

TITLE 9, CALIFORNIA CODE OF REGULATIONS
Mental Health Services Act Capital Facilities Outlay
Notice published: October 15, 2010

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of Mental Health (“Department”) is proposing to take the action described in the Informative Digest after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department will hold a public hearing starting at 10:00 a.m. on December 6, 2010, at the California Department of Water Resources Auditorium located at 1416 9th Street, 1st Floor in Sacramento, California. The Auditorium is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The hearing will end when all comments have been received or at 5:00 P.M. whichever comes first.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. Comments may also be submitted by facsimile (FAX) at 916-651-3852 or by e-mail to DMH.Regulations@dnh.ca.gov. The written comment period closes at **5:00 p.m. on December 6, 2010**. The Department will consider only comments received at the Department offices or at the public hearing, by that time. Submit comments to:

Stephanie L. Fields
Department of Mental Health
1600 9th Street, Room 435
Sacramento, CA 95814
(916) 651-1446

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 5898 and 5847(a)(5) of the Welfare and Institutions Code, the Department of Mental Health (Department) is seeking changes to:

Title 9, Division 1, Chapter 14 of the California Code of Regulations as follows: Adopt Article 2, Sections 3200.025, 3200.026, 3200.257, and Article 7, Sections 3700, 3710, 3712, 3714, 3725, 3730, 3740, 3745, 3750, 3755, and 3760. Amend Article 3, Section 3310, Article 4, Section 3400 and Article 5, Sections 3500 and 3505.

This proposed action implements, interprets, and makes specific Sections, 5610, 5820, 5830, 5846, 5847, 5848, 5892, and 5897, Welfare and Institutions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

This rulemaking action clarifies and makes specific the Capital Facilities/Technological Needs component of the Mental Health Services Act (MHSA) and will enable counties to transform California's mental health system. The Capital Facilities and Technological Needs component will allow for the development of a variety of technology uses and strategies and/or of community-based facilities which support integrated service experiences that are culturally and linguistically appropriate. Funds may also be used to support an increase in peer-support and consumer-run facilities, development of community-based, less restrictive settings that will reduce the need for incarceration or institutionalization and the development of a technological infrastructure for the mental health system to facilitate quality, cost-effective services and support for clients and their families.

The California voters approved Proposition 63 during the November 2004 General Election. Proposition 63 became effective on January 1, 2005 as the Mental Health Services Act (MHSA). The MHSA expands mental health services to children/youth, adults and older adults who have serious mental illness or serious emotional disturbance and whose service needs are not being met through other funding sources. Through imposition of a 1% tax on personal income in excess of \$1 million, the MHSA provides the opportunity for the Department of Mental Health (DMH) to offer increased funding, personnel and resources to support county mental health programs and monitor progress toward statewide goals for children/youth, adults, older adults and families.

The MHSA directs the county mental health programs to develop and submit a three-year plan to DMH, which DMH has called the Three-Year Program and Expenditure Plan (Plan). The Plan is comprised of five components of activities and/or services for which the funding established under the MHSA can be spent. The components are Community Services and Supports for children, transition-age youth, adults and older adults; Capital Facilities and Technological Needs; Workforce Education and Training; Prevention and Early Intervention; and Innovative Programs.

Given the scale of each component, DMH is implementing each component on a sequential and/or phased-in approach. Accordingly, regulations related to each component are being drafted through a concurrent process as the MHSA components are developed. The Department drafted regulations governing the Community Services and Supports first and these were made final in February 2008. Since it was imperative that the Department begin to distribute funds to the Counties to allow the programs and services to commence, the Department included in this initial regulatory package, fiscal reporting requirements and implemented regulations based on its authority in the law and its current accounting system.

Unlike the other components, (Community Services and Supports and Workforce Education and Training) the Capital Facilities and Technological Needs component is divided into two distinct segments: Capital Facilities segment and Technological Needs segment. This division is necessary as the two elements of the Capital Facilities and Technological Needs component are so distinct that separate regulations are being promulgated for each element. This regulation package includes section 3710 which are the regulations that are applicable to the Capital Facilities and Technological Needs

component. These regulations are included as the information contained in section 3710 is relevant to the Capital Facilities segment (also contained in this package as sections 3712 through 3760).

Changes to the General Requirements contained in Article 3, Funding Provisions in Article 4 and Reporting Requirements in Article 5 are also contained in this proposed regulation package. These changes which are explained in the Initial Statement of Reasons, are non-substantive and consist primarily of formatting and/or relocating existing regulations.

This Informative Digest accompanies the proposed regulations to adopt 14 regulations and amend four regulations, located in the California Code of Regulations Title 9, Division 1, Chapter 14, Article 2, Definitions, Article 3, General Requirements, Article 4, Funding Provisions, Article 5, Reporting Requirements, and Article 7, Capital Facilities and Technological Needs.

MATERIAL INCORPORATED BY REFERENCE

Supporting documentation and relevant materials the Department relied upon in the Initial Statement of Reasons and/or the Informative Digest include:

- a. DMH Information Notice [08-09](#) - Mental Health Services Act Capital Facilities and Technological Needs Component - Three-Year Program and Expenditure Plan Guidelines

[Enclosure 1](#) ~ Proposed Guidelines for Completing the Capital Facilities and Technological Needs Component Proposal of the County's Three-Year Program and Expenditure Plan

[Enclosure 2](#) ~ Capital Facilities Project Proposal Proposed Guidelines for the County's Three-Year Program and Expenditure Plan

[Enclosure 3](#) ~ Guidelines for Completing the Technological Needs Project Proposal for the County's Three-Year Program and Expenditure Plan

- b. Mental Health Services Act, Proposition 63 (November 2004)

THE DEPARTMENT HAS MADE THE FOLLOWING INITIAL DETERMINATIONS:

DMH has determined that the regulations would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Counties may choose to participate in the Capital Facilities segment of the Capital Facilities and Technological Needs component; it is not a mandatory activity. If a county chooses to participate in this segment, the State will provide funding to the county based on its approved Three-Year Program and Expenditure Plan.

- Mandate on local agencies and school districts: **None.**

- Cost or savings to any state agency: **None**.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: **None**
- Other nondiscretionary cost or savings imposed on local agencies: **None**
- Cost or savings in federal funding to the state: **None**.
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: These regulations only affect those County Mental Health Departments that choose to participate in the Capital Facilities segment of the Capital Facilities and Technological Needs component.
- Cost impacts on a representative private person or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. These regulations **only** affect those County Mental Health Departments that choose to participate in the Capital Facilities segment of the Capital Facilities and Technological Needs component.
- Significant effect on housing costs: **None**.
- Small Business Determination: The Department is not aware of any cost impacts that a small business would necessarily incur in reasonable compliance with the proposed action. These regulations **only** affect those County Mental Health Departments that choose to participate in the Capital Facilities segment of the Capital Facilities and Technological Needs component.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of business currently doing business within California.

CONSIDERATION OF ALTERNATIVES – Considered by the Department

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Stephanie L. Fields
Department of Mental Health
1600 9th Street, Room 435
Sacramento, CA 95814
(916) 651-1446

Backup Contact:

Alice Lee
Department of Mental Health
1600 9th Street, Room 435
Sacramento, CA 95814
(916) 654-2319

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, or other information upon which the rulemaking is based to Ms. Fields at the above address. Comments may also be submitted by facsimile (FAX) at (916) 651-3852 or by e-mail to DMH.Regulations@dmh.ca.gov. Comments must be submitted prior to **5:00 p.m. on December 6, 2010**.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department has available the rulemaking file for inspection and copying at its office at 1600 9th Street room 435, Sacramento, CA 95814. As of the date this notice as published in the Notice Register, the rulemaking file consists of copies of the exact language of the proposed regulations, the Initial Statement of Reasons, and all of the information upon which the proposal is based. These documents may also be viewed and downloaded from the Department's website at www.dmh.ca.gov.

Following the public comment period the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written comments related to this proposal, or who provide oral testimony if a public hearing is held, or who have requested notification of any changes to the proposal.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be viewed and downloaded from the Department's website at www.dmh.ca.gov or by contacting Ms. Fields at the above address.

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