

## PETITION TO THE OFFICE OF ADMINISTRATIVE LAW

RE: Alleged Underground Regulation

FROM: Mr. James A. Hydrick (Petitioner)

DATE: August 6, 2007

Use of this form is entirely optional. It requests the information required by Title 1, California Code of Regulations, section 260, for a petition challenging an alleged underground regulation. Although you are not required to use this specific form, the mandatory information required by 1 CCR 260, including the supporting documentation, must be included somehow in your petition. If you create a separate petition, or if you use this form and need to add extra pages, be sure that each page is labeled clearly.

### 1. Identifying Information:

Your name: James Alan Hydrick, CO-507-4/RRU-11

Your address: P.O. Box 5003, Coalinga, CA 93210

Your telephone number (if you have one): (559)935-0814/(559)935-1273

Your email (if you have one): jhydrick2859ash@juno.com

2. State agency or department being challenged: Department of Mental Health (DMH)  
[ Coalinga State Hospital ]

3. Provide a complete description of the purported underground regulation. Attach a written copy of it. If the purported underground regulation is found in an agency manual, identify the specific provision of the manual alleged to comprise the underground regulation. Please be as precise as possible.

Administrative Directives are the basic written rules and regulations for Coalinga State Hospital and can be found in the , " **Hospital Operating Manual** " of Coalinga State Hospital, or DMH " **Special Orders** " may be issued outside the normal policy review process and at the discretion of the , **Executive Director**". This Manual contains a unknown number of ... " **Underground regulations** " that are being **illegally** enforced on the 6600 et seq.

4. Provide a description of the agency actions you believe demonstrate that it has issued, used, enforced, or attempted to enforce the purported underground regulation.

Coalinga State Hospital, Executive Director (A), Mr. Ben McLain, and his administrative staff...Gary Ronzaglia, Clinical Administrator, Rockey Sporgan, Program 1 , Administrator and David Montoya, Chief of Police Services circumvented A.D. 101, " **Administrative Directives** " by making alterations to A.D. 626's ... "Attachment "A" [Allowables List]" changing it's revision date from January 19, 2007 to July 9, 2007, violating Government Code § 11340.5.(a), while the A.D. 626 it-self, remains unchanged and the patient population was never advised of this adverse change of policy.

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5. State the legal basis for believing that the guideline, criterion, bulletin, provision in a manual, instruction, order, standard of general application, or other rule or procedure is a regulation as defined in Section 11342.600 of the Government Code AND that no express statutory exemption to the requirements of the APA is applicable.

For an administrative regulation to be valid, it must be within the scope of the authority conferred by the enabling statute. Terhune V. Superior Court, 65 Cal. App. 4th 864, 762-3 ( Cal. App. Ct.1998 ).

DMH and Coalinga State Hospital, (CSH) are currently purporting to have the authority to adopt regulations pertaining to patients rights for all Non-LPS patients under Welfare & Institutions Code §§ 4005.1 and 4027. However, § 4027 of the Welfare & Institutions Code, only grants DMH the authority to adopt regulations that affect the rights of a "specified group of mentally-ill offenders receiving treatment "

6. Provide information demonstrating that the petition raises an issue of considerable public importance requiring prompt resolution.

Petitioner, and his peers, 6600 patients' are not "persons receiving treatment as mentally disordered sex offenders", held pursuant to the repealed MDSO Law, (Penal Code § 1364). Petitioner's confinement at CSH is pursuant to W&I §§ 6600 et seq. a commitment, that is not included in § 4027 of the W&I Code. While W & I § 4005.1 grants DMH the authority to "adopt and enforce rules and regulations necessary to carry out its duties under this division ", there are no provisions in Division 4 granting DMH the authority to create or limit the rights of Petitioner. See attached supplemental page & documents.

7. (Optional) Please attach any additional relevant information that will assist OAL in evaluating your petition. SEE ATTACHED: [1] Declaration of James A. Hydrick, [2] Cover-Sheet to A.D. Index from CSH citing a phantom A.D. 101, [3] A.D.101 from Atascadero State Hospital. (ASH), titled: Administrative Directives, [4] A.D. 214, [5] A.D. 626, [6] Revised Allowables List & [7] Memorandum dated 7/27/07.

8. Certifications:

I certify that I have submitted a copy of this petition and all attachments to:

Name: Dr. Stephen W. Mayberg, Ph.D Director, [&]

Agency: California Department of Mental Health

Address: 1600 9th St, Suite 151  
Sacramento, CA 95814

Telephone number: (916) 654-2413/(916) 654-2309

Ben McLain, Executive  
Director (A)

Coalinga State Hospital

24511 West Jayne Ave,

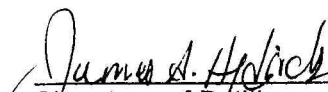
P.O. Box 5003

Coalinga, CA 93210

(559)935-4302/(559)935-4303

[Bmclain@csh.dmh.ca.gov]

I certify that all of the above information is true and correct to the best of my knowledge.

  
Signature of Petitioner  
James Alan Hydrick

August 6, 2007

Date

See attached supporting Documentation

[ SEE ATTACHED DECLARATION OF JAMES A. HYDRICK, IN SUPPORT OF PETITION ]

\*\*\*\* DECLARATION OF JAMES A. HYDRICK \*\*\*\*

Pursuant to 28 U.S.C. § 1746, I Jamea Alan Hydrick, do hereby declare under penalty of perjury that the foregoing facts, information and supporting documents are true and correct.

1. That I am the Petitioner in this matter and a resident of Fresno, County California, and over the age of 18 years of age.
2. That I am a registered voter...Voter # 10 K 849860, and am not in prison, or serving any prison sentence.
3. That I am confined at Coalinga State Hospital("CSH") pursuant to Welfare & Institutions Code §§ 6600 et seq.( "6600s" or ("SVP")), but have not been committed to DMH as an SVP by any court. My current legal status is a 6602. I have been in DMH with this status for 11 years now.
4. That Administrative Directives(A.D.'s) 626, 644, 654, and an unknown number of other underground regulations are currently being used, and enforced on me and my peers that are inconsistent with California Law, Departmental regulations, concerning the care, treatment and housing of petitioner, and my peers' rights.
5. That this is being done by the above named persons knowingly, willfully, for the purpose of inflicting pain, injury, motivated by hatred of the SVP population and an attempt to intentionally incite patients' into altercations.
6. That changes are made to A.D.'s at a blink of an eye, and that no one in administration post any notice of : "RULE CHANGES". The July 27, 2007 Memorandum attached to my declaration will clearly demonstrate my point. It states," Due to the policy changes in A.D.626 in the "Allowable List"enacted on July 9th, 2007, restricting family members from sending in CD/DVD's and electronics". No changes were made to A.D. 626, dated January 19, 2007, it has not been revised, only the Attachment was changed and dated July 9, 2007.
7. That revising the attachment of an A.D. without revising the A.D. itself, violates A.D. 101 III, (B), & (C). And a violation of A.D. 101.2 III, (B)," **Any new or revised directive(not attachments), shall replace the copy currently in the Hospital Operating Manual. A new effective date and cancellation notice WILL appear on the new copy to be filed.** As one can clearly see, this Revised Allowables List...has NO new effective date, as it is only an attachment and sust reflect the same date as the A.D. 626 has...It does not.

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8. That all members of the Hydrick Class...("6600's") were adversely affected by this illegal change. An Emergency RAPC Meeting was called for on 8/01/07 and Rockey Spurgeon and Ms. P. Ahlin admitted that the changes were made to the A.D. 626 outside of proper procedures and that they had not received authorization to do so. See attached the , "EMERGENCY RAPC OFFICERS MEETING" minutes, dated 8/01/07, at:2:10 p.m.

9. Special Order No.: 241.03 has been altered and contend that it was not promulgated pursuant to APA's established polices and procedures as set forth in Gov. Code § 11340 et seq.

10. The patient population receives NO notice of any proposed changes to the A.D.'s Special Orders and the ones that on the units for patients access are, not up-to-date, and have A.D.'s missing. Spocial Orders are not made available to the patients. The patient must go to the patients Library in order to have access to rules & regulations regarding the patients conduct.

11. That the A.D.'s and Special Orders cited in this petition do not represent the whole picture and high level of violations regarding the Administrative Directives.


" The state cannot have it both ways. If confinement  
of sexually violent predator is civil for the purposes  
evaluation under the Ex Post Facto clause, that  
confinement is civil for the purposes of defining the  
rights to which the detainee is entitled while confined.  
Civil status means civil status, with all the... rights  
that accompany it. "

[ See Hydrick, et al. V. Hunter, et al. 466 F.3d 676 9th  
Cir. Page 11989]

12. The Legal and Civil Rights of Persons , " Involuntarily detained " , under the provisions of the Welfare & Institutions Code § 6600, et seq, are included in Division 6 of the Welfare & Institutions Code, Article 7, §§ 5325.1 & § 5327 " Rights of Involuntarily Detained.

I declare under penalty of perjury that the above stated facts, and supporting documentation are true and correct. Executed this 6, day of August, 2007, in the County of Fresno, California.

DATED : August 6, 2007

  
Mr. James A. Hydrick  
In-House Investigator

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