

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 Social Rehabilitation Facilities Regulations Revisions

The CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on September 22, 2016, at the following address:

Office Building # 8
744 P Street, Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on September 22, 2016.

Following the public hearing CDSS 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 nonsubstantive, technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

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CHAPTERS

California Code of Regulations, Title 22, Division 6, Chapter 2 (Social Rehabilitation Facilities), Sections 81001 (Definitions), 81010 (Limitations on Capacity and Ambulatory Status), 81020 (Fire Clearance), 81022 (Plan of Operation), 81026 (Safeguards for Cash Resources, Personal Property, and Valuables), 81068.2 (Needs and Services Plan), 81068.4 (Acceptance and Retention Limitations), 81068.5 (Eviction Procedures), 81069 (Client Medical Assessments), 81071 (Register of Clients), 81075 (Health-Related Services), 81077.2 (Care for Clients Who Rely Upon Others to Perform All Activities of Daily Living), 81077.4 (Care for Clients with Incontinence), 81077.5 (Care for Clients with Contractures), 81087 (Buildings and Grounds), 81088 (Fixtures, Furniture, Equipment and Supplies), 81090 (Health and Safety Services), 81092 (Restricted Health Conditions), 81092.3 (Inhalation-Assistive Devices), 81092.4 (Colostomy/Ileostomy), 81092.5 (Fecal Impaction Removal, Enemas, or Suppositories), 81092.6 (Indwelling Urinary Catheter/Catheter Procedure), 81092.7 (Staph or Other Serious, Communicable Infections), 81092.8 (Diabetes), 81092.9 (Wounds), 81092.10 (Gastrostomy Feeding, Hydration, and Care), 81092.11 (Tracheostomies), and 81094 (Health Condition Relocation Order)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Social Rehabilitation Facilities (SRFs) are facilities licensed by CDSS, Community Care Licensing Division (CCLD) and certified by the California Department of Health Care Services (DHCS). Current laws (Health and Safety Code sections 1500 through 1567.87) and regulations (California Code of Regulations (CCR) Title 22, Division 6, Chapter 2) govern the management of SRFs regarding the care and supervision of clients, including client management, facility management, staff background checks, training and documentation requirements. SRFs provide care and supervision to mentally ill adults recovering from mental illness who temporarily need assistance, guidance or counseling. There are approximately 102 licensed SRFs in California.

The CCLD has been working with the California Association of Social Rehabilitation Agencies (CASRA) to identify necessary regulatory amendments that will improve the quality of care and supervision provided in the SRFs as short-term crisis facilities. This regulatory package will update the SRF regulations with changes originated as a result of stakeholder meetings with CASRA. The CASRA requested that these amendments be made to meet the needs of the client population served by this facility type. Some examples of these requested amendments include:

- Allowing clients to have access to cleaning supplies, when appropriate.
- Amend the total licensed capacity language to more closely align with Medi-Cal standards.
- Update all regulatory references from "accept" and "acceptance" to "admit" or "admittance" for clarity and consistency.
- Allow licensees to ensure that a client's Needs and Services Plan is completed within three days of admission, rather than prior to admission.
- Allow short-term crisis facilities to give clients an eviction notice of fewer than 30-days.
- Clarity on uncovered trash cans.

These regulatory amendments are being made to meet the needs of the client population served by the SRFs. The amendments include clean-up of some terms that are not used consistently, align the regulations with Medi-Cal standards and better support the functionality of these short-term crisis facilities.

During the process of developing these regulations, CDSS has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

COST ESTIMATE

1. Costs or Savings to State Agencies: No fiscal impact exists.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None.
3. Nondiscretionary Costs or Savings to Local Agencies: No fiscal impact exists.
4. Federal Funding to State Agencies: No fiscal impact exists.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate upon local agencies. The mandate is not required to be reimbursed pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code or Section 6 of Article XIII B of the California Constitution because implementation of the regulations only impact licensees that make the business decision to admit the clients which would require these regulatory provisions. In addition, some of these regulations actually ease the requirements upon the licensee.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The CDSS has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. None of the proposed regulations establish a requirement to a Licensee who operates the small business that entail an investment in new goods or services or substantially alter their daily business activities and licensure requirements. The Department worked closely with the CASRA, which represents the small businesses these regulations impact and they have confirmed there is no economic impact to these small businesses; in fact, these regulations save them from potential economic impacts for the following reasons:

1. Some regulation changes are technical or merely reduce confusion, and have no economic impact (e.g. use of term "admit" rather than "accept," clarifying good cause for eviction, clarification of the "client register").
2. The remaining regulations have no adverse economic impact as they a) make it easier for the licensee to meet the regulation (e.g. allowing more time for the licensee to complete the Needs and Services Plan and to complete the medical assessment, allowing the licensee to use email rather than fax or postal mail; increase facility client capacity to 16 rather than 15); b) would reduce the possibility of the licensee being cited and consequently receiving civil penalties given that these proposed regulations allow for greater flexibilities within their business structure; and c) would allow the licensee greater flexibility in their treatment modalities (e.g. allowing clients to manage their own medication and to handle cleaning chemicals when appropriate).

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

These proposed regulations will apply to SRFs, which the state considers small businesses. The SRF regulations will be amended to implement CASRA requested amendments that will bring the regulations up to date and make them more applicable to the client base served by this facility type. The regulatory amendments will be published in Chapter 2, Title 22, Division 6 of the CCR.

However, these regulations do not have an adverse economic impact on small businesses as they represent clarifications of terms and the provider group recommendations which will enable them to better meet the needs of their clients.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

No economic impact is anticipated for CDSS or for SRF licensees by this regulatory activity as determined by the economic impact assessment. The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The amendments to the existing regulations are anticipated to benefit community-based providers by clarifying and providing regulations that emphasize the needs, health, and safety of people living in SRFs. These amendments promote self-help amongst people living in SRFs and ensure statewide consistency and interpretation of the Title 22 regulations.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

Through a series of stakeholder meetings it was determined that these regulations were necessary to meet the needs and service requirements for the clients in SRFs. The CDSS determined there was no other alternative solution available to achieve the objective of these regulations as requested by the CASRA.

The CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

The CDSS adopts these regulations under the authority granted in Section 1530, Health and Safety Code. Subject regulations implement and make specific Section 1501, Health and Safety Code; Section 5670.5(a)(2), Welfare and Institutions Code; and California Code of Regulations, Title 9, Sections 532.1(c) and (g), 532.2(b), 532.4, 1840.332(b) and 1840.334(c).

CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

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