



Memorandum

Date: April 22, 2020

Subject: DEPARTMENT DIRECTIVE EXTENDING SUSPENSION OF NOT GUILTY BY REASON OF INSANITY PATIENT ADMISSIONS

Pursuant to Governor Gavin Newsom's Proclamation of a State of Emergency dated March 4, 2020, and Executive Order N-35-20 issued March 21, 2020, the Director of the Department of State Hospitals issues this Directive in accordance with the Director's authority to waive any provision or requirement of the Welfare and Institutions Code; any provision or requirement of the Penal Code that affects the execution of laws relating to care, custody, and treatment of persons with mental illness committed to or in the custody of the State Department of State Hospitals (DSH); and the accompanying regulations of Title 9, Division 1 of the California Code of Regulations. As the State of Emergency and Executive Order N-35-20 remains in effect, to ensure that patients with mental health and behavioral health conditions currently in DSH's custody continue to receive the services and support that are threatened by disruptions caused by COVID-19, and to protect the health, safety and welfare of those patients, the Department is now extending the suspension of admission of patients committed to DSH facilities as defined by Welfare and Institutions Code Sections 4100 and 7200 as Not Guilty by reason of Insanity (NGI) pursuant to the Penal Code section 1026 et. seq.

The Director of DSH also extends the suspension of the statutory requirement of Penal Code section 1026.1, to release any NGI patients presently in DSH's custody until DSH rescinds the suspension of NGI patient admissions. The Director of DSH maintains discretion to grant an exception to the suspension of release of NGI patients on a case-by-case basis, if DSH can ensure the safety of the patient seeking discharge, and the safety of the receiving facility to accept the patient, to prevent the further introduction or transmission of COVID-19.

During the period of suspended admissions of NGI patients, if there is an NGI patient who is currently committed to DSH facilities but out to court for



recommitment or other hearings, or out to medical, and ready to return, DSH will work with the sending facility on a case-by-case basis as to whether to re-admit these patients, if DSH can ensure re-admission will not threaten to introduce or transmit COVID-19. The DSH Director retains the sole discretion as to whether to re-admit such patients during this period of suspended admissions.

During the period of suspended NGI patient admissions, if an NGI patient currently designated for placement at DSH is psychiatrically acute, the Director may exercise discretion to admit that patient on a case-by-case basis. Psychiatric acuity means that an individual's mental illness is causing complications which put the individual at risk of death or serious injury while awaiting admission. An individual's aggressive behavior alone shall not be sufficient to support a finding of psychiatric acuity. The committing clinician responsible for that individual's clinical assessment should contact the DSH Medical Director, or designee, about the individual's psychiatric acuity and provide medical information and documentation that supports such acuity.

The point of contacts for this process are as follows:

DSH-Napa Admissions Suite - (707) 253-5464

DSH-Metropolitan Admissions Suite - (562) 584-7032 or (562) 474 2583

DSH-Patton Admissions Suite – (909) 425-7389 or (909) 286-2184

DSH-Atascadero Forensic Department - (805) 468-2084

The Director, or her designee, is the final authority for determining psychiatric acuity of an NGI patient for purposes of granting an exception to the suspension of NGI patient admissions to a DSH facility.

With this continued suspension of NGI patient admissions and discharges, DSH is ensuring the safety of its current patients, and those in custody of the committing counties the patient would return to, by instead, directing all patients to remain in place. DSH is also decreasing the risk of transmission or introduction of COVID-19 into both its facilities and the committing county facilities, by decreasing movement of patients throughout the state. As committing counties are currently suspending transporting or receiving patients, DSH's decrease in the movement of patients throughout the state, will also help to reduce the potential for widespread introduction or transmission of COVID-19, in collaboration with its criminal justice partners, by allowing patients to remain in place.

This suspension of NGI patient admissions will remain in effect for up to 30 days, unless extended by the Director of the Department.



Please contact DSH's Office of Communications if you have questions, at (916) 654-2410 or at OfficeofCommunications@dsh.ca.gov.

A handwritten signature in blue ink, appearing to read "S. Clendenin". The signature is fluid and cursive.

STEPHANIE CLENDENIN
Director