

STATE OF CALIFORNIA

OFFICE OF ADMINISTRATIVE LAW

2026 OAL DETERMINATION NUMBER 1

(OAL MATTER NUMBER CTU2025-0707-01)

REQUESTED BY: David Allen

CONCERNING: Administrative Directive No. 830, dated December 12, 2023, Special Incident Reports, issued by the Department of State Hospitals – Coalinga.

DETERMINATION ISSUED PURSUANT TO GOVERNMENT CODE SECTION 11340.5.

SCOPE OF REVIEW

A determination by the Office of Administrative Law (OAL) evaluates whether an action or enactment by a state agency complies with California administrative law governing how state agencies adopt regulations. OAL review is limited to the sole issue of whether the challenged rule meets the definition of “regulation” as defined in Government Code section 11342.600 and is subject to the Administrative Procedure Act (APA).

If a rule meets the definition of “regulation,” but was not adopted pursuant to the APA and should have been, it is an underground regulation as defined in California Code of Regulations (CCR), title 1, section 250.¹ Nothing in this analysis evaluates the advisability or wisdom of the underlying action or enactment.

¹ “Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in Section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA. (Cal. Code Regs., tit. 1, § 250, subd. (a)(1).)

CHALLENGED RULE

At issue is whether Administrative Directive No. 830 (A.D. 830), dated December 12, 2023, issued by the Department of State Hospitals - Coalinga (DSH-C), regarding Special Incident Reports, contains underground regulations. A.D. 830 is attached hereto as Exhibit A.

DETERMINATION

OAL determines that A.D. 830 contains rules meeting the definition of “regulation” that the Department of State Hospitals (Department) should have adopted pursuant to the APA but did not. A.D. 830, therefore, contains underground regulations.

FACTUAL BACKGROUND

On July 7, 2025, OAL received the petition from David Allen (Petitioner).

On September 4, 2025, OAL accepted the petition for consideration.

On September 19, 2025, OAL published a summary of the petition in the California Regulatory Notice Register and solicited comments from the public until October 20, 2025. OAL did not receive any public comments on this petition.

On October 31, 2025, OAL received the Department’s response to the petition, which was due no later than November 3, 2025. The Department’s timely response indicates that the Department provided a copy of the response to Petitioner on October 31, 2025.

On December 1, 2025, OAL received a rebuttal from Petitioner, which was due no later than November 17, 2025. Due to its lateness, OAL will not consider Petitioner’s rebuttal.

THE DEPARTMENT’S RESPONSE TO THE PETITION

In its response, the Department asserts A.D. 830 does not meet the definition of a regulation because it does not meet the elements set forth in *Tidewater Marine Western, Inc. v. Bradshaw*.² The Department also asserts A.D. 830 is not a regulation because it “restates various regulations and statutory codes to clarify statutory mandated duties into more manageable concepts to comprehend.”³ Also relevant to the analysis in this determination, the

² *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557.

³ Department Response to the Petition, p. 8.

Department asserts A.D. 830 is exempt from the APA for the following reasons:

1. It contains rules that only apply to DSH-C employees and does not apply generally to the population throughout the State of California;⁴
2. It relates only to the internal management of DSH-C;⁵ and
3. It embodies the only legally tenable interpretation of law or is a restatement of existing law.⁶

The Department's response did not identify any other potentially applicable exemptions from the APA.

EXISTING STATUTES AND REGULATIONS RELATING TO THE CHALLENGED RULE

The following statutes and regulations relate to A.D. 830.

1. [The Department] ... may adopt and enforce rules and regulations necessary to carry out [its] ... duties under this division [regarding the care and treatment of persons with mental health disorders under the custody of the Department].⁷
2. [The Department] 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 Department].⁸
3. [The Department] may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders ... persons receiving treatment as mentally disordered sex offenders, and inmates of jail psychiatric units.⁹
4. [The Department] has general control and direction of the property and concerns of each state hospital ... The [D]epartment shall ... [t]ake care of the interests of the hospital, and see that its purpose and its bylaws, rules, and regulations are carried into effect, according to law

⁴ Department Response to the Petition, p. 6; Gov. Code, § 11340.9, subd. (i).

⁵ Department Response to the Petition, p. 7; Gov. Code, § 11340.9, subd. (d).

⁶ Department Response to the Petition, p. 8; Gov. Code, § 11340.9, subd. (f).

⁷ Welf. & Inst. Code, § 4005.1.

⁸ Welf. & Inst. Code, § 4011, subd. (a).

⁹ Welf. & Inst. Code, § 4027.

... [e]stablish such bylaws, rules, and regulations ... for regulating the duties of officers and employees of the hospital, and for its internal government ... and management ... [m]aintain an effective inspection of the hospital.¹⁰

5. The hospital director may establish rules and regulations not inconsistent with law or departmental regulations, concerning the care and treatment of patients, research, clinical training, and for the government of the hospital buildings and grounds. Any person who knowingly or willfully violates such rules and regulations may, upon the order of either of the hospital officers, be ejected from the buildings and premises of the hospital.¹¹
6. Health facilities are required to report adverse events to the Department of Public Health. The statutory list of adverse events includes, in relevant part: surgical events, product or device events, patient protection events, care management events, environmental events, criminal events, and events which cause the death or serious disability of a patient, personnel, or visitor.¹² The Department of Public Health requires all adverse events be reported to it through its secure internet website and that such reports include certain identifying information.¹³
7. Mandated reporters are required to report allegations of abuse or neglect against the elderly¹⁴ and children¹⁵.
8. The medical director or person in charge of a state hospital ... shall promptly notify the chief of police of the city in which the hospital or facility is located, or the sheriff of the county if the hospital or facility is located in an unincorporated area, of the escape of the person, and shall request the assistance of the chief of police or sheriff in apprehending the person, and shall within 48 hours of the escape of the person orally notify the court that made the commitment, the prosecutor in the case, and the Department of Justice of the escape.¹⁶
9. Each [Department] facility may require individuals and the public that complain against a police officer employed by the hospital to set forth

¹⁰ Welf. & Inst. Code, § 4109.

¹¹ Welf. & Inst. Code, § 4312.

¹² Health & Saf. Code, § 1279.1.

¹³ Cal. Code Regs., tit. 22, § 70972.

¹⁴ Welf. & Inst. Code, § 15630.

¹⁵ Pen. Code, § 11166.

¹⁶ Pen. Code, § 1370.5.

such complaint in writing. The facility may offer an optional complaint form ... An investigation of each complaint shall be initiated within a reasonable time after receipt based on and subject to staffing limitations and workloads, and the complexity of the complaint.¹⁷

10. The Division of Occupational Health and Safety in California's Department of Industrial Relations (Cal/OSHA) requires health care facilities to take preventative measures to reduce violence in the workplace in mental health facilities. Those measures include, in pertinent part, keeping a Violent Incident Log and reporting any incidents to Cal/OSHA which involve use of force against an employee by a patient or person accompanying a patient or which have a high likelihood of resulting in injury or stress to the employee.¹⁸

UNDERGROUND REGULATIONS

Government Code section 11340.5, subdivision (a), provides:

No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in [Government Code] Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to [the APA].

When an agency issues, utilizes, enforces, or attempts to enforce a rule in violation of Government Code section 11340.5 that is not exempt from the APA, it creates an underground regulation as defined in section 250 of title 1 of the CCR.

OAL may issue a determination as to whether an agency has issued, utilized, enforced, or attempted to enforce a rule that meets the definition of a "regulation" as defined in Government Code section 11342.600 and should have been adopted pursuant to the APA.¹⁹ An OAL determination is not enforceable against the agency through any formal administrative means, but it is entitled to due deference in any subsequent litigation of the issue.²⁰

¹⁷ Cal. Code Regs., tit. 9, § 4325, subds. (a) & (b).

¹⁸ Cal. Code Regs., tit. 8, § 3342, subds. (d) & (g).

¹⁹ Gov. Code, § 11340.5, subd. (b).

²⁰ *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 428.

ANALYSIS

OAL's authority to issue a determination extends only to the limited question of whether the challenged rule is a regulation subject to the APA. This analysis will determine (1) whether the challenged rule is a regulation within the meaning of Government Code section 11342.600, and (2) whether the challenged rule falls within any recognized exemption from APA requirements.

I. A.D. 830 Contains Regulations.

"Regulation" is defined in Government Code section 11342.600 as:

. . . every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.

In *Tidewater Marine Western, Inc. v. Victoria Bradshaw*, the California Supreme Court found that:

A regulation subject to the [APA] has two principal identifying characteristics. First, the agency must intend its rule to apply generally, rather than in a specific case. The rule need not, however, apply universally; a rule applies generally so long as it declares how a certain class of cases will be decided. Second, the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure.²¹

As stated in *Tidewater*, the first element used to identify a "regulation" is whether the rule applies generally. As *Tidewater* points out, a rule need not apply to all persons in the State of California. It is sufficient if the rule applies to a clearly defined class of persons or situations.²² By its own terms, A.D. 830 applies to all patients and staff at DSH-C as well as visitors to the facility and, therefore, applies to a class of persons. Moreover, each class of persons impacted by A.D. 830 is an open class with individuals regularly hired at, leaving from, committed to, discharged from, or visiting the facility. As such, the Department's assertion that A.D. 830 does not apply generally because it applies only to DSH-C staff²³ is without merit.

²¹ *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571.

²² *Roth v. Department of Veterans Affairs* (1980) 110 Cal.App.3d 622, 630.

²³ Department Response to the Petition, p. 2.

The second element of a regulation under *Tidewater* is that the rule must implement, interpret, or make specific the law enforced or administered by the agency, or govern the agency's procedure.

The rules contained in A.D. 830 implement, interpret, and make specific the Welfare and Institutions Code sections enforced or administered by the Department and govern the Department's procedure in at least the following ways:

1. They implement, interpret, and make specific section 4005.1 and subdivision (a) of section 4011 of the Welfare and Institutions Code in order to carry out the Department's duty to execute the laws relating to care and treatment of persons under the Department's custody.
2. They implement, interpret, and make specific section 4027 of the Welfare and Institutions Code because they concern patients' rights and related procedures applicable to their treatment.
3. They implement, interpret, and make specific section 4109 of the Welfare and Institutions Code because they provide for the general control and direction of DSH-C. They also seek to ensure the purpose, rules, and regulations of the Department are carried into effect according to law, govern the duties of DSH-C staff, and establish DSH-C procedures.
4. They implement, interpret, and make specific section 4312 of the Welfare and Institutions Code because they concern the care and treatment of patients and govern hospital buildings and grounds.

The rules contained in A.D. 830 also implement, interpret, and make specific a CCR section enforced or administered by the Department and govern the Department's procedure in at least the following ways:

1. Section VIII.A. of A.D. 830 implements, interprets, and makes specific subdivisions (a) and (b) of section 4325 of title 9 of the CCR by creating additional procedures, policies, and criteria for review related to allegations of abuse or neglect by any DSH employee – including police officers.

These examples illustrate how A.D. 830 meets the definition of a "regulation" under *Tidewater*.

Although the Department's response attempts to identify A.D. 830 as a "rule" for DSH-C staff that is distinct from a regulation subject to the APA, A.D. 830

satisfies the requirements necessary to be considered a regulation. How an agency refers to a document is not an item of consideration in the underground regulations analysis. Rather, “if it looks like a regulation, reads like a regulation, and acts like a regulation, it will be treated as a regulation whether or not the agency in question so labeled it.”²⁴ Additionally, Government Code section 11340.5, subdivision (a), specifically prohibits the issuance of a “rule” unless it is adopted pursuant to the APA.

II. Not all of A.D. 830 is APA Exempt.

The final issue to examine is whether an express statutory exemption applies to the challenged rule. Exemptions from the APA can be general exemptions that apply to all state rulemaking agencies. Exemptions may also be specific to a particular rulemaking agency or a specific program. In any event, the rulemaking requirements of the APA apply “to the exercise of any quasi-legislative power conferred by any statute heretofore or hereafter enacted” and “shall not be superseded or modified by any subsequent legislation except to the extent that the legislation shall do so expressly.”²⁵

In its response, the Department asserts that A.D. 830 is not “considered a rule that needs to be promulgated by the APA because it is specific to DSH-C.”²⁶ To support this argument, the Department relies upon the use of the word “rule” in Welfare and Institutions Code section 4312.²⁷ The Department concludes:

Welfare and Institutions Code section 4312 authorizes the director to establish rules and regulations, and not all rules are regulations. Rules are flexible and can change based on the needs of the hospital. Thus, the hospital director can establish rules concerning the safety and security, care and treatment of patients, research, clinical training, and for the property of the hospital buildings and grounds that do not need to be promulgated by the APA. Therefore, A.D. No. 830 should not be

²⁴ *State Water Resources Control Board v. Office of Administrative Law* (1993) 12 Cal.App.4th 697, 702.

²⁵ Gov. Code, § 11346.

²⁶ Department Response to the Petition, p. 3.

²⁷ “The hospital director may establish rules and regulations not inconsistent with law or departmental regulations, concerning the care and treatment of patients, research, clinical training, and for the government of the hospital buildings and grounds. Any person who knowingly or willfully violates such rules and regulations may, upon the order of either of the hospital officers, be ejected from the buildings and premises of the hospital.” (Welf. & Inst. Code, § 4312.)

determined an underground regulation.²⁸

The Department's response does not provide any legal authority demonstrating that rules are flexible and can change based on the needs of its hospitals. To the contrary, Welfare and Institutions Code section 4312 does not exempt hospital rules from adoption pursuant to the APA. Exemptions from the APA must be made "expressly"²⁹ and in the absence of an express statutory exemption, "any doubt as to the applicability of the APA's requirements should be resolved in favor of the APA."³⁰ Moreover, Government Code section 11342.600 specifically refers to a "rule" in its definition of a "regulation" and Government Code section 11340.5, subdivision (a), requires agencies to properly adopt any "rule" – further undermining the Department's argument.

A. A.D. 830 is not directed to a specifically named person or to a group of persons.

A regulation that is directed to a specifically named person or to a group of persons and does not apply generally throughout the state is exempt from the APA.³¹ The Department asserts that A.D. 830 is exempt under Government Code section 11340.9, subdivision (i), "because it is specifically directed to mandated reporters at DSH-C."³² The Department's assertion that A.D. 830 applies only to DSH-C mandated reporter employees is without merit. A.D. 830 contains numerous provisions that directly affect what information is documented and stored about patients, staff, and visitors to DSH-C who are involved in a special incident. A.D. 830 also contains procedures for investigations of alleged abuse and neglect which outline when patients' allegations are considered believable. Moreover, a rule need not apply to all persons in the State of California.³³ It is sufficient if the rule applies to a clearly defined class of persons or situations.³⁴ By its own terms, A.D. 830 applies to all patients, staff, and visitors at DSH-C now and in the future and, therefore, applies to an open class of persons, not a specifically named person or group of persons.

²⁸ Department Response to the Petition, p. 3.

²⁹ Gov. Code, § 11346.

³⁰ *California School Boards Assn. v. State Board of Education* (2010) 186 Cal.App.4th 1298, 1328.

³¹ Gov. Code, § 11340.9, subd. (i).

³² Department Response to the Petition, p. 6-7.

³³ *Tidewater Marine Western, Inc. v. Bradshaw* (1996) 14 Cal.4th 557, 571.

³⁴ *Roth v. Department of Veterans Affairs* (1980) 110 Cal.App.3d 622, 630.

Thus, A.D. 830 is not exempt from the APA pursuant to subdivision (i) of Government Code section 11340.9.

B. A.D. 830 does not relate only to the internal management of DSH-C.

A regulation that relates only to the internal management of a state agency is exempt from the APA.³⁵ However, this exemption applies only if the rule satisfies two conditions:

1. The rule affects only the employees of the issuing agency;³⁶ and
2. The rule does not involve a matter of serious consequence involving an important public interest.³⁷

Courts have interpreted the internal management exemption narrowly:

The internal management exception ... is a narrow one, as demonstrated by a line of cases consistently rejecting its application - even where the policies govern internal administrative matters - if the policies or procedures affect the interests of persons other than the agency itself.³⁸

In its response, the Department asserts that A.D. 830 is exempt from the APA pursuant to the internal management exemption.³⁹ However, A.D. 830 contains a number of procedures that directly affect the important public interests of DSH-C patients and visitors to the facility and does not affect only the employees of DSH-C.

1. A.D. 830 affects individuals beyond only the Department's employees.

A.D. 830 affects patients and visitors to DSH-C in at least the following ways.

First, the stated purpose of A.D. 830 is "A. To report and document events that have an adverse effect on the safety, care, treatment and rehabilitation of patients. B. To monitor the appropriateness and effectiveness of follow-up actions. C. To provide data analysis for performance improvement activities."

³⁵ Gov. Code, § 11340.9, subd. (d).

³⁶ See *Stoneham v. Rushen* (1982) 137 Cal.App.3d 729, 736; *Armistead v. State Personnel Board* (1978) 22 Cal.3d 198, 204.

³⁷ See *Poschman v. Dumke* (1973) 31 Cal.App.3d 932, 943; *Grier v. Kizer* (1990) 219 Cal.App.3d 422, 436.

³⁸ *California School Boards Assn. v. State Board of Education* (2010) 186 Cal.App.4th 1298, 1334.

³⁹ Department Response to the Petition, p. 7.

To that end, the Department's regulations in A.D. 830 establish document creation and retention procedures for collecting information on the actions of patients at DSH-C. The portions of A.D. 830 that require the creation and maintenance of documentation about patients' information directly affect those patients. This applies equally to the retention of any information about DSH-C visitors who are involved in a special incident.

Second, Sections VIII.A.3.a and c of A.D. 830 state:

If the allegations appear to be physically impossible or otherwise lack credibility, the Program Director may refer a case for administrative review with the goal of returning staff to areas of patient contact prior to the completion of the investigation by the Office of Special Investigation (OSI) ... Factors that affect credibility include the plausibility of the allegation, consistency of allegations over time, motivation (e.g. retaliation), presence or absence of witnesses, corroborating evidence, prior allegations against the same person, lack of history of related allegation by patient and physical evidence. The "DSH Allegation Checklist" (MH-C 9141) shall be used to document the decision-making process in any instance where staff is returned to direct contact prior to the full investigation being completed ... If the senior manager determines that the case lacks credibility, the alleged perpetrator may be returned to duties that involve direct contact with patients prior to the close of the investigation. The decision should specify whether the staff member shall be returned to the same unit or assigned to a different treatment area.⁴⁰

The circumstances under which a purported victim will be believed directly affect that victim, other similarly situated individuals, and the alleged perpetrator of abuse or neglect.

As a final example, Section VI.B.2.a.iv of A.D. 830 states in relevant part:

Level 1 Review: The Immediate supervisors or designee shall review the SIR and complete Level 1 review and shall include at a minimum but not limited to the following information: ... If applicable, reaction of patient's guardian or conservator.

Here, the Department is requiring the collection of information about individuals who are not staff members of the Department or patients of the

⁴⁰ Exhibit A, p. 7-8.

Department. Collection of this information affects the interests of individuals who are not Department staff.

2. A.D. 830 involves a matter of serious consequence involving an important public interest.

A.D. 830 contains rules involving matters of serious consequence involving an important public interest. First, the Legislature has indicated that individuals' rights to privacy in their personal information are important.⁴¹ A.D. 830 requires DSH staff to collect personal information, as defined in the Information Practices Act,⁴² about patients, Department staff, and visitors to DSH-C who are involved in a special incident. Second, to the extent the Department believes the processes and factors which go into determining a patient's credibility during investigations of abuse or neglect do not involve matters of serious consequence involving an important public interest, OAL disagrees.

Thus, A.D. 830 is not exempt from the APA pursuant to subdivision (d) of Government Code section 11340.9.

C. A.D. 830 is not a restatement of existing law and does not embody the only legally tenable interpretation of law.

Generally, a rule is excepted from the APA if it is the only legally tenable interpretation of a provision of law.

The exception for the lone "legally tenable" reading of the law applies only in situations where the law "can reasonably be read only one way [citation omitted], such that the agency's actions or decisions in applying the law are essentially rote, ministerial, or otherwise patently compelled by, or repetitive of, the statute's plain language."⁴³

But to the extent any of the contents of the [statement of policy or procedure] depart from, or embellish upon, express statutory authorization, the [agency] will need to promulgate regulations.⁴⁴

A.D. 830 includes numerous provisions which are neither the only legally tenable interpretation of law nor a restatement of existing law.

⁴¹ See Civ. Code, § 1798.1.

⁴² Civ. Code, § 1798.3(a).

⁴³ *Morning Star Co. v. State Board of Equalization* (2006) 38 Cal.4th 324, 336-337 (internal citations omitted).

⁴⁴ *Engelmann v. State Board of Education* (1991) 2 Cal.App.4th 47, 62.

The Department argues that A.D. 830 is the only legally tenable interpretation of Health and Safety Code section 1279.1, which requires health facilities to report “adverse events” within specified time frames. That section then goes on to list in detail which events constitute an “adverse event.”

However, the list of “adverse events” provided in Health and Safety Code section 1279.1 differs significantly from A.D. 830’s definition of special incident and its list of incidents which require a special incident report. For example, Health and Safety Code section 1279.1, subdivision (b)(1), lists adverse events that occur during surgery, including surgery on the wrong body part, surgery on the wrong patient, incorrect surgical procedure performed, and retention of a foreign object in the patient after surgery.⁴⁵ This entire category of adverse events is excluded from A.D. 830.

Another example, A.D. 830 creates a “death category” of special incidents. This category includes “expected or unexpected death and completed suicide.”⁴⁶ However, Health and Safety Code section 1279.1 does not require health facilities to report all expected and unexpected deaths. Instead, Health and Safety Code section 1279.1 requires reports for deaths from very specific causes, including but not limited to, death of a healthy patient after induction of anesthesia⁴⁷, death associated with use of a contaminated drug⁴⁸, death associated with use of a medical device functioning other than as intended⁴⁹, patient death associated with disappearance of a patient for more than four hours⁵⁰, patient death associated with labor or delivery in a low-risk pregnancy⁵¹, patient death associated with an electric shock⁵², and patient death associated with use of restraints or bedrails.⁵³ Thus, A.D. 830’s requirement to report all expected and unexpected deaths is not the only legally tenable interpretation of the Health and Safety Code’s requirement to report only the very specific, enumerated causes of death to the Department of Public Health.

As a final example, Health and Safety Code section 1279.1 does not mandate reporting psychological harm to patients, changes in patients’ expected behavior, or the broad category of events which would fall under “an

⁴⁵ Health & Saf. Code, § 1279.1, subd. (b)(1).

⁴⁶ Exhibit A, p. 1-2.

⁴⁷ Health & Saf. Code, § 1279.1, subd. (b)(1)(E).

⁴⁸ *Id.* at (b)(2)(A).

⁴⁹ *Id.* at (b)(2)(B).

⁵⁰ *Id.* at (b)(3)(B).

⁵¹ *Id.* at (b)(4)(C).

⁵² *Id.* at (b)(5)(A).

⁵³ *Id.* at (b)(5)(E).

occurrence ... which ... has the potential of adversely affecting a patient's health, safety, and well-being."⁵⁴ But A.D. 830 does. The reportable adverse events under Health and Safety Code section 1279.1 are narrowly limited to the specified events and events which cause the death or serious disability of patients, personnel, and visitors. A.D. 830 is not the only legally tenable interpretation of Health and Safety Code section 1279.1.

The Department also asserts that "A.D. No. 830 does not meet the criteria in *Tidewater* because it does not 'implement, interpret, or make specific' regulations or statutory codes" and instead merely, "restates existing regulations or statutory codes by informing staff about their duties."⁵⁵

The Department further argues:

Restatement can be used to "clarify points or emphasize main ideas" in a different way to help manage concepts, thus is not a cut and paste of a regulation or code or the rewriting of the regulation or code verbatim, but words to make clear and to break down the complexity of ideas.

(Study.com<<https://study.com/academy/lesson/how-to-rewrite-an-idea-and-summarize.html>> [as of October 27, 2025].) Thus, A.D. No. 830 is used to clarify points and break down the concepts to help the staff understand and comply with their required job duties.⁵⁶

This argument is expressly inconsistent with case law. In *Armistead v. State Personnel Board*, the court held that "rules that interpret and implement other rules have no legal effect unless they have been promulgated in substantial compliance with the APA."⁵⁷ While A.D. 830 includes a number of accurate restatements of existing law, some of the examples of restatements identified by the Department actually further interpret or implement existing law. For example, Section VIII.A.3. paragraphs a and c (related to allegations of abuse or neglect) state:

If the allegations appear to be physically impossible or otherwise lack credibility, the Program Director may refer a case for administrative review with the goal of returning staff to areas of patient contact prior to the completion of the investigation by the Office of Special Investigation (OSI). Factors that affect credibility include the plausibility of the allegation, consistency of

⁵⁴ Exhibit A, p. 1.

⁵⁵ Department Response to the Petition, p. 3.

⁵⁶ Department Response to the Petition, p. 3.

⁵⁷ *Armistead v. State Personnel Board* (1978) 22 Cal.3d 198, 204.

allegations over time, motivation (e.g., retaliation), presence or absence of witnesses, corroborating evidence, prior allegations against the same person, lack of history of related allegation by patient and physical evidence. The "DSH Allegation Checklist" (MH-C 9141) shall be used to document the decision-making process in any instance where staff is returned to direct contact prior to the full investigation being completed ... If the senior manager determines that the case lacks credibility, the alleged perpetrator may be returned to duties that involve direct contact with patients prior to the close of the investigation. The decision should specify whether the staff member shall be returned to the same unit or assigned to a different treatment area.

The Department argues that the Child Abuse and Neglect Reporting Act⁵⁸ and the Elder Abuse and Dependent Adult Civil Protection Act⁵⁹ "require extensive reporting of suspected incidents of abuse, neglect, exploitation, sexual abuse/assault/battery, rape, lewd or lascivious acts, assault, battery abandonment, abduction, isolation, financial abuse, or neglect, physical abuse physical, mental, or medical injury, failure to assist in personal hygiene, or in the provision of food, clothing, or shelter, failure to protect from health and safety hazards, or failure to prevent malnutrition or dehydration."⁶⁰ However, nothing in either act requires a mandated reporter to determine whether the allegations of abuse or neglect have sufficient credibility, what circumstances affect an alleged victim's credibility, or what to do with the suspected abuser if the allegations lack credibility. Thus, this section of A.D. 830 is not a restatement of either act.

Whether the contents of A.D. 830 "maintains the integrity and intended meaning of the regulations and statutory codes"⁶¹ is irrelevant to the evaluation of whether the contents of A.D. 830 are the only legally tenable interpretation of a provision of law or a restatement of existing law. Implementation, interpretation, or clarification of existing statutes and regulations by the Department in a manner that is not patently compelled by or repetitive of existing law necessitates the adoption of regulations.

Thus, A.D. 830 is not exempt from the APA pursuant to subdivision (f) of Government Code section 11340.9 and is not a restatement of existing law.

⁵⁸ Pen. Code, §§ 11164 *et seq.*

⁵⁹ Welf. & Inst. Code, §§ 15600 *et seq.*

⁶⁰ Department Response to the Petition, p. 5.

⁶¹ Department Response to the Petition, p. 8.

CONCLUSION

In accordance with the above analysis, OAL determines that A.D. 830 contains rules meeting the definition of "regulation" that the Department should have adopted pursuant to the APA. Thus, A.D. 830 contains underground regulations.

Date: January 16, 2026



Samuel Micon
Senior Attorney

For: Kenneth J. Pogue
Director

Copy: Stephanie Clendenin, Director, Department of State Hospitals
Loretta Davila, Attorney

Exhibit A

Effective Date: December 12, 2023

SUBJECT: SPECIAL INCIDENT REPORTS

I. PURPOSE

- A. To report and document events that have an adverse effect on the safety, care, treatment and rehabilitation of patients.
- B. To monitor the appropriateness and effectiveness of follow-up actions.
- C. To provide data analysis for performance improvement activities.

II. AUTHORITY

By order of the Director of the Department of State Hospitals (DSH); California Government Code Section 11152 and 11162; Welfare and Institutions Code (WIC), Section 4100 and 15630 (b)(3)(A); Department of Mental Health (DMH), Special Order No. 112, 263, 315.05, 701.01, and 720.01; and DSH Administrative Letter (AL) 2014-02.

III. POLICY

The Incident Management Module in the Wellness and Recovery Model Support System (WaRMSS) is utilized by hospital employees to accurately and effectively describe a serious (or potentially serious) incident that negatively impacts hospital operations, violates hospital policies or procedures, and or jeopardizes the safety, treatment or well-being of the patient(s).

IV. METHOD

All State employees and registry/contract staff involved in care for patients observing Special Incidents shall report the occurrence in the WaRMSS system under Incident Management, Create Incident.

V. DEFINITION

- A. An occurrence that is potentially or actually physically and/or psychologically harmful to a patient served at the hospital and/or is inconsistent with the patient's expected behavior, condition, treatment, or plan of care.
- B. An occurrence or attending circumstance, which adversely affects or has the potential of adversely affecting a patient's health, safety, and well-being and/or the operation of the hospital. This kind of incident may, or may not, be related to patients served at the hospital.

C. Incidents that require SIRs:

1. Absence category includes: escapes, escape attempts, and unauthorized movement
2. Aggressive Acts category includes: verbal and physical aggression towards another patient, staff, visitor, and self as well as self-harm (ideation or threat).
3. Death category includes: expected or unexpected death and completed suicide
4. Falls category includes: Falls by Accident, Falls by Sports, Falls Due to Environmental Conditions, Falls Due to Medical, and Falls Secondary to Assault
5. Illicit substances (street drugs found and confirmed by DPS and drug screens which are positive for a street drug)
6. Medical/Health and Safety category includes: adverse drug reactions, medical intervention, accidental injuries, and injuries of unknown origin and medical conditions which require a patient's transfer to a higher level of care (UCR and OTM).
7. Miscellaneous category includes: staff not following policy, family and visitor complaints against the facility, terrorist threats, alleged child abuse, intentional fail to follow staff's direction, and warning signs/feeling of imminent dangerousness.
8. Non-violent Sexual Behaviors category includes: indecent exposure, public masturbation, and consensual sexual acts between patients.
9. Other Rules Violations category includes: contraband, fire setting, property damage and alleged criminal acts.
10. Patient's Rights category includes: allegations of abuse (i.e., physical, verbal, psychological, sexual by staff), rights violations, neglect, and exploitation
11. Suicidal Behaviors (not death) category includes: suicide ideation, suicide threats, and suicide attempts
12. Petty theft
13. Water intoxication if the patient requires transfer to a higher level of care.

VI. REPORTING PROCESS

Any staff discovering an incident that meets the criteria for an incident report shall enter the incident into the Incident Management module in the WaRMSS. If a Level of Care (LOC) staff is involved or witnessed the incident, the LOC staff shall have primary responsibility for completing the SIR. If LOC staff is not present at the time of the incident, or cannot give a complete and accurate account of the incident, the staff involved will be responsible for completing the SIR. The SIR reporting process shall be applied according to the following levels of responsibility:

A. Initiating the SIR:

Any employee or registry/contract staff involved in care for patients, witnessing or discovering an incident that meets the criteria for an incident report shall enter the incident into the Incident Management module in the WaRMSS. If a Level of Care (LOC) staff is involved or witnessed the incident, the LOC staff shall have primary responsibility for completing the SIR. If LOC staff is not present at the time of the incident, or cannot give a complete and accurate account of the incident, the staff involved will be responsible for completing the SIR. Staff shall document the incident in the Incident Management module of WaRMSS. The following areas must be completed within 24 hours of the incident, or within 1 hour for reportable incidents:

1. Details
2. Category (refer to attachment A)
3. Reported By
4. Related Incident (if applicable)
5. Patients (including IDNs and their involvements)
6. Staff/Other (including their involvements)
7. Initial Response (if applicable)
8. Notifications as follows
 - a. Incidents Occurring During Regularly Scheduled Business Hours:
 - i. Notify immediate supervisor/shift lead that an SIR has been generated and provide them with the SIR number.
 - ii. Notify Unit Supervisor for Level I review.
 - iii. The Unit Supervisor shall notify Program Management for Level II review.

- iv. Incidents that can lead to behavioral trigger, notify the Treatment Team (TxT) Psychologist of the SIR number for Psychologist review.
 - v. Incidents involving Aggressive Acts to Staff- Physical or Aggressive Acts to Staff-Sexual, notify the Incident Support Specialist at 934-8733.
 - vi. Notify the Department of Police Services (DPS) Communications Center at 935-4070 for all SIRs.
 - vii. Notify the NOD whenever an SIR is initiated (Office: 934-8529 and Pager: 504-0177). At the prompt, enter the four-digit extension number. Staff are cautioned not to divulge confidential patient information over the pager.
- b. Incidents Occurring Outside of Regularly Scheduled Business Hours:
- i. Notify immediate supervisor/shift lead that an SIR has been generated and provide them with the SIR number.
 - ii. Notify the NOD whenever an SIR is initiated after regularly scheduled business hours (Office: 934-8529 and Pager: 504-0177). At the prompt, enter the four-digit extension number. Staff are cautioned not to divulge confidential patient information over the pager.
 - iii. Notify Unit Supervisor for Level I review.
 - iv. The Unit Supervisor shall notify Program Management for Level II review.
 - v. Incidents with injuries beyond first aid, notify the MOD of the SIR number so a Physician review can be entered into the SIR.
 - vi. Incidents that can lead to behavioral trigger, notify the TxT Psychologist of the SIR number for Psychologist review.
 - vii. Incidents involving Aggressive Acts to Staff- Physical or Aggressive Acts to Staff-Sexual, notify the Incident Support Specialist at 559-707-3484.
 - viii. Notify the Department of Police Services (DPS) Communications Center at 935-4070 for all SIRs.

B. Reviews:

The employee's Shift Lead will review the SIR for completeness and accuracy prior to the end of the shift.

1. Response/Contributing Factors
2. Management:
 - a. Level 1 Review: The Immediate supervisors or designee shall review the SIR and complete Level 1 review and shall include at a minimum but not limited to the following information:
 - i. Precipitating events, known early warning signs, history impacting incident, behavior of patient days prior to the incident, patient movement, e.g. bedroom or unit.
 - ii. Staff interventions to patients related to the incident such as, but not limited to treatment if injured, staff movement, patient movement.
 - iii. Unit acuity, staffing ratio and mix, location of staff, staff changes or movement.
 - iv. If applicable, reaction of patient's guardian or conservator.
 - v. Staff actions related to incident (different from medical/nursing interventions) state whether the staff sustained injuries or not and/or if they felt threatened. This includes but is not limited to incidents related to verbal threats, indecent exposure, and public masturbation.
 - vi. Therapeutic milieu factors.
 - vii. Environment factors, equipment concerns.
 - b. Level II Review: Prior to the completion of Level II, the Program Director/Discipline Chief/Department Head shall ensure the incident report and Level I review are complete and accurate. The Program Director/Discipline Chief/Department Head will complete a Level II review which shall include, at a minimum but not limited to the following information:
 - i. Additional information to Level I review.
 - ii. Analysis of specific contributing factors including patient and/or staff injuries, staff actions, actions by other patients, staffing ratio/mix, therapeutic milieu factors.
 - iii. Corrective actions to prevent reoccurrence (state specifics and addresses both patient or staff injuries preventative measures taken.).

- iv. Specific recommendations and referrals.
 - c. Level III Review: The Level III review is to be completed by the Executive Director or designee for all Headquarters Reportable incidents. The Executive Director or designee will review the incident and the Level I and II reviews, comment as appropriate, provide final approval, and notify DSH-Sacramento.
3. Executive
4. Physician:
- a. Medical:
 - i. All incidents where a patient is injured and required treatment beyond first aid, or has a medical condition that requires medical care beyond first aid, a PPN is required.
 - ii. The supervisor writing the level 1 review shall ensure a PPN was written and will note such in their level review. If a PPN was not written, they shall notify the Chief Physician.
 - b. Psychiatric:
 - i. All incidents deemed a psychiatric emergency (examples: use of seclusion, restraints, and suicide attempts) require a psychiatric PPN.
 - ii. The supervisor writing the level 1 review shall ensure a PPN was written and will note such in their level review. If a PPN was not written, they shall notify the Chief Psychiatrist.
5. Psychology (if the incident can lead to a behavioral trigger):
- a. The attending Psychologist will complete the Psychologist review section before going off duty.
 - b. The review is to address necessary and appropriate changes to the TxP, DSM-V checklist updates, response to key indicator if triggered, newly identified antecedents, development of crisis intervention plan and/or behavior guidelines, and referrals.
6. SCD (also known as QID)
- C. RRRC – Refer to A.D. No. 140 and 141 for more information.

VII. TIME FRAMES

- A. All incidents meeting the criteria for an SIR shall be documented on an SIR within 24 hours of the incident. The Level 1 shall be completed within 72 hours and the level 2 shall be completed within 2 working days of the level 1 review.
- B. SIRs meeting the criteria of a DSH-Sacramento or CDPH reportable event shall be documented on an SIR within one hour of the event with the entire SIR completed within 24 hours of the incident. Note: The Program Director/ Department head shall ensure all SIRs that meet DSH-Sacramento/CDPH reportable criteria are completed within 24 hours.

Note: For incidents occurring outside of normal business hours that meet the criteria for a DSH-Sacramento/CDPH reportable incident, all levels of review shall be completed by 1500 hours the next business day. EOD will be responsible for contacting the Executive Director and the Quality Improvement Department (QID) Director for serious incidents meeting the criteria for a DSH-Sacramento or CDPH reportable and briefing them of the incident. The Executive Director will determine if immediate telephone notification to DSH-Sacramento is required and then send notification to the Public Information Officer. The QID Director will determine if immediate notification to CDPH is required, and either of the two may authorize the EOD to initiate notification. For incidents reported to DSH-Sacramento or CDPH, a preliminary report of investigation and findings shall be prepared by the EOD and made available to the Executive Director and the QID Director by the beginning of the next business day.

VIII. INCIDENTS THAT INVOLVE ALLEGATIONS OF ABUSE OR NEGLECT

- A. Staff will take immediate and appropriate action to protect patients involved in allegation of abuse or neglect, including removing alleged perpetrators from direct contact with the involved patients pending the outcome of the facility's investigation.
 - 1. For incidents involving allegations of abuse, refer to A.D. No 976. The staff member who reports the incident shall notify the Department of Police Services to immediately respond to an allegation of abuse/neglect to ensure patient safety and prepare a preliminary report. This completed report shall be reviewed and assigned by the Supervising Investigator for the appropriate follow-up.
 - 2. The Program Director is responsible for removing all alleged perpetrators of physical abuse from direct contact with patients as soon as the alleged perpetrators are identified as such. The Program Director will ensure the allegation checklist is completed within 24 hours of the incident.
 - 3. If the allegations appear to be physically impossible or otherwise lack credibility, the Program Director may refer a case for administrative review with the goal of returning staff to areas of patient contact prior to the completion of the investigation by the Office of Special Investigation (OSI).
 - a. Factors that affect credibility include the plausibility of the allegation, consistency of allegations over time, motivation (e.g., retaliation),

presence or absence of witnesses, corroborating evidence, prior allegations against the same person, lack of history of related allegation by patient and physical evidence. The "DSH Allegation Checklist" (MH-C 9141) shall be used to document the decision-making process in any instance where staff is returned to direct contact prior to the full investigation being completed.

- b. Each case will be reviewed by a member of senior management (ED, CA, Hospital Administrator, Medical Director, and Nurse Administrator). It is their responsibility to determine if the staff member may be returned to duties that involve direct contact with patients before the investigation is completed.
- c. If the senior manager determines that the case lacks credibility, the alleged perpetrator may be returned to duties that involve direct contact with patients prior to the close of the investigation. The decision should specify whether the staff member shall be returned to the same unit or assigned to a different treatment area.
- d. The decision and rationale will be documented in a memorandum and sent to the appropriate department or program.
- e. The Program Director shall act upon the decision in a timely manner to ensure a safe environment.

B. Reporting review process for allegations of abuse or neglect:

- 1. All incidents of allegations of abuse or neglect will be reviewed by the Executive Team. It is their responsibility to make a final determination if the abuse or neglect has occurred. In the event the allegation of abuse or neglect does not meet the definition of the WIC, Section 15630 (b)(3) (A), the incident will not be processed as reportable.
- 2. Patient Notification Process:
 - a. The patient will be notified in writing if their allegation of abuse or neglect does not meet the criteria as defined in WIC, Section 15630 (b)(3)(A).
 - b. A RRRC will be created to notify the Program Management disseminating this information to the disciplines (e.g., Unit Supervisor and Psychologist) to initiate a meeting with the patient to provide support. A summary will be documented in the TxP.
 - i. If a patient has a history of two or more unfounded allegations the SCC will send out a RRRC to the TxT, and this shall be documented in the TxP, under Focus 1 for false allegations with objectives and interventions to address the behavior.

3. Incident Review Committee (IRC) Process:
 - a. The Office of Special Investigations (OSI) is responsible for overseeing the preliminary investigation and conducting a comprehensive follow-up investigation to determine the validity of the complaint.
 - b. Upon completion of OSI investigations, allegations of abuse, neglect, and exploitation are reviewed at the Incident Review Committee.

C. Executive Management:

1. Ensures all SIRs are completed according to the above outlined time frames.
2. Shall receive notification of the SIR from QID regarding any incident that is reported to DSH-Sacramento/CDPH and impacting their department.
3. Ensures their departments provide any applicable follow-up and or Plan of Correction (POC) to QID.
4. The QID Director shall meet and brief the Executive Director with the morning meeting report regarding all SIRs that require reporting to outside agencies.
5. The Executive Director or designee shall immediately notify the Director of DSH or designee by telephone of all unexpected deaths that are not immediately identified as natural; all Absent With Out Leaves (AWOL)/ Escapes, and any other major incident that may be of concern to the local community, elected officials or media.
6. The QID will electronically transmit the report, via WatchDox to CDPH.
7. QID reviews and monitors all SIRs. Incomplete SIRs are tracked and notices are sent to the appropriate department for corrections and completion. SIR Notification flow chart outlines the notification process (See Attachment B).

IX. INVESTIGATION OR PROSECUTION

A. Program Investigations:

Program Management assigned to the Clinical Administrator is responsible for reviewing and/or investigating all SIRs occurring on the Acute/Intermediate Care Facilities (ICF) and the Residential Recovery Units (RRU).

1. The Program Director will address problematic issues that appear relevant to the cause of the incident and shall reconcile any contradictory information.
2. A POC for preventing reoccurrence will be provided when appropriate.

B. Hospital Police Services Investigations:

1. Hospital Police Services is responsible to review and/or investigate all special incidents where a crime may have been committed. Findings from these investigations shall be made available to the Executive Director and the QID Director for purpose of providing an accurate report to DSH-Sacramento and/or CDPH.
 - a. Such incidents include, but are not limited to: assaults, battery, bribery, escapes (and attempts), extortion, homicide, stealing, suicide, etc. When an incident involving a criminal act has occurred, treatment staff will request a hospital police officer to respond to the unit to initiate a police report. When available, the hospital police report number will be included in the SIR.
 - b. The attending Physician may defer the interview of any patient by the DPS by providing documentation in the patient's medical record providing medical/psychiatric reasons.

C. Special Investigations:

The OSI shall follow up with an internal investigation and act as liaison with outside agency.

D. Referral for Prosecution:

1. The authority to refer cases for prosecution rests with the hospital's Chief of Police.
2. The Chief of Police shall advise the Executive Director or Hospital Administrator prior to submitting the cases to the District Attorney.
3. Should the prosecution request a psychiatric evaluation, it will be submitted within three (3) business days.

Note: All investigations are subject to review by the Executive Director. Any investigation related to a DSH-Sacramento/CDPH reportable event is subject to review by the QID Director.

X. TRAINING

All employees shall receive training on the overview of the SIR process and related policies during the New Employee Orientation (NEO). Training for incident reporting process in WaRMSS will be required for all employees immediately after NEO. SIR reference material is available on the Intranet in the Quick Links section titled "SIR Training Resources."

Signature on File w/ A.D. Coordinator

BRANDON PRICE

Executive Director

Cross Reference(s):

A.D. No. 140 Key Indicator/Trigger Reporting

A.D. No. 141 Risk Management

A.D. No. 302 Patient Escape and Notification Policy

A.D. No. 510 Personal Relationships and Sexuality

A.D. No. 528 Patient Death and Death Investigation Procedures

A.D. No. 768 Reportable Events to DSH and CDPH

A.D. No. 976 Duty to Warn, Inform and Report Abuse and Serious Threats

Attachment A – New or Revised SIR Definitions

Attachment B – Special Incident Reports (SIR) Notification Flowchart

MH-C 9141 DSH Allegation Checklist (Intranet/Approved Forms)

Nursing Procedure Manual

ALPHABETICAL LISTING OF DEFINITIONS FOR TERMS USED IN INCIDENT MANAGEMENT REPORTS

A. Incident Management Report Types:

Absence from Hospital – Non-Forensic: When a non-forensic patient attempts to leave or leaves the hospital without permission or does not return to the hospital as required.

CF Failure to Return from Community Facility or Hospital

CO Failure to Return from Community Outing

DP Failure to Return from Day Pass

HV Failure to Return from Home Visit

WA Walk Away

WY Walk Away Attempt

IN Accidental Injury: Unintentional injuries to patients not resulting from aggressive acts to self or others. Examples include environmental hazards, work area injuries, medical devices, recreational or sports activities or “horseplay.”

AD Adverse Drug Reaction: Those situations involving an adverse drug reaction which necessitate a transfer of the patient to a higher level of care (acute medical unit or hospitalization). The adverse drug reaction must be confirmed (not suspected) by either a physician or committee responsible for confirming adverse drug reactions.

A2 Aggressive Act to Another Patient – Physical (Contact or Contact attempted): Hitting, biting, pushing, kicking, spitting, gassing or the throwing of other items, or similar acts directed against another patient to cause potential or actual injury.

- **Aggressive Act – Physical Contact: physical contact was made**
- **Aggressive Act – Physical Contact Attempted: Physical movement attempting to assault without making contact. This may also include lunging without making physical contact.**

A1 Aggressive Act to Another Patient – Verbal/Written/Gesture: Any language by a patient that may be threatening, demeaning, discriminatory, pejorative, derogatory, aggressive, sexual harassment, hot or cold threats, directed at another patient. An example of a gesture may be a patient who uses his finger as a gun.

- **Homicide Threat:** Verbal/Written/Gesture where the patient made a credible threat to kill another patient.

A7 Aggressive Act to Objects: Hitting, kicking, and throwing objects, without the intent to harm self or others. If property is damaged also add incident category of PD – Property Damage. An example is a patient hitting the wall out of anger, frustration or internal stimuli without the intent to hurt self.

- SS Aggressive Act to Self:** Self-inflicted act with or without injuries and without suicidal intent. For example, burns, head banging, cutting, hunger strike, insertion/ingestion of foreign bodies or potentially toxic substances. Do not use for water intoxication.
- A4 Aggressive Act to Staff – Physical (Contact or Contact attempted):** Hitting, biting, pushing, kicking, spitting, gassing or the throwing of other items, or similar acts directed against staff to cause potential or actual injury.
- **Aggressive Act – Physical Contact:** physical contact was made
 - **Aggressive Act – Physical Contact Attempted:** Physical movement attempting to assault without making contact. This may also include lunging without making physical contact.
- A8 Aggressive Act to Staff: Sexual Assault:** Any intentional physical sexual contact by a patient towards or involving a staff person.
- A3 Aggressive Act to Staff – Verbal/Written/Gesture:** Any language by a patient that may be threatening, demeaning, discriminatory, pejorative, derogatory, aggressive, sexual harassment, hot or cold threats, directed at staff. An example of a gesture may be a patient who uses his finger as a gun.
- **Homicide Threat:** Verbal/Written/Gesture where the patient made a credible threat to kill a staff member.
- A6 Aggressive Act to a Visitor/Family Member/Other – Physical (Contact or Contact attempted):** Hitting, biting, pushing, kicking, spitting, gassing or the throwing of other items, or similar acts directed against a visitor/family member/other to cause potential or actual injury.
- **Aggressive Act – Physical Contact:** physical contact was made
 - **Aggressive Act – Physical Contact Attempted:** Physical movement attempting to assault without making contact. This may also include lunging without making physical contact.
- A5 Aggressive Act to a Visitor/Family Member/Other – Verbal/Written/Gesture:** Any language by a patient that may be threatening, demeaning, discriminatory, pejorative, derogatory, aggressive, sexual harassment, hot or cold threats, directed at a visitor/family member/other. An example of a gesture may be a patient who uses his finger as a gun.
- **Homicide Threat:** Verbal/Written/Gesture where the patient made a credible threat to kill a visitor/family member/other person.
- CR Alleged Criminal Act:** Actions otherwise not defined in this policy that may result in criminal proceedings.
- C6 Exploitation Patient/Patient:** Selfish or unethical advantage or gain of a patient by another patient to gain money, property, or services. Examples include strong-arming or sexual activity for money.

- C7 Alleged Exploitation Staff/Patient:** Selfish or unethical advantage or gain of a patient by staff.
- C5 Alleged Neglect:** Failure to provide care or service, for example personal hygiene, food, shelter or clothing, medical care for physical or mental health needs, protection from health and safety hazards or prevention of malnutrition or dehydration. This category is used for instances of enhanced observation when the assigned staff member is found sleeping or using cell phone/electrical device, or whenever an SOC is generated for patient neglect.
- C1 Alleged Patient Abuse – Physical:** Any intentional interaction or physical contact, motion, or action that is directed toward a patient by someone other than another patient, which may cause harm or pain. Examples include shoving, hitting, slapping, pinching, shaking, kicking, punching, misuse of seclusion or restraint, intentional misuse of medication, or unnecessary roughness during the provision of care.
- Within DSH
 - Outside DSH
- C3 Alleged Patient Abuse – Psychological:** Any act by someone other than another patient that causes or could reasonably be expected to cause mental suffering that has no reasonable therapeutic value to a patient, as defined by Welfare Institutions Code section 15610.53. Examples include but are not limited to use of intimidation or threats to achieve compliance, retaliation, and deliberately inflicting mental pain, anxiety, confusion, humiliation, harassment or coercion.
- Within DSH
 - Outside DSH
- C2 Alleged Patient Abuse – Verbal:** Any act of forcefully criticizing, insulting, or denouncing a patient. Characterized by underlying anger and hostility, it is a destructive form of communication intended to harm the self-concept of the patient and produce negative emotions Within DSH
- Outside DSH
- PT Alleged Petty Theft:** Patient caught stealing or suspected of stealing items from peers/staff that required staff intervention.
- 08 Alleged Sexual Abuse:** An employee engages in sexual contact with a patient. An employee encourages or allows sexual contact between patients, one of whom is not consenting.
- 04 Alleged Sexual Assault:** Unconsented physical sexual contact or attempts involving force or violence or the threat of force or violence including: Oral, vaginal or anal penetration or fondling of the patient's sex organ(s) by another patient's hand, sex organ, or object. Sexual contact, including consensual, between a person 18 or older and a person under age 15 or sexual contact between a person 21 or older and a person under age 17.
- C4 Alleged/Suspected Violation of Patients' Rights:** A denial of those rights specified in the Welfare and Institutions Code and Title 9 of the California Code of

- Regulations without good cause. Examples include a denial of patients' rights without the benefit of due process; when the time frames for "good cause" denials of rights are not met; breaching a patient's confidentiality/ HIPAA Violation; purposely allowing a patient's privacy to be invaded or breached; denial of access to the Patients' Rights Advocate; and denial of legal representation.
- BI Births to Patient:** When a patient gives birth while in the custody of DSH.
- CH Complaints Against DSH Facility:** A complaint made by a parent/family member, or visitor regarding DSH facility policies or procedures. Examples include a matter of public concern, of interest to the news media, to the Legislature or for pending legislation, or of enough concern to warrant the attention of DSH-Sacramento Executive Team.
- CS Consensual Sexual Contact:** all patients involved reported consent to engagement in physical sexual contact.
- CB Contraband:** Any item or article of property that poses a threat to the security and safety of the DSH facility, patients, employees, visitors or public; or other items prohibited by DSH policy or state law.
- DH Death:** Termination of life not due to suicide.
- Expected
 - Unexpected
- ES Escape:** Escape occurs when the chain of custody is broken, and the patient is outside the security perimeter.
- EA Escape Attempt:** An escape attempt occurs when there is reason to believe a patient is planning to escape or has tried to escape but was unsuccessful.
- FF Failure to Follow Policy:** Failure of staff to follow hospital policy that results in actual or potential harm to a patient or a security breach.
- FL Fall:** An uncontrolled, unintentional, downward displacement of the body to the ground or other object, excluding falls resulting from, other purposeful actions, or seizures.
- Falls by accident
 - Falls by sports
 - Falls due to behavioral incident
 - Falls due to environmental condition
 - Falls due to medical condition
 - Falls secondary to assault
- FS Fire Setting:** Incidents involving patients starting fires or attempting to start fires
- IS Illicit Substances:** Any illegal substance/drugs (street drugs) with positive screening results, e.g., amphetamines, methamphetamine, cocaine,

- marijuana/cannabinoids (THC), opiates (narcotics). Provide description of illicit substance.
- IE Indecent Exposure:** Intentionally showing one's sexual organs in public.
- IU Injury of Unknown Origin:** Any injury that cannot be reasonably explained by either patient or staff. Any injury in which statements of victim or witness are contrary to the evidence or the explanation is inconsistent with the injury.
- MI Medical Intervention / Condition:** An unexpected medical condition requiring immediate attention and/or a higher level of care. Examples include collapse, choking incidents and other acute conditions or chronic conditions requiring a higher level of care (internal or external).
- The medical condition occurred while at DSH
 - The medical condition occurred outside of DSH
- XX Other:** Any serious or unusual occurrence which threatens or is a danger to patients and staff, and are not included in the other categories. Examples include major fires, floods, bomb threats, incidents where a patient intentionally fails to follow staff directions or incidents of a patient reporting imminent danger warning signs/feelings, alleged Child Abuse reported.
- PI Possible Intoxication:** Patient who is displaying symptoms of acute intoxication (alcohol or illicit drugs) such as slurring speech, unsteady gait, and bizarre behavior. Possible medical conditions have been ruled out. The patient may or may not consent to urine/blood drug screen.
- PG Pregnancy (PG):** When pregnancy is confirmed by laboratory tests.
- Pregnancy occurred prior to DSH hospitalization
 - Pregnancy occurred during DSH hospitalization
- PD Property Damage:** Destruction or defacement of property not owned by the patient.
- PM Public Masturbation:** Incident reporting based on clinical judgment
- SE Seizure Event:** Sudden onset of symptoms such as convulsion or seizure like activity.
- SB Self-Harm (SIB) Ideation:** Patient reports or recent history of thoughts of self-harm without suicidal intent.
- SH Self-Harm (SIB) Threat:** patient is threatening self-harm without suicidal intent.
- SD Suicide:** A self-inflicted injury resulting in death.
- SA Suicide Attempt:** Patient's behavioral acts with suicidal intent such as cutting, attempted hanging, ingestion of foreign bodies or potentially toxic substances.

- SI Suicide Ideation:** patient reports or has recent history of thoughts of suicide intent.
- ST Suicide Threat:** Any verbal or physical indications that signal a patient is going to make or may make a suicide attempt. Patient may have a specific plan or may simply verbalize the he/she is going to kill themselves.
- UM Unauthorized Movement:** A patient who is in an unauthorized area without permission but is not attempting to walk away.
- UMF – Forensic
 - UMN – Non-Forensic
- 05 Unwanted Sexual Contact Between Patients:** Unwanted sexual contact between patients which does not involve force or violence. Examples include groping, grabbing, or touching intimate areas.
- WI Water Intoxication:** An incident manifested by hyponatremia, polydipsia, rapid onset of weight gain, critical lab values (due to ingestion of water), and/or observations by staff that the patient is consuming large amounts of water and enhanced observation is ordered.

B. ALLEGED INVOLVEMENT:

- (A) Aggressor:** One who initiates or retaliates against acts of hostility or assault; one who starts a hostile action or exhibits hostile behavior.
- (I) Involved:** A patient, staff member, or DSH facility visitor who is a participant in the incident.
- (U) Undetermined:** Level of involvement or role in the incident is not clearly identifiable.
- (V) Victim:** Recipient of an aggressive act or one who is taken advantage of, tricked, or swindled.
- (W) Witness:** One who has seen or heard something; one who furnishes evidence or information.

C. INJURY / CONDITION SEVERITY:

S1 No Treatment Required

- S2 First Aid Required:** The injury received is of minor severity and requires the administration of minor first aid. This is meant to include treatments such as the application of small adhesive bandages (Band-Aids), cleaning of abrasion, application of ice packs for minor bruises, and use of over-the-counter medications such as antibiotic creams, aspirin and acetaminophen. This box is to be checked even if a physician administers the first aid.

- S3 Medical Treatment Required:** The injury received is severe enough to require the **treatment** of the patient by a licensed medical doctor (medical treatment **beyond** first aid and other than diagnostic of assessment; i.e. sutures, broken bones, may include new prescriptions specific to the treatment related to the injury sustained in the incident, beyond over-the-counter medication) by a licensed medical physician osteopath, podiatrist, dentist, physician's assistant, or nurse practitioner, but the treatment required is not serious enough to warrant or require hospitalization; further, the treatment received may be provided within the facility or provided outside the facility where it may range from treatment at a doctor's private office through treatment at the emergency room of a general acute care hospital.
- S4 Hospitalization Required:** The injury received is so severe that it requires medical intervention and treatment as well as care of the injured patient at a general acute care medical ward within the facility or at a general acute care hospital outside the facility; regardless of the length of stay, this severity level requires that the injured patient be formally admitted as a patient to the hospital and assigned to a bed on a unit outside of the emergency room.
- S5 Death:** The injury received was so severe that it resulted in – or complications from the injury lead to – the termination of the life of the injured patient.
- S6 Refused Treatment:** The patient refused assessment and/or treatment for an identified or suspected injury.

D. INJURY RELATED TO:

- (C) **Containment:** The injury occurred during containment.
- (S) **Seclusion:** The injury occurred during seclusion.
- (R) **Restraint:** The injury occurred during restraint.

E. INITIAL RESPONSES:

1. **Cardiopulmonary Resuscitation (CPR)/Code Blue:** When the Medical Emergency Response System (MERS) is activated and/or if CPR is initiated.
2. **Emergency Repair:** When a repair is needed to the physical building that cannot/should not wait. For example: a locksmith is called to repair the lock to a door; plumbers are called due to flooding in the restroom.
3. **Environmental:** Any action taken to maintain a safe and therapeutic milieu including contraband checks; when water on the floor is mopped up; items are moved in or out of the environment; patient movement including change of dorm or unit, etc.
4. **Intermittent Observation – Medical** (specific Q15, Q30): When a Q15- minute or Q30-minute medical observation is ordered by a physician.

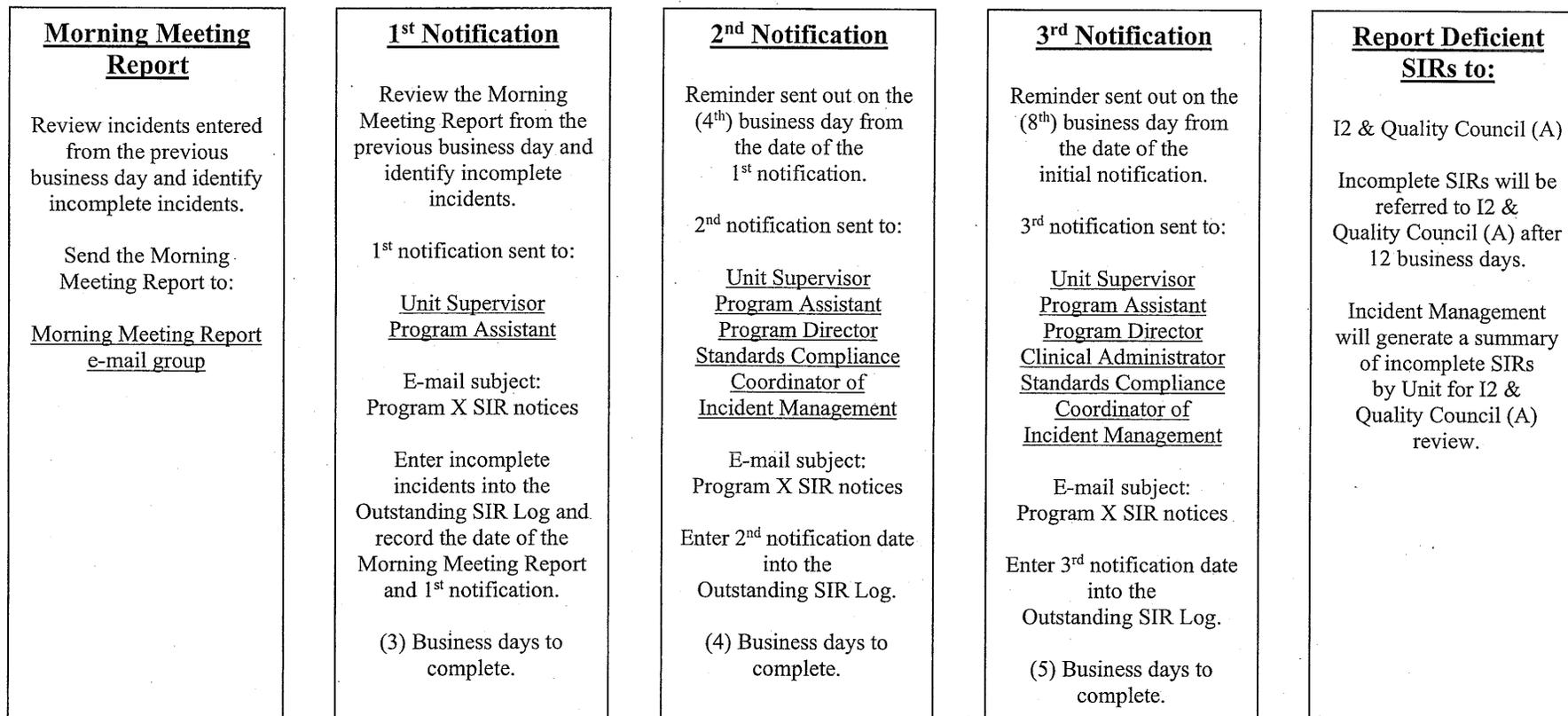
5. **Intermittent Observation – Psych:** (specific Q15, Q30); When a Q15-minute or Q30-minute psychiatric observation is ordered by a qualified practitioner for Danger to Self (DTS), Danger to Others (DTO), Danger from Others (DFO) and/or psychiatric decompensation.
6. **Line of Sight – Medical:** Line of sight medical observation with the stipulation where no object preventing and/or obstructing a staff members ability to maintain a constant visual of the patient. An indication of the primary reason for the line of sight is to be noted.
7. **Line of Sight – Psych:** Line of sight psychiatric observation with the stipulation where no object preventing and/or obstructing a staff members ability to maintain a constant visual of the patient. An indication of the primary reason for the line of sight is to be noted.
8. **Medical:** Medical assessment or treatment provided by a physician or nurse practitioner.
9. **Medical Testing/Diagnostics:** Medical testing/diagnostics provided within DSH or external to DSH.
10. **Mittens:** The implementation of a form of restraint placed over a patient's hand(s) designated to prevent, hinder, and/or inhibit the patient from physically harming themselves and/or others.
11. **Observation 1:1 Psychiatric:** When a 1:1 Observation is ordered for psychiatric reasons. An indication of the primary reason for the 1:1 order is to be noted.
12. **Observation 2:1 Psychiatric:** When a 2:1 Observation is ordered for psychiatric reasons. An indication of the primary reason for the 2:1 order is to be noted.
13. **Observation 1:1 Medical:** When a 1:1 Observation is ordered for medical reasons. An indication of the primary reason for the 1:1 order is to be noted.
14. **Patient Education:** Basic essential information provided o the patient to assist the patient in reaching and maintaining treatment objectives.
15. **PDAS Alarm:** Activation of the Personal Duress Alarm System (PDAS).
16. **Prone Stabilization:** A position in which one is briefly lying face-down during floor stabilization. Start and stop time must be noted.
17. **Psych Intervention:** PRNs, STATS, medication changes, psychiatric assessment/evaluation/examination.
18. **Restraint Ambulatory (walking restraints):** Involve application of cuffs and belts to a patient's wrist, ankle, and waist without fastening them to a bed.
19. **Restraint Hold (wall or floor):** A brief physical hold of a patient for the purpose of effectively gaining quick control of a person who is a danger to self or others and then the patient is released. This is not used as part of seclusion or restraint stabilization.

20. **Restraint Non-Ambulatory (5 point restraints)**: Involves application of cuffs and belts to patient's wrists, ankles and waist/chest and fastening them to a bed or hair in a room designated for non-ambulatory restraints. Ankle/wrist restraints in a chair may or may not be present.
21. **Seclusion**: When a qualified practitioner orders seclusion (involuntary confinement) of a patient alone in a room from which the patient is physically prevented from leaving.
22. **Spit Net**: When a spit net is required to provide protection for staff and there must be a qualified practitioner order. The start and stop time must be noted.
23. **Use of Force**: The application of physical techniques or tactics, chemical agents or weapons to compel compliance of an unwilling person used by a qualified Department of Police Services staff member.
24. **Work Order**: If there is damage to state property or physical environment during an incident and a work order is required for the repair.

Signature on File w/ A.D. Coordinator
BRANDON PRICE
Executive Director

Date

Special Incident Reports (SIR) Notification Flowchart



****All Completed SIRs will receive a reminder to complete Levels 1 & 2 at the 2nd Notification***

****Licensing & HQ Reportable Incidents are to be completed within 24 hours***

Signature on File w/ A.D. Coordinator
BRANDON PRICE _____
Executive Director Date