CALIFORNIA DEPARTMENT OF

StateHospitals

Office of Regulations
1600 Ninth Street, Room 410
Sacramento, CA 95814
916-654-2748

June 8, 2016

The Department of State Hospitals (DSH) is required to post this emergency regulation notification and documents which address the "End of Life Act at State Hospitals."

> Government Code section 11346.2(a)(2) requires that, at least five working days prior to the submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

In addition to the five-day comment period for the emergency filing indicated above, there will be the routine 45-day public comment period when these regulations are permanently adopted via the regular process, which will be completed within 180 days of OAL's adoption of this emergency package.

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of State Hospitals is proposing to take the action described in the Finding of Emergency after considering all comments, objections, and recommendations regarding the proposed action.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Office of Administrative Law (OAL). Comments may also be submitted to OAL by facsimile (FAX) at 916-323-6826. The written comment period closes at **5:00 pm on June 16, 2016.**

OAL will consider only comments received at OAL offices by that time. Submit comments to:

Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814-4339

AUTHORITY AND REFERENCES

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

Reference: Section 443 et seq., Health and Safety Code.

FINDING OF EMERGENCY

A. Department of State Hospital's (DSH) Finding of Emergency Regulatory Action Is Necessary

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.

B. Description of Specific Facts Which Constitute the Emergency

The Necessity for the Proposed Regulations

The Legislature and the Governor passed the End of Life Option Act (Act) in the most recent special session, in which case, the effective date of the Act is delayed until 90 days following the adjournment of the special session. Because the special session adjourned in March 2016, the law will now become effective on June 9, 2016.

The Finding of Emergency

DSH finds that the proposed regulatory amendment is necessary to address an emergency. An emergency is "a situation that calls for immediate action to avoid serious harm to the public peace, health, safety, or general welfare." (Gov. Code, § 11342.545.) The Act becomes effective June 9, 2016. DSH is promulgating these emergency regulations in order to strike an appropriate balance between allowing qualified patients to exercise their individual rights under the Act, but in a manner that is consistent with DSH's legal and institutional needs to ensure the safety and security of other patients and staff. In addition, residents are committed to DSH for specific reasons as set forth by the committing courts, and therefore, DSH must provide procedures for any requests under the Act to be addressed with the committing courts.

DSH HAS MADE THE FOLLOWING INTITIAL DETERMINATIONS:

Mandates on Local Agencies or School Districts: County courts are State-funded and the courts would have to review patients' petitions. However, patients are already allowed to petition to the courts.

Mandate Requires State Reimbursement Pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None

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: None

Non-discretionary Costs or Savings Imposed on Local Agencies: DSH anticipates there will be no fiscal impact in the current State Fiscal Year to Local Agencies.

Costs or Savings to Any State Agency: DSH does not anticipate there to be many costs to DSH or any state agency.

Costs or Savings in Federal Funding to the State: None.

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.

MATERIAL INCORPORATED BY REFERENCE

None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (1)(13), DSH must determine that no reasonable alternative which it will consider or that will otherwise be identified and brought to its attention will be more effective in carrying out the purpose for which this action is proposed or will be as effective and less burdensome to affect private persons than the proposed action described in this Notice.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation amendment during the written comment period.

AVAILABILITY OF FINDING OF EMERGENCY, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The rulemaking file is available for inspection and copying at the Department of State Hospitals, Regulations Unit, 1600 9th Street, Room 410, Sacramento, CA 95814. As of the date this notice is published, the rulemaking file consists of a copy of the exact language of the proposed regulations and the Finding of Emergency. These documents may also be viewed and downloaded from DSH's website at www.dsh.ca.gov.