

Explanation of Requested Changes Pursuant to Title 1, California Code of Regulations, Section 100

The Department of Health Care Services (Department) proposes changes without regulatory effect that would amend various regulations under the California Code of Regulations (CCR), Title 22, Division 5.

Specifically, the proposed amendments fall under the provisions of Title 1, CCR, Sections:

- 100(a)(4), which allows for revising structure, syntax, cross-reference, grammar, or punctuation.
- 100(a)(5), which allows for changing an “authority” or “reference” citation for a regulation.
- 100(a)(6), which allows for making a regulatory provision consistent with a changed California statute if both of the following conditions are met:
 - (A) the regulatory provision is inconsistent with and superseded by a changed statute, and
 - (B) the adopting agency has no discretion to adopt a change which differs in substance from the one chosen.

The proposed amendments listed below are consistent with the provisions of Title 1, CCR Sections 100(a)(4), 100(a)(5) and 100(a)(6) and do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

Background

In 1973, the State of California attempted to more effectively administer physical and mental health, consolidating them into the Department of Health. In 1978, the Department of Health was segmented into smaller departments, including the Department of Mental Health (DMH) and the Department of Health Services (DHS).

Section 100100 of the Health and Safety Code (amended by Stats.2006, c. 241 (S.B. 162), § 13, operative July 1, 2007.), redistributed the State administrative functions and applicable functions for public health from DHS to the Department of Public Health and the Department, which also changed the official name of the Department of Health to the Department of Health Care Services.

Section 14700 of the Welfare and Institutions Code, transferred the State administrative functions and applicable functions for Medi-Cal related mental health services from DMH to the Department. Title 22, CCR, Division 5, Article 4, includes some of the regulatory provisions for these mental health programs and services.

Purpose

The proposed non-substantive amendments included in this regulation package update the name of the department responsible for the administration of these mental health

services from DMH to the Department of Health Care Services. This regulation package also updates the authority and reference citations in the “Notes.”

Proposed Amendments

Pursuant to Title 1, CCR Section 100(a)(4):

The amendment proposed to this regulation is non-substantive as it serves to correct grammar within the section listed below:

- Section 72467(b)

Pursuant to Title 1, CCR Section 100(a)(5):

The amendments proposed to these regulations are non-substantive as they serve only to update the “authority” and “reference” citations within the Notes to specify that the Department name changed, it has the authority to amend these regulations and certifies special treatment programs in skilled nursing facilities. Health and Safety Code section 20 specifies that commencing July 1, 2007, references to the former DHS refer to the Department of Health Care Services. Welfare and Institutions Code sections 10725 and 14124.5, which provides general authority for the Director to promulgate regulations, is added as “authority”. Welfare and Institutions Code section 5909, which provides the Department with the authority to certify special treatment programs, is added as a “reference” citation. Welfare and Institutions Code section 14700, which transferred the duties of the former DMH to the Department, is added as both an “authority” and “reference” citation. These proposed amendments were added to each of the regulations listed below.

- Section 72443
- Section 72449
- Section 72467

Pursuant to Title 1, CCR Section 100(a)(6):

The amendments proposed to these regulations are non-substantive changes as they serve only to update the department referenced and responsible for certifying special treatment programs in skilled nursing facilities from DMH to the Department. The Department has no discretion in making this amendment as the transfer of responsibilities and duties were a legislative action and the regulations, listed below, conflict with the amended statutes without these changes.

- Section 72443(c)
- Section 72449(a)
- Section 72467(a) and 72467(d)(12)