

DEPARTMENT OF STATE HOSPITALS

**REQUEST FOR EARLY EFFECTIVE DATE**

California Code of Regulations  
Title 9. Rehabilitative and Developmental Services  
Division 1. Department of Mental Health  
Chapter 15. Assessment of Sexually Violent Predators

The Department of State Hospitals (DSH or the Department) is requesting, pursuant to Government Code section 11343.4, subdivision (b)(3), that the effective date of these regulations be earlier than the next quarterly basis of October 1, 2018. DSH requests that the Office of Administrative Law (OAL) approve these regulations to be effective immediately upon filing with the Secretary of State.

The Department's request is based on the following good cause. The regulations pertain to Sexually Violent Predator (SVP) Evaluation Processes initially adopted as emergency regulations on August 17, 2017 and subsequently re-adopted twice as emergency regulations on February 14, 2018 and May 16, 2018.

DSH is facing current and existing legal challenges to the current Sexually Violent Predatory (SVP) evaluations update process, on the grounds that current guidance is unclear, potentially *ultravires*, and potentially does not abide by the Administrative Procedure Act. These policy and legal challenges are being raised in a variety of pending SVP civil commitment proceedings. The adoption of these regulations would continue to provide clarity and extinguish any legal doubts as to the validity of the Department's interpretation of the Sexually Violent Predator Act. It is critical, therefore, to adopt these regulations in order to continue to provide guidance and clarification on Welfare and Institutions Code, section 6600 et. seq.

Moreover, a delay could also potentially cause confusion since the emergency regulations have been modified since having been published as emergency regulations in the California Code of Regulations. For this reason, the Department requests that the effective date be immediately upon filing with the Secretary of State to maintain a streamlined and uniform admission process, without confusion between the emergency regulations text and the final regulations text.

Good cause existing, DSH respectfully requests that, upon review, OAL approve the effective date of these regulations to be immediately effective upon filing with the Secretary of State.