

**State of California
Office of Administrative Law**

In re:
Department of Health Care Services

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections:

Amend sections: 77005, 77009, 77037,
77045, 77052.5, 77105,
77143

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL Matter Number: 2020-1019-02

OAL Matter Type: Nonsubstantive (N)

These changes without regulatory effect change obsolete references to the Department of Mental Health to the Department of Health Care Services and update the relevant agency's address. The action also replaces cross references to repealed statutes with references to current statutes.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: November 16, 2020

Original Signed

Dale P. Mentink
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Jennifer Kent, Director
Copy: Erika Drayton-Jebali

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2020-1019-02	EMERGENCY NUMBER N
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

For use by Secretary of State only

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

NOV 16 2020

1:53 PM

AGENCY WITH RULEMAKING AUTHORITY
Department of Health Care Services

AGENCY FILE NUMBER (If any)
DHCS-19-008

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Psychiatric Health Facility		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
TITLE(S) 22		AMEND Sections 77005, 77009, 77037, 77045, 77052.5, 77105, and 77143	
		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	
		<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Erika Drayton-Jebali		TELEPHONE NUMBER (916) 345-8404	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional) Erika.Drayton-Jebali@dhcs.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Original Signed

DATE

10/15/2020

TYPED NAME AND TITLE OF SIGNATORY

Will Lightbourne, Director

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVAL

NOV 16 2020

Office of Administrative Law

Title 22. Social Security
Division 5. Licensing and Certification of Health Facilities, Home Health Agencies,
Clinics, and Referral Agencies
Chapter 9. Psychiatric Health Facilities

(1) Amend Section 77005 to read:

§ 77005. Department.

Department means the State Department of Mental Health Care Services.

Note: Authority cited: Sections 1254 and 1275.5, Health and Safety Code; and Sections 4080(f) and 10725, Welfare and Institutions Code. Reference: Sections 1254 and 1275.1, Health and Safety Code; and Section 4080, Welfare and Institutions Code.

(2) Amend Section 77009 to read:

§ 77009. Director.

Director means the Director of the State Department of ~~Mental Health~~ Care
Services.

Note: Authority cited: Sections 1254 and 1275.5, Health and Safety Code; and Sections 4080(f) and 10725, Welfare and Institutions Code. Reference: Sections 1254 and 1275.1, Health and Safety Code; and Section 4080, Welfare and Institutions Code.

(3) Amend Section 77037 to read:

§ 77037. Application Required.

(a) A signed application for a new license shall be submitted to the State Department of Mental Health Care Services whenever any of the following circumstances occur:

- (1) Establishment of a facility.
- (2) Change in the entity that operates, conducts, maintains, or manages the facility.

(b) – No Changes.

Note: Authority cited: Sections 1254 and 1275.5, Health and Safety Code; and Sections 4080(f) and 10725, Welfare and Institutions Code. Reference: Sections 1253, 1254, 1254.1 and 1275.1, Health and Safety Code; and Section 4080, Welfare and Institutions Code.

(4) Amend Section 77045 to read:

§ 77045. Posting of License and Consumer Information.

(a) – (b) – No Changes.

(c) The following consumer information shall be posted in a prominent location accessible to public view.

(1) Name of the current administrator of the facility.

(2) A notice that the facility's written admission and discharge policies are available upon request.

(3) ~~Most recent licensing visit report supported by the related follow-up plan of~~ correction visit reports or a posted statement that such documents are available upon request for public review at the facility.

(4) A notice of the name, address and telephone number of the Department of Mental Health Care Services division having jurisdiction over the facility.

Note: Authority cited: Sections 1254, 1275 and 1275.5, Health and Safety Code; and Sections 4080 and 10725, Welfare and Institutions Code. Reference: Sections 1254 and 1275.1, Health and Safety Code; and Section 4080, Welfare and Institutions Code.

(5) Amend Section 77052.5 to read:

§ 77052.5. Appeal of Sanctions.

(a) – (f) – No Changes.

(g) Unless a written request for a hearing signed by or on behalf of the applicant/licensee in the accompanying notice is delivered or mailed to the Department within 15 days after the notice was personally served on the applicant/licensee or mailed to the applicant/licensee, the Department of Mental Health Care Services may proceed upon the notice without a hearing.

(h) The request for a hearing may be made by delivering or mailing the notice of defense, or by delivering or mailing a notice of defense as provided by Section 11506 of the Government Code to: the Department of Mental Health Care Services, Licensing and Certification Division, ~~1600 9th Street~~ P.O. Box 997413, MS 2800, Sacramento, California ~~95814~~ 95899-7413. The applicant/licensee may, but is not required to, be represented by counsel at any or all stages of these proceedings. If the applicant/licensee desires the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in Section 11507.6 of the Government Code in the possession, custody or control of the Department, the applicant/licensee may contact: the Department of Mental Health Care Services, Licensing and Certification Division, ~~1600 9th Street~~ P.O. Box 997413, MS 2800, Sacramento, California ~~95814~~ 95899-7413.

(i) – No Changes.

Note: Authority cited: Sections 1254, 1275 and 1275.5, Health and Safety Code; and Sections 4080(i)(2) and 10725, Welfare and Institutions Code. Reference: Section 1254, Health and Safety Code; and Section 4080(f) and (j), Welfare and Institutions Code.

(6) Amend Section 77105 to read:

§ 77105. Clinical Research.

Prior to implementing any research projects involving human subjects that were not approved with the initial program plan, a supplemental patient care program plan shall be submitted to the Department of Mental Health Care Services for approval or denial. All research projects involving human subjects shall meet the requirements of all applicable state and federal laws and regulations.

Note: Authority cited: Sections ~~208(a)~~1254, ~~and 1275~~ and 1275.5, Health and Safety Code; and Sections 4080 and 10725, Welfare and Institutions Code. Reference: Sections 1254 and 1275.1, Health and Safety Code; and Section 4080, Welfare and Institutions Code.

(7) Amend Section 77143 to read:

§ 77143. Health Record Availability.

(a) Records shall be kept on all patients admitted or accepted for treatment. All required records, either as originals or as accurate reproductions of the contents of such originals, shall be maintained in a confidential manner, legible and readily accessible upon request of persons authorized by law to have access to such records including, but not limited to, persons authorized pursuant to Health and Safety Code, Section ~~25250~~123100 et seq., those professional persons who are providing services to the patient and authorized representatives of the Department and the Department of Mental Health.

(b) – (g) – No Changes.

(h) All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section ~~7000~~7100) of the Welfare and Institutions Code to either voluntary or involuntary recipients of services shall be confidential and may be disclosed only in accordance with Sections 5328 through 5330 of the Welfare and Institutions Code.

Note: Authority cited: Sections ~~208(a)~~1254, and 1275 and 1275.5, Health and Safety Code; and Sections 4080 and 10725, Welfare and Institutions Code. Reference: Sections 1254 and 1275.1, Health and Safety Code; and Section 4080, Welfare and Institutions Code.