

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. 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 a severe mental illness/severe mental disorder and whose service needs are not being met through other funding sources. The MHSA also requires Counties to establish prevention and early intervention programs and develop innovative programs. 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 other resources to support county mental health programs, and monitor progress toward statewide goals for children/youth, adults, older adults and families.
2. Proposition 63 added Section 5898 to the Welfare and Institutions Code (WIC). This section states: "The department shall develop regulations, as necessary, for the department or designated local agencies to implement this act." Section 5898 provides language that allowed DMH to adopt as emergency regulations any regulations filed in 2005. Additionally, the regulations so adopted in 2005 were exempt from review by the Office of Administrative Law (OAL).

In December 2005, DMH filed regulations with OAL under WIC Section 5898. The regulations were codified in Title 9, of the California Code of Regulations (CCR), Division 1, Chapter 14. As filed with the Secretary of State, these regulations contained an error of omission. On January 13, 2006, DMH submitted an amendment to correct the error. OAL approved the January 13, 2006 amendment and two subsequent readoptions effective through January 24, 2007.

In accordance with the Administrative Procedure Act, DMH engaged in the rulemaking process. During this process, DMH identified additional requirements. Consequently, the regulations submitted in December 2005, and the subsequent amendments, were modified and incorporated into a more comprehensive set of regulations. These regulations set forth requirements for implementing the first of the five components specified in the MHSA. (See the Informative Digest for more information). Therefore, both the original package filed in December 2005, and the amendment filed on January 13, 2006, are being repealed in their entirety.

3. Although these regulations do not meet the deadline established by the MHSA, which allowed the regulations to be filed on an emergency basis, a delay in the implementation of these regulations would conflict with the intent of WIC Section 5898, which is to expedite implementation of the MHSA.
4. Delaying the implementation of these regulations could compromise DMH's ability to distribute MHSA funding to the Counties. Delaying the implementation of these regulations could also compromise the Counties' ability to access MHSA funding. Distribution of MHSA funds is critical to effectively implementing the provisions of the MHSA, and carrying out its intent to remedy the problems caused by cutbacks in mental health services at state hospitals in California, which began over 30 years ago and left many people with a severe mental illness/disorder either untreated or with insufficient care. (See section 2 of the MHSA.) Also, if the State fails to carry out its duties, as required by the MHSA, lawsuits may be filed by the Counties, as well as by individuals and organizations representing the population that is paying an additional 1% tax for the purpose of providing effective treatment and support to people with a mental illness/disorder.