

## 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 will expand mental health services to children/youth, adults and older adults who have severe mental illnesses/severe mental disorders and whose service needs are not being met through other funding sources. The MHSA seeks to establish prevention and early intervention programs as well as to 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 in part that, "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 the provision stated above. 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. On January 13, 2006, DMH submitted an amendment to correct the error. OAL approved the January 13, 2006 amendment and two subsequent readoptions effective January 24, 2007.

In accordance with the Administrative Procedures 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 the implementing the first of the five components specified in the MHSA (see the Informative Digest for specifics). Therefore, the original package filed in December 2005, and the amendment filed on January 13, 2006 are being repealed in its entirety.

3. These regulations do not meet the deadline established by the MHSA, which allowed the regulations to be filed on an emergency basis. However, a delay in the implementation of these regulations would conflict with the intent of WIC Section 5898, which is to expedite the implementation of the MHSA.
4. Delaying the implementation of these regulations will result in non-compliance with State law and could compromise DMH's ability to distribute the funding to the Counties. Delaying the implementation of these regulations could also compromise the Counties' ability to access MHSA funding. The distribution of MHSA funding is critical to effectively carry out the Findings and Declarations of the MHSA, which acknowledges the fact that California, beginning over 30 years ago, with the cut back in services in state hospitals, has left many people with severe mental illness, either untreated or with insufficient care. Also, the failure of the State to perform its duties as required in the MHSA could result in potential lawsuits, not only file by the Counties, but also lawsuits filed on behalf of the population at large who, are paying this additional one percent tax for the purpose of providing effective treatment and support to people with mental illness/disorders.
5. The emergency status of the current regulations needs to be extended beyond the expiration date of May 1, 2007. The continuation of these emergency regulations will permit the county mental health departments to maintain critical services for Californians with severe mental health illness. Through the Mental Health Services Act, a variety of services are provided including treatment, counseling, and a gamut of support services such as housing and employment training. This additional time is needed because the 45-day Public Comment Period of the emergency package occurred between February 21 and April 16, 2007. DMH received over 440 letters with the bulk of them being submitted right before the deadline. The Public Hearing occurred on April 16, 2007 in Sacramento where approximately 30 individuals offered oral testimony and/or written comments. DMH expects to receive a copy of the hearing transcript by April 26, 2007. Due to the vast volume of public comment/testimony, it is necessary to readopt the emergency regulations to allow sufficient time for the DMH staff to properly reconcile and thoroughly review the comments and provide response. With possible changes needed to the regulations, time is also needed to make the necessary modifications to all of the supportive documentation.