

OFFICE OF PATIENTS' RIGHTS

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TO: All Interested Parties

FROM: Office of Patients' Rights

RE: Mental Health Firearms Prohibition Reporting

DATE: January 13, 2000

As you may be aware, on September 29, 1999, Governor Davis signed into law AB 1587, an amendment to section 8103 of the Welfare and Institutions Code relating to the mental health firearms prohibition. This bill reinstates the requirement that all health facilities report to the Department of Justice (DOJ) persons admitted under Welf. & Inst. Code, § 5150/5151/5152 as a danger to self or others. In May 1997, DOJ had stopped collecting the names of these individuals in response to a lawsuit filed in Sacramento Superior Court (*Dayacamos v. Department of Justice*).

On December 22, 1999, DOJ sent the attached Informational Bulletin to all mental health facilities informing these facilities that they must resume reporting. In this bulletin, DOJ also told health facilities that they must *retroactively* report persons placed on 5150/5151/5152s between May 1997 and the present. *However, nothing in AB 1587 addresses retroactive reporting and there is considerable controversy as to whether DOJ has authority to require such reporting.* The California Healthcare Association and the California Mental Health Directors Association have taken the position that DOJ *does not* have the authority to require retroactive reporting (*see attached*).

If you are contacted by health facility staff regarding firearms reporting requirements, at minimum, you should make them aware of this controversy. You may also want to suggest that they consult their county counsel or private hospital counsel before complying with the DOJ's request.

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