



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

Code:  Section:

[Up^](#) [Add To My Favorites](#)

**GOVERNMENT CODE - GOV**

**TITLE 1. GENERAL [100 - 7931.000]** ( Title 1 enacted by Stats. 1943, Ch. 134. )

**DIVISION 3.6. CLAIMS AND ACTIONS AGAINST PUBLIC ENTITIES AND PUBLIC EMPLOYEES [810 - 998.3]** ( Division 3.6 added by Stats. 1963, Ch. 1681. )

**PART 2. LIABILITY OF PUBLIC ENTITIES AND PUBLIC EMPLOYEES [814 - 895.8]** ( Part 2 added by Stats. 1963, Ch. 1681. )

**CHAPTER 5. Medical, Hospital and Public Health Activities [854 - 856.6]** ( Chapter 5 added by Stats. 1963, Ch. 1681. )

**854.** As used in this chapter, unless the context otherwise requires, "medical facility" includes a hospital, infirmary, clinic, dispensary, mental institution, or similar facility.

(Added by Stats. 1963, Ch. 1681.)

**854.1.** (a) It is the intent of the Legislature to ensure continuity of care for individuals with developmental disabilities transitioning from a developmental center to the community and to prevent the unnecessary institutionalization and hospitalization of these individuals.

(b) In the effort to achieve these goals, it is the intent of the Legislature to seek and implement recommendations that include all of the following services to retain developmental center staff as employees:

(1) Crisis management teams that provide behavioral, medical, and dental treatment, training, and technical assistance.

(2) Specialized services, including adaptive equipment design and fabrication, and medical, dental, psychological, and assessment services.

(3) Staff support in community homes to assist individuals with behavioral or psychiatric needs.

(c) As used in this chapter, the terms "mental institution" or "medical facility" also include a developmental services facility. For the purposes of this chapter "developmental services facility" means any facility or place where a public employee provides services and supports to individuals transitioning from a developmental center to the community or to individuals with developmental disabilities at risk of admission to a developmental center, an institution for mental disease, an out-of-state placement, a general acute care hospital, or an acute psychiatric hospital.

(Amended by Stats. 2014, Ch. 30, Sec. 1. (SB 856) Effective June 20, 2014.)

**854.2.** As used in this chapter, "mental institution" means a state hospital for the care and treatment of persons with mental health disorders or intellectual disabilities, the California Rehabilitation Center referred to in Section 3300 of the Welfare and Institutions Code, or a county psychiatric hospital.

(Amended by Stats. 2014, Ch. 144, Sec. 15. (AB 1847) Effective January 1, 2015.)

**854.3.** As used in this chapter, "county psychiatric hospital" means the hospital, ward, or facility provided by the county pursuant to the provisions of Section 7100 of the Welfare and Institutions Code.

(Added by Stats. 1970, Ch. 1099.)

**854.4.** As used in this chapter, "mental illness or addiction" means any condition for which a person may be detained, cared for, or treated in a mental institution, in a facility designated by a county pursuant to Chapter 2 (commencing with Section 5150) of Part 1 of Division 5 of the Welfare and Institutions Code, or in a similar facility.

(Amended by Stats. 1970, Ch. 1099.)

**854.5.** As used in this chapter, “confine” includes admit, commit, place, detain, or hold in custody.

*(Added by Stats. 1970, Ch. 1099.)*

**854.8.** (a) Notwithstanding any other provision of this part, except as provided in this section and in Sections 814, 814.2, 855, and 855.2, a public entity is not liable for:

(1) An injury proximately caused by a patient of a mental institution.

(2) An injury to an inpatient of a mental institution.

(b) Nothing in this section affects the liability of a public entity under Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code.

(c) Except for an injury to an inpatient of a mental institution, nothing in this section prevents recovery from the public entity for an injury resulting from the dangerous condition of public property under Chapter 2 (commencing with Section 830) of this part.

(d) Nothing in this section exonerates a public employee from liability for injury proximately caused by his negligent or wrongful act or omission. The public entity may but is not required to pay any judgment, compromise or settlement, or may but is not required to indemnify any public employee, in any case where the public entity is immune from liability under this section; except that the public entity shall pay, as provided in Article 4 (commencing with Section 825) of Chapter 1 of this part, any judgment based on a claim against a public employee who is lawfully engaged in the practice of one of the healing arts under any law of this state for malpractice arising from an act or omission in the scope of his employment, and shall pay any compromise or settlement of a claim or action, based on such malpractice, to which the public entity has agreed.

*(Amended by Stats. 1970, Ch. 1099.)*

**855.** (a) A public entity that operates or maintains any medical facility that is subject to regulation by the State Department of Health Services, Social Services, Developmental Services, or Mental Health is liable for injury proximately caused by the failure of the public entity to provide adequate or sufficient equipment, personnel or facilities required by any statute or any regulation of the State Department of Health Services, Social Services, Developmental Services, or Mental Health prescribing minimum standards for equipment, personnel or facilities, unless the public entity establishes that it exercised reasonable diligence to comply with the applicable statute or regulation.

(b) A public entity that operates or maintains any medical facility that is not subject to regulation by the State Department of Health Services, Social Services, Developmental Services, or Mental Health is liable for injury proximately caused by the failure of the public entity to provide adequate or sufficient equipment, personnel or facilities substantially equivalent to those required by any statute or any regulation of the State Department of Health Services, Social Services, Developmental Services, or Mental Health prescribing minimum standards for equipment, personnel or facilities applicable to a public medical facility of the same character and class, unless the public entity establishes that it exercised reasonable diligence to conform with such minimum standards.

(c) Nothing in this section confers authority upon, or augments the authority of, the State Department of Health Services, Social Services, Developmental Services, or Mental Health to adopt, administer or enforce any regulation. Any regulation establishing minimum standards for equipment, personnel or facilities in any medical facility operated or maintained by a public entity, to be effective, must be within the scope of authority conferred by law.

*(Amended by Stats. 1978, Ch. 429.)*

**855.2.** Neither a public entity nor a public employee acting within the scope of his employment is liable for interfering with the right of an inmate of a medical facility operated or maintained by a public entity to obtain a judicial determination or review of the legality of his confinement; but a public employee, and the public entity where the employee is acting within the scope of his employment, is liable for injury proximately caused by the employee’s intentional and unjustifiable interference with such right, but no cause of action for such injury shall be deemed to accrue until it has first been determined that the confinement was illegal.

*(Amended by Stats. 1970, Ch. 1099.)*

**855.4.** (a) Neither a public entity nor a public employee is liable for an injury resulting from the decision to perform or not to perform any act to promote the public health of the community by preventing disease or controlling the communication of disease within the community if the decision whether the act was or was not to be performed was the result of the exercise of discretion vested in the public entity or the public employee, whether or not such discretion be abused.

(b) Neither a public entity nor a public employee is liable for an injury caused by an act or omission in carrying out with due care a decision described in subdivision (a).

*(Added by Stats. 1963, Ch. 1681.)*

**855.6.** Except for an examination or diagnosis for the purpose of treatment, neither a public entity nor a public employee acting within the scope of his employment is liable for injury caused by the failure to make a physical or mental examination, or to make an adequate physical or mental examination, of any person for the purpose of determining whether such person has a disease or physical or mental condition that would constitute a hazard to the health or safety of himself or others.

*(Added by Stats. 1963, Ch. 1681.)*

**855.8.** (a) Neither a public entity nor a public employee acting within the scope of his employment is liable for injury resulting from diagnosing or failing to diagnose that a person is afflicted with mental illness or addiction or from failing to prescribe for mental illness or addiction.

(b) A public employee acting within the scope of his employment is not liable for administering with due care the treatment prescribed for mental illness or addiction.

(c) Nothing in this section exonerates a public employee who has undertaken to prescribe for mental illness or addiction from liability for injury proximately caused by his negligence or by his wrongful act in so prescribing.

(d) Nothing in this section exonerates a public employee from liability for injury proximately caused by his negligent or wrongful act or omission in administering any treatment prescribed for mental illness or addiction.

*(Added by Stats. 1963, Ch. 1681.)*

**856.** (a) Neither a public entity nor a public employee acting within the scope of his employment is liable for any injury resulting from determining in accordance with any applicable enactment:

(1) Whether to confine a person for mental illness or addiction.

(2) The terms and conditions of confinement for mental illness or addiction.

(3) Whether to parole, grant a leave of absence to, or release a person confined for mental illness or addiction.

(b) A public employee is not liable for carrying out with due care a determination described in subdivision (a).

(c) Nothing in this section exonerates a public employee from liability for injury proximately caused by his negligent or wrongful act or omission in carrying out or failing to carry out:

(1) A determination to confine or not to confine a person for mental illness or addiction.

(2) The terms or conditions of confinement of a person for mental illness or addiction.

(3) A determination to parole, grant a leave of absence to, or release a person confined for mental illness or addiction.

*(Amended by Stats. 1970, Ch. 1099.)*

**856.2.** (a) Neither a public entity nor a public employee is liable for:

(1) An injury caused by an escaping or escaped person who has been confined for mental illness or addiction.

(2) An injury to, or the wrongful death of, an escaping or escaped person who has been confined for mental illness or addiction.

(b) Nothing in this section exonerates a public employee from liability:

(1) If he acted or failed to act because of actual fraud, corruption, or actual malice.

(2) For injuries inflicted as a result of his own negligent or wrongful act or omission on an escaping or escaped mental patient in recapturing him.

*(Amended by Stats. 1970, Ch. 1099.)*

**856.4.** Except as provided in Section 815.6, neither a public entity nor a public employee acting in the scope of his employment is liable for an injury resulting from the failure to admit a person to a public medical facility.

*(Added by Stats. 1963, Ch. 1681.)*

**856.6.** (a) A public entity, public employee, or volunteer, participating in the National Influenza Program of 1976, shall not be liable for an injury caused by an act or omission in the promotion of a community program or the administration of vaccine in a community program, including the residual effects of the vaccine, unless the act or omission constitutes willful misconduct.

(b) All promotions of a community program and oral and written information provided for purposes of consent to a person requesting inoculation shall contain notice of the provisions of subdivision (a) of this section. In the event the person to be inoculated is a minor, the parents or legal guardian of said minor must be informed orally or in writing of the provisions of subdivision (a) of this section and said parents or legal guardian must consent in writing to the inoculation of said minor person. The State Department of Health shall prescribe a form to be used in community programs which notifies a person of the provisions of subdivision (a) and contains a provision by which the person acknowledges that he has been so notified and understands the legal effect of the subdivision.

(c) As used in the section:

(1) "Community program" means a public program conducted by a state, city, county, or district health agency under the National Influenza Program of 1976 or a public or private organization which has entered into a contract with a state, city, county, or district health agency, with the approval of the State Department of Health, to provide services pursuant to the National Influenza Program of 1976.

(2) "Volunteer" means a licensed health professional, licensed health facility, organization, or individual participating in a community program.

(d) Notwithstanding any other provision of law, an individual authorized by the State Department of Health may administer influenza vaccine under the supervision of a licensed health professional in a community program using a jet injection apparatus.

*(Added by Stats. 1976, Ch. 427.)*