating to the prevention, diagnosis, and treatment of mental illness.

(b) Upon request, advise a public officer, organization, or agency interested in the mental health of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper mental health facilities throughout the state.

(d) Coordinate state activities involving other departments whose actions affect a person with a mental health condition.

(e) Coordinate with, and provide information to, other states and national organizations, on issues involving mental health.

(f) Disseminate information and federal and private foundation funding opportunities to a county or city that administers mental health programs.

(Amended by Stats. 2024, Ch. 948, Sec. 1. (AB 2119) Effective January 1, 2025.)

4012.5. The State Department of State Hospitals may obtain psychiatric, medical and other necessary aftercare services for judicially committed patients on leave of absence from state hospitals by contracting with any city, county, local health district, or other public officer or agency, or with any private person or agency to furnish such services to patients in or near the home community of the patient. Any city, county, local health district, or other public officer or agency authorized by law to provide mental health and aftercare services is authorized to enter such contracts.

(Amended by Stats. 2012, Ch. 24, Sec. 73. (AB 1470) Effective June 27, 2012.)

4015. (a) The State Department of State Hospitals shall, in coordination with the task force described in subdivision (c) and with other state entities, including, but not limited to, the Department of General Services, the State Department of Developmental Services, the Secretary of State, and the California State Library, do all of the following:

(1) Conduct and complete inventories of all of the following:

(A) All materials and records necessary to create the most complete record of persons who died while residing at any state hospital as defined in Section 7200, or any developmental center as defined in Section 4440.

(B) Within existing resources, identify the location of all gravesites at existing state hospitals and developmental center lands and of gravesites not located on state lands but designated by the state for burial of state hospital or developmental center residents. This shall include the location of remains that may have been moved from their original burial site and the location of grave markers that may have been moved from gravesites.

(C) Within existing resources, identify the names of patients whose remains were donated for medical research, the entity to which the remains were donated, and the final disposition of those remains.

(2) Assist and cooperate with the California Memorial Project in conducting research regarding the records of deaths and burials of persons at state hospitals and developmental centers and cemeteries based on the grounds of these facilities. This assistance shall, subject to paragraph (3), include the granting of access to those state records as necessary to perform the inventories described in this section.

(3) Notwithstanding Sections 4514 and 5328 or any other provision of law regarding confidentiality of patient records, the information described in this section shall be limited to the name, date of birth, date of death, and photographic images of any person who died while in residency at any state hospital or developmental center and shall be made available for the purposes of the implementation of this section. The exportation and use of these records or photographic images from state facilities shall be limited to the information delineated within, and the purposes of, this section.

(4) Assist the California Memorial Project in developing a plan for the restoration of gravesites and cemeteries at state hospitals and developmental centers and gravesites not located on state lands but designated by the state for burial of state hospital or developmental center residents.

(5) Notwithstanding Sections 4514 and 5328 or any other provision of law governing the confidentiality of patient records, with respect to any monument or memorial erected consistent with this section, the department may include, if available, the name, date of birth, and date of death, of any person being memorialized who died while in residency at a state hospital or developmental center and who was buried by the state.

(6) Develop a protocol for the future interment of patients who die while residing at a state hospital or developmental center and are unclaimed by a family member.

(b) The department may develop a protocol to coordinate the efforts of the state entities described in subdivision (a).

(c) (1) The department shall establish a task force to provide leadership and direction in carrying out the activities described in this section. The task force shall consist of representatives selected by each of the following entities:

(A) The Peer Self-Advocacy Unit of Disability Rights California.

(B) California Network of Mental Health Clients.

(C) Capitol People First.

(2) To the extent that funding is available, task force members shall be reimbursed for necessary travel expenses associated with serving on the task force. When requested by a task force member with a disability, the state shall pay the cost of a facilitator chosen by the task force member.

(d) In implementing this section, the state shall make no structural changes to existing gravesites on state hospital or developmental center lands prior to the submission of, and which do not conform with, the restoration plan described in paragraph (4) of subdivision (a).

(e) Pursuant to the plan described in paragraph (4) of subdivision (a), the department shall seek funding for this section from the California Cultural and Historical Endowment, in addition to any other resources that may be available to the department, excluding General Fund moneys, to restore, preserve, and memorialize the gravesite located at Napa State Hospital.

(Amended by Stats. 2012, Ch. 24, Sec. 74. (AB 1470) Effective June 27, 2012.)

4016. In every place in which a person with a mental health disorder may be involuntarily held, the persons confined therein shall be permitted access to, and examination or inspection of, copies of this code.

(Amended by Stats. 2014, Ch. 144, Sec. 60. (AB 1847) Effective January 1, 2015.)

4017. (a) The department may provide information to the Controller to guide distribution of resources dedicated for mental health services under Chapter 6 (commencing with Section 17600) of Part 5 of Division 9, and may distribute to a county or combination of counties acting jointly resources described in Part 2 (commencing with Section 5600) of Division 5, pursuant to Section 5701.

(b) The department may contract with a county or combination of counties for services described in this division and Division 5 (commencing with Section 5000), to the extent that those services are funded directly by the department.

(Amended by Stats. 1991, Ch. 611, Sec. 16. Effective October 7, 1991.)

4021. (a) When the department has reason to believe that a person held in custody as having a mental health disorder is wrongfully deprived of his or her liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safekeeping of that person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may exercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

(b) Whenever the department undertakes an investigation into the general management and administration of an establishment or place of detention for persons with mental health disorders, it may give notice of that investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this code.

(Amended by Stats. 2014, Ch. 144, Sec. 61. (AB 1847) Effective January 1, 2015.)

4022. When complaint is made to the department regarding the officers or management of a hospital or institution for persons with mental health disorders, or regarding the management of a person detained therein or regarding a person held in custody as having a mental health disorder, the department may, before making an examination regarding the complaint, require it to be made in writing and sworn to before an officer authorized to administer oaths. On receipt of such a complaint, sworn to if so required, the department shall direct that a copy of the complaint be served on the authorities of the hospital or institution or the person against whom complaint is made, together with notice of the time and place of the investigation, as the department directs.

(Amended by Stats. 2014, Ch. 144, Sec. 62. (AB 1847) Effective January 1, 2015.)

4023. (a) The State Department of State Hospitals shall report to the agency described in subdivision (i) of Section 4900 the following incidents involving a resident of a state mental hospital:

- (1) Any unexpected or suspicious death, regardless of whether the cause is immediately known.
- (2) Any allegation of sexual assault, as defined in Section 15610.63, in which the alleged perpetrator is an employee or contractor of a state mental hospital or of the Department of Corrections and Rehabilitation.
- (3) Any report made to the local law enforcement agency in the jurisdiction in which the facility is located that involves physical abuse, as defined in Section 15610.63, in which a staff member is implicated.

(b) A report pursuant to this section shall be made no later than the close of the first business day following the discovery of the reportable incident.

(Added by Stats. 2012, Ch. 660, Sec. 1. (SB 1051) Effective September 27, 2012.)

4023.6. (a) The Office of Law Enforcement Support within the California Health and Human Services Agency shall investigate both of the following:

- (1) Any incident at a developmental center or state hospital that involves developmental center or state hospital law enforcement personnel and that meets the criteria in Section 4023 or 4427.5, or alleges serious misconduct by law enforcement personnel.
- (2) Any incident at a developmental center or state hospital that the Chief of the Office of Law Enforcement Support, the Secretary of the California Health and Human Services Agency, or the Undersecretary of the California Health and Human Services Agency directs the office to investigate.

(b) All incidents that meet the criteria of Section 4023 or 4427.5 shall be reported immediately to the Chief of the Office of Law Enforcement Support by the Chief of the facility's Office of Protective Services.

(c) (1) Before adopting policies and procedures related to fulfilling the requirements of this section related to the Developmental Centers Division of the State Department of Developmental Services, the Office of Law Enforcement Support shall consult with the executive director of the protection and advocacy agency established by Section 4901, or his or her designee; the Executive Director of the Association of Regional Center Agencies, or his or her designee; and other advocates, including persons with developmental disabilities and their family members, on the unique characteristics of the persons residing in the developmental centers and the training needs of the staff who will be assigned to this unit.

- (2) Before adopting policies and procedures related to fulfilling the requirements of this section related to the State Department of State Hospitals, the Office of Law Enforcement Support shall consult with the executive director of the protection and advocacy agency established by Section 4901, or his or her designee, and other advocates, including persons with mental health disabilities, former state hospital residents, and their family members.

(Added by Stats. 2015, Ch. 26, Sec. 44. (SB 85) Effective June 24, 2015.)

4023.7. (a) The Office of Law Enforcement Support shall be responsible for contemporaneous oversight of investigations that (1) are conducted by the State Department of State Hospitals and involve an incident that meets the criteria of Section 4023, and (2) are conducted by the State Department of Developmental Services and involve an incident that meets the criteria of Section 4427.5.

(b) Upon completion of a review, the Office of Law Enforcement Support shall prepare a written incident report, which shall be held as confidential.

(Added by Stats. 2015, Ch. 26, Sec. 45. (SB 85) Effective June 24, 2015.)

4023.8. (a) (1) Commencing October 1, 2016, the Office of Law Enforcement Support shall issue regular reports, no less than semiannually, to the Governor, the appropriate policy and budget committees of the Legislature, and the Joint Legislative Budget Committee, summarizing the investigations it conducted pursuant to Section 4023.6 and its oversight of investigations pursuant to Section 4023.7. Reports encompassing data from January through June, inclusive, shall be made on October 1 of each year, and reports encompassing data from July to December, inclusive, shall be made on March 1 of each year.

(2) The reports required by paragraph (1) shall include, but not be limited to, all of the following:

(A) The number, type, and disposition of investigations of incidents.

(B) A synopsis of each investigation reviewed by the Office of Law Enforcement Support.

(C) An assessment of the quality of each investigation, the appropriateness of any disciplinary actions, the Office of Law Enforcement Support's recommendations regarding the disposition in the case and the level of disciplinary action, and the degree to which the agency's authorities agreed with the Office of Law Enforcement Support's recommendations regarding disposition and level of discipline.

(D) The report of any settlement and whether the Office of Law Enforcement Support concurred with the settlement.

(E) The extent to which any disciplinary action was modified after imposition.

(F) Timeliness of investigations and completion of investigation reports.

(G) The number of reports made to an individual's licensing board, including, but not limited to, the Medical Board of California, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, or the California State Board of Pharmacy, in cases involving serious or criminal misconduct by the individual.

(H) The number of investigations referred for criminal prosecution and employee disciplinary action and the outcomes of those cases.

(I) The adequacy of the State Department of State Hospitals' and the Developmental Centers Division of the State Department of Developmental Services' systems for tracking patterns and monitoring investigation outcomes and employee compliance with training requirements.

(3) The reports required by paragraph (1) shall be in a form that does not identify the agency employees involved in the alleged misconduct.

(4) The reports required by paragraph (1) shall be posted on the Office of Law Enforcement Support's Internet Web site and otherwise made available to the public upon their release to the Governor and the Legislature.

(b) The protection and advocacy agency established by Section 4901 shall have access to the reports issued pursuant to paragraph (1) of subdivision (a) and all supporting materials except personnel records.

(Added by Stats. 2015, Ch. 26, Sec. 46. (SB 85) Effective June 24, 2015.)

4024. The State Department of State Hospitals proposed allocations for level-of-care staffing in state hospitals that serve persons with mental disabilities shall be submitted to the Department of Finance for review and approval in July and again on a quarterly basis. Each quarterly report shall include an analysis of client characteristics of admissions and discharges in addition to information on any changes in characteristics of current residents.

The State Department of State Hospitals shall submit by January 1 and May 1 to the Department of Finance for its approval: (a) all assumptions underlying estimates of state hospital mentally disabled population; and (b) a comparison of the actual and estimated population levels for the year to date. If the actual population differs from the estimated population by 50 or more, the department shall include in its reports an analysis of the causes of the change and the fiscal impact. The Department of Finance shall approve or modify the assumptions underlying all population estimates within 15 working days of their submission. If the Department of Finance does not approve or modify the assumptions by that date, the assumptions, as presented by the submitting department, shall be deemed to be accepted by the Department of Finance as of that date.

(Amended by Stats. 2013, Ch. 275, Sec. 9. (AB 1420) Effective January 1, 2014.)

4024.7. The Governor or the Director of Health Care Services shall appoint, subject to confirmation by the Senate, a Deputy Director of Mental Health and Substance Use Disorder Services of the State Department of Health Care Services. The salary for the

deputy director shall be fixed in accordance with law.

(Added by Stats. 2012, Ch. 23, Sec. 47. (AB 1467) Effective June 27, 2012.)

4025. Charges made by the department for the care and treatment of each patient in a facility maintained by the department shall not exceed the actual cost thereof as determined by the director in accordance with standard accounting practices. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his determination of actual cost.

As used in this section, the terms "care" and "care and treatment" include care, treatment, support, maintenance, and other services rendered by the department to a patient in the state hospital or other facility maintained by or under the jurisdiction of the department.

(Added by Stats. 1968, Ch. 1374.)

4027. The State Department of State Hospitals may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders receiving treatment pursuant to Sections 1026, 1026.2, 1364, 1370, 1610, and 2684 of the Penal Code, Section 1756 of this code, persons receiving treatment as mentally disordered sex offenders, and inmates of jail psychiatric units.

(Amended by Stats. 2012, Ch. 24, Sec. 76. (AB 1470) Effective June 27, 2012.)