



# CALIFORNIA DEPARTMENT OF State Hospitals

## NOTICE OF PROPOSED RULEMAKING

### TITLE 9. REHABILITATIVE AND DEVELOPMENTAL SERVICES DIVISION 1. DEPARTMENT OF MENTAL HEALTH

The Department of State Hospitals (DSH) (formerly Department of Mental Health) proposes to amend Section 881 of the California Code of Regulations, Title 9, concerning the definition of mental disorder and mental health disorder after considering all comments, objections, and recommendations regarding the proposed action.

#### PUBLIC HEARING

The Department will hold a public hearing starting at 2:30 p.m. on December 12, 2014, at the Department of State Hospitals, 1600 9<sup>th</sup> Street, Room 100, Sacramento, California. The Department of State Hospital's building is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. DSH requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to DSH. Comments may also be submitted by facsimile (FAX) at (916) 651-3090 or by e-mail to [DSH.Regulations@dsh.ca.gov](mailto:DSH.Regulations@dsh.ca.gov). The written comment period closes at 5:00 p.m. on **December 8, 2014**. DSH will consider only comments received at the Department offices by that time. Submit comments to:

Regulations Unit  
Department of State Hospitals  
1600 9<sup>th</sup> Street, Room 410  
Sacramento, CA 95814

#### AUTHORITY AND REFERENCES

Authority: Sections 4005.1 and 4101, Welfare and Institutions Code.  
References: Sections 4005.1 and 4027, Welfare and Institutions Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California Code of Regulations, Title 9, Division 1, Chapter 4.5, Article 1, Section 881(m) currently defines mental disorder as a “diagnosed mental disorder listed in the American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, DSM-IV-TR, 2000.” This rulemaking action will update the regulation text to reflect the recent release of the Fifth Edition, DSM 5, revised in May 2013 and incorporated by reference. It also reflects the recent statutory change in mental health language by including “mental health disorder.”

The Diagnostic and Statistical Manual (DSM) is the nationally recognized source used by mental health clinicians in the diagnosis of mental health disorders affecting mood, personality, identity, cognition and more. The DSM is published by the American Psychiatric Association (APA) and has been updated several times since its first release in 1952. It standardizes diagnoses by psychiatrists, psychologists, social workers, nurses and other health and mental health professionals. The APA recently released the DSM 5, which will be the first full revision since 1994 and represents the contributions of more than 1,500 distinguished mental health and medical experts from around the world as part of an extensive and rigorous development process.

### Effect of the Proposed Rulemaking

This action will allow DSH to implement the use of the Fifth Edition, DSM 5, 2013, thereby ensuring the protection and safety of the public, the state hospital patients and the state hospital employees. This rulemaking action will also ensure patients’ rights to be diagnosed with the most current diagnostic resource.

### Comparable Federal Regulations or Statutes

This regulation would cause no significant differences in existing comparable federal regulations or statutes.

### Benefits Anticipated from the Proposed Action

- Allow DSH to operate under the contemporary publication of the DSM.
- Ensure the protection and safety of the public, the state hospital patients, and the state hospital employees.
- Ensure that patients are evaluated and diagnosed using the most current diagnostic information available which is based on extensive research and rigorous development process by the American Psychiatric Association.

### Consistency Evaluation

During the process of developing this regulation amendment, DSH has conducted a search of any similar regulation on this topic and has concluded that this regulation is neither inconsistent nor incompatible with existing state regulations.

### DOCUMENT INCORPORATED BY REFERENCE

DSH intends to incorporate by reference, the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published in May 2013. This publication is readily available to the public through Thomson Reuters/BARCLAYS and the Internet. The public may access this document incorporated by reference by copying and pasting this URL on the Internet Browser: <http://www.dsm5.org>. Any interested parties wishing to review the DSM 5 may also contact the Regulations Unit at (916) 653-2257 to schedule an appointment.

### DSH HAS MADE THE FOLLOWING INITIAL DETERMINATIONS

#### Mandated by Federal Law or Regulations

This action is not mandated by federal law or regulations.

#### Mandates on Local Agencies or School Districts

DSH has determined that this regulation will not impose a mandate on local agencies or school districts.

#### Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code

DSH has determined that this regulation will not impose a mandate on local agencies or school districts and therefore no state reimbursement is required.

#### Fiscal Impact

Costs to Any Local Agency or School District that Requires Reimbursement Pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code: DSH has determined that this regulation will not impose costs to any local agency or school district that require reimbursement.

Costs or Savings to Any State Agency: DSH anticipates there will be no fiscal impact to any State agency.

Non-discretionary Costs or Savings Imposed on Local Agencies: DSH anticipates there will be no fiscal impact to local agencies.

Costs or Savings in Federal Funding to the State: DSH anticipates there will be no fiscal impact in federal funding to the State.

#### Significant Effect on Housing Costs

DSH anticipates there will be impact on housing costs.

### Significant, Statewide Adverse Economic Impact Affecting Businesses, Including Ability to Compete

The Department has initially determined that the proposed regulation 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.

### Costs or Savings to Individuals or Businesses

DSH is not aware of any cost impacts that an individual or business would necessarily incur in reasonable compliance with the proposed action.

## STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Adoption of these regulations will not:

- create or eliminate total jobs within California;
- create new businesses or eliminate existing businesses within California;
- affect the expansion of businesses currently doing business in California; or

### Benefits

This regulation allows DSH to diagnose state hospital patients with most current version of the DSM 5 thereby protecting the health and welfare of California residents and worker safety. This rulemaking action will also ensure patients' rights to be diagnosed with the most current diagnostic resource.

### Cost Impacts on a Representative Person or Business

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

### Business Report

This regulation does not require a business report to be made.

### Small Business Determination

DSH is not aware of any impact this proposed action will have on small businesses, because this regulatory action serves to clarify/update the current definition of "mental disorder" and "mental health disorder."

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, would be as effective 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.

DSH invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation amendment at the scheduled hearing or during the written comment period.

### CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Karen Gillham  
Chief  
Regulations Unit  
Department of State Hospitals  
1600 9<sup>th</sup> Street, Room 410  
Sacramento, CA 95814  
Telephone: (916) 653-2257  
Desk: (916) 651-5578  
E-mail: [karen.gillham@dsh.ca.gov](mailto:karen.gillham@dsh.ca.gov)

The back-up contact person for these inquiries is:

Sherry Barandas  
Staff Services Manager I  
Regulations Unit  
Department of State Hospitals  
1600 9<sup>th</sup> Street, Room 410  
Sacramento, CA 95814  
Telephone: (916) 653-2257  
Desk: (916) 651-3222  
E-mail [sherry.barandas@dsh.ca.gov](mailto:sherry.barandas@dsh.ca.gov)

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to the Regulations Unit at the above address.

### AVAILABILITY OF THE STATEMENT OF REASONS, TEXT OF THE PROPOSED REGULATION AMENDMENT, AND THE RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting the Regulations Unit.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulation amendment substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the Regulations Unit at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the Regulations Unit at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through our website at [www.dsh.ca.gov](http://www.dsh.ca.gov).