

**TITLE 17, Division 2, Subchapters 2 and 7  
DEPARTMENT OF DEVELOPMENTAL SERVICES**

**NOTICE OF PROPOSED RULEMAKING**

**BEHAVIORAL SERVICES REGULATIONS**

The Department of Developmental Services (Department) proposes to amend Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 2: Vendorization; and Subchapter 7: Nonresidential Service Vendor Rate, by amending §§54342 and 57332.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on August 19<sup>th</sup>, 2013. Please submit any written comments to the Department's contact person designated below.

**PUBLIC HEARING**

The Department will not schedule any public hearings. However, any interested person, or his or her duly authorized representative, may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to §11346.8 of the Government Code.

**AUTHORITY AND REFERENCE**

Authority cited: §§4405, 4648(a), and 4690, Welfare and Institutions Code; and §11152, Government Code. Reference: §§4631, 4648(a), 4690, 4691, and 4691.6, Welfare and Institutions Code.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Currently, the Department provides Behavioral Services to consumers receiving regional center services. Behavioral Services provide instruction and environmental modifications to promote positive behaviors and reduce behaviors that interfere with learning and social interaction. Behavioral Services can include designing, implementing and evaluating teaching methods, consultation with specialists, and behavioral interventions. It can also include training for consumers and/or parents on the use of behavioral intervention techniques and home-based behavioral intervention programs that are implemented by parents for their children. Department regulations establish qualifications for professionals delivering these services.

Spending on Behavioral Services has increased steadily. In fiscal year (FY) 2011-2012, nearly \$264 million was spent to provide these services to over 24,000 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. Members expressed confidence that college undergraduates educated in a field relevant to behavioral intervention, and high school graduates with experience working with people with developmental disabilities could, with sufficient supervision and training, provide some intervention services. Because these workers would be paraprofessionals operating within a group practice, the rate of pay could be lower while maintaining the quality and consistency of the service. The Department proposes to amend regulations relevant to behavioral services by providing a new category of professional. Service Code 616 - Behavior Management Technician (Paraprofessional) will be added to Title 17, California Code of Regulations (CCR), and will specify necessary qualifications, professional supervision requirements, and establish a rate, thus reducing General Fund growth in the Department's budget. It is the intent of the Department that the proposed action will benefit the health and welfare of California residents, who are regional center consumers and their families, by broadening the field of professionals, thus increasing accessibility of services to consumers.

The Department has evaluated the proposed action and is not aware of any state regulations with which these regulations would be inconsistent and/or incompatible. The Department has evaluated internal and external regulations and has determined that the proposed regulations are consistent and compatible with these regulations. For example, the proposed regulations establish a rate for the newly established service, thus achieving critical cost saving measures. This action is consistent and compatible with Title 17, CCR, §57300 which states that the Department can set the maximum rates of reimbursement for nonresidential services.

### **EFFECT ON SMALL BUSINESS**

The Department has determined that the proposed regulations will not adversely affect small businesses. The proposed regulations do not change any current business requirements for financial management services.

## **INITIAL LOCAL MANDATE AND FISCAL IMPACT DETERMINATIONS**

The Department has determined that the proposed regulatory actions do not impose 1) a mandate on local agencies or school districts, 2) significant costs to any state agency, 3) cost to any local agency or school district that must be reimbursed in accordance with §§17500 through 17630 of the Government Code, and 4) other nondiscretionary costs or savings imposed on local agencies.

The Department does anticipate significant savings to the state and a corresponding reduction in federal reimbursement, therefore achieving a significant cost savings in federal funding to the State.

## **RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

Based on the Department's findings, 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 provisions of these services are 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, who are regional center consumers and their families, by broadening the field of professional's 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.

## **ECONOMIC IMPACT AND BUSINESS ASSESSMENT**

The Department has determined that the proposed regulations would not have 1) a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states; or 2) a significant effect on housing costs.

## **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

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

## **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.

## **CONTACT PERSONS**

General and substantive comments and inquiries concerning the proposed action may be directed to:

Department of Developmental Services  
Children and Family Services Branch  
1600 Ninth Street, Room 330, MS 3-22  
Sacramento, California 95814  
Attention: Hilary Sisson  
Phone: (916) 654-1470 Facsimile: (916) 654-3255  
Email Address: [hilary.sisson@dds.ca.gov](mailto:hilary.sisson@dds.ca.gov)

Should Ms. Sisson be unavailable, you may also contact JoEllen Fletcher, Chief, Health Development Section, at (916) 654-2133.

## **AVAILABILITY OF RULEMAKING DOCUMENTS**

The Department has prepared and has copies ready for public review of the exact text of the proposed regulations, the Initial Statement of Reasons for the proposed regulations, and all the information upon which the proposed regulations are based.

Copies of the Notice, Initial Statement of Reasons and text of the proposed regulations will be made available through the Department's website at [www.dds.ca.gov](http://www.dds.ca.gov).

All other public records, reports, documentation or other material related to the proposed regulations will be contained in the rulemaking file and will be available for inspection and copying throughout the rulemaking process from the contact person at the above address.

Regulation text which is being added or amended is indicated by underline, and deletions are indicated by ~~strikeout~~, as required by §11346.2(a)(3) of the Government Code.

Upon completion, the Final Statement of Reasons will be made available by either contacting the person above or through the Department's website.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After the close of the comment period, the Department may adopt the proposed regulations as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text, with changes clearly indicated, available for public comment at least 15 days before the Department adopts the regulations as revised. Request for the modified text should be made to the contact person named above.