

INITIAL STATEMENT OF REASONS

TITLE 17. CALIFORNIA CODE OF REGULATIONS DIVISION 2. DEPARTMENT OF DEVELOPMENTAL SERVICES

(a) Description of the Public Problem, Administrative Requirement or Other Condition of Circumstance the Regulations are Intended to Address

In fiscal year (FY) 2011-2012, the Department provided behavioral services to over 24,000 consumers. Behavioral services provide instruction and environmental modifications to promote positive behaviors and reduce behaviors that interfere with learning and social interaction. Regulations establish the qualifications for the professionals delivering these services. Spending on behavioral services has increased steadily. In FY 2011-2012, nearly \$264 million was spent to provide these services to consumers. In FY 2012-2013, the Department anticipates spending over \$290 million on behavioral services.

Due to the ongoing fiscal crisis in California, the Department's budget has been significantly reduced. During the development of the FY 2011-2012 budget, the Department received input from workgroups comprised of representatives from regional centers, service providers, advocacy groups, consumers, and family members to develop proposals to reduce or restrict General Fund growth in the Department's budget. During these workgroup meetings, the participants determined that allowing qualified paraprofessionals to provide intervention services would result in cost savings. By amending the regulations to define a new type of service provider with specific educational requirements, the Department and regional centers will be able to achieve mission critical cost savings, thus reducing General Fund growth in the Department's budget. It is the intent of the Department that the proposed action will also result in nonmonetary benefits, including the health and welfare of California residents, who are regional center consumers and their families, by broadening the field of professionals thus increasing accessibility to behavioral services. The Department proposes to amend §§54342 and 57332 of Title 17, California Code of Regulations, allowing the regional centers to use a new category of paraprofessional in group practice provider behavioral intervention services. The proposed regulations establish a rate, educational and experiential qualifications, and professional supervision requirements.

(b) Alternatives Considered

In accordance with §11346.5(a)(13) of the Government Code, the Department has determined that no reasonable alternatives were identified or brought to the attention of the agency which 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. The proposed action is not prescriptive as the use of the

regulations' proposed professional category is voluntary. Because the proposed action does not prescribe specific actions or procedures, the imposition of performance standards were not considered as an alternative.

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

(c) Economic Impact and Business Assessment

Relying upon the Economic Impact Analysis Document/Report, it is unknown whether the proposed action will have an economic effect on the creation or elimination of jobs. While the creation of a new category of professional would likely create new jobs rather than eliminate them, it is unknown how many new professionals will actually be established given that the provision of these services is voluntary. The proposed action allows (but does not require) regional center vendors to employ a new category of professional, the Behavior Management Technician (Paraprofessional). The proposed action may create new businesses within the state as the proposed action will allow regional centers to vendorize new providers. The proposed action may expand businesses currently doing business within the State of California as current vendors may expand their business by employing the new category of professional. The Department does not anticipate that the proposed action will eliminate business. Further, it is the intent of the Department that the proposed action will benefit the health and welfare of California residents with developmental disabilities and their families, by broadening the field of professionals, thus increasing accessibility to behavioral services. The proposed action does not impose any new impact on worker safety and the state's environment, as these services are already being provided and the proposed action will simply allow a new category of professional to provide the service.

(d) Specific Purpose and Rationale for Necessity

Title 17. California Code of Regulations

Division 2.

Chapter 3: Community Services

Subchapter 2 – Vendorization, Article 3 – Vendor Numbers and Service Codes, §54342. Types of Services.

Specific Purpose

This proposal adds wording and numbering to §54342. Subdivision (b) is added to provide and define a new type of service and establish educational and experiential qualifications and professional supervision requirements for the service.

Rationale for Necessity

This subdivision is necessary to allow vendors of the State's 21 regional centers, who employ an array of professionals that provide behavioral services, to add a new category of professional. Current regulations allow regional centers to employ four types of professionals with advancing levels of education and experience who provide behavioral services. These behavioral services are highly technical, complex, and individualized. The proposed Paraprofessional would provide the least complex and technical behavioral services and therefore would require the least education and experience. However, there is a degree of knowledge and training required to provide even the most basic behavioral services. Thus, direct supervision and some qualifications are necessary in order to provide services appropriately and without causing emotional or physical harm to individuals receiving the services.

Subchapter 7 – Nonresidential Service Vendor Rate – Setting Provisions, Article 5, Rates of Reimbursement Based on the Schedule of Maximum Allowance or the Vendor's Usual and Customary Rate. §57332. Maximum Rates of Reimbursement for Non-Residential Services.

Specific Purpose

This proposal adds wording and numbering to §57332. Subsection (c)(12) is added to establish a rate for the newly established service, thus achieving critical cost saving measures.

Rationale for Necessity

This section is needed to establish rates for services. The proposed regulations state that the regional centers shall not contract for Behavior Management Technician (Paraprofessional) services at more than 75 percent of the regional center's median hourly rate for Behavior Management Assistant – Service Code 615 or the statewide median rate for Behavior Management Assistant – Service Code 615, whichever is lower. Under the proposed regulations, the Paraprofessional would provide the least technical behavioral services compared to other behavioral service professionals, thus the established rate must be lower than the rates for more advanced categories of professionals.