

## **TITLE 17. DEPARTMENT OF DEVELOPMENTAL SERVICES**

### **NOTICE OF PROPOSED RULEMAKING**

#### **Behavior Analyst Regulations**

The Department of Developmental Services (DDS) proposes to amend Title 17, California Code of Regulations, Division 2, Chapter 3, Subchapter 2 by amending sections 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 of DDS. The written comment period closes at 5:00 p.m. on November 10, 2003. Please submit any written comments to the DDS contact persons designated below by 5:00 p.m. on November 10, 2003. Both oral and written comments will be received at the public hearing.

#### **Public Hearing**

One public hearing is scheduled. The public hearing to receive oral and written comments is scheduled to begin at 10:00 a.m. on November 10, 2003 and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. This hearing will be held at 1600 9<sup>th</sup> Street, Room 360, Sacramento, California. DDS requests that persons who make oral comments at the public hearing submit a written copy of their testimony at that hearing.

#### **Authority and Reference**

Authority: Sections 4405 and 4648, Welfare and Institutions Code and section 11152, Government Code.

Reference: Sections 4631, 4648 and 4691, Welfare and Institutions Code.

#### **Informative Digest/Policy Statement Overview**

The category of Behavior Analyst became effective on June 2, 2001. Since that time, the Department has become aware that the same national certification Board that certifies Behavior Analysts also certifies Associate Behavior Analysts. Many persons with developmental disabilities have a need for, but limited or no access to, behavior analysis services. The Department proposes to add the category of Associate Behavior Analyst to assist in filling the unmet need of consumers for behavior analysis services.

#### **54342 – Types of Services**

This section is being amended by: 1) adding a new services code and category for Associate Behavior Analyst; 2) specifying the conditions under which a Behavior Management Assistant may work under the direct supervision of a Behavior Analyst or Behavior Management Consultant; 3) adding education and work experience requirements for Behavior Management Consultants; and 4) replaces the phrase “and Child Counselor” with “Therapist” to be consistent with Business and Professions Code 4980,

## **57332 – Maximum Rates of Reimbursement for Non-Residential Services**

This section is being amended by adding Associate Behavior Analyst to the list of vendors receiving the maximum rate of reimbursement.

### **Small Business Determination:**

DDS has determined that the proposed regulations will not affect small business. Associate Behavior Analysts will be employed by regional centers to provide services to the developmentally disabled, none of which are considered a small business.

### **Local Mandate Determination:**

DDS has determined that the proposed regulatory actions do not impose: 1) a mandate on local agencies or school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17500 through 17630; 4) other nondiscretionary costs or savings imposed on local agencies; or 5) costs or savings in federal funding to the state.

### **Assessment Statement:**

DDS has determined that the proposed regulations will not affect the creation or elimination of jobs in California; the creation of new businesses or the elimination of existing businesses within California; or the expansion of businesses currently operating in California.

DDS has made an initial determination that the proposed regulations will 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**

DDS 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**

DDS must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DDS would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

DDS invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period or at the public hearings.

### **Contact Person**

Comments and inquiries concerning the proposed action may be directed to:

Diana Nicolaou  
1600 9<sup>th</sup> Street, MS 3-9  
Sacramento, CA 95814  
email: dnicolao@dds.ca.gov  
Phone: (916) 654-1760

Fax: (916) 654-2775

If Ms. Nicolaou is unavailable, comments and inquiries may be directed to:

Greg Wagner  
1600 9<sup>th</sup> Street, MS 3-15  
Sacramento, CA 95814  
email: [gwagner@dds.ca.gov](mailto:gwagner@dds.ca.gov)  
Phone: (916) 653-0805  
Fax: (916) 654-3666.

### **Availability of Rulemaking Documents**

DDS has prepared and has copies ready for public review of the exact text of the proposed regulations, an Initial Statement of Reasons for the proposed regulations, and all of the information upon which the proposed regulations are based. Copies of the initial statement of reasons and text of the proposed regulations, along with 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. In addition, the text, Initial Statement of Reasons and other materials for this rulemaking may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov).

### **Availability of Changed or Modified Text**

After the close of the comment period, DDS may adopt the proposed regulations as described in this notice. If DDS 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 DDS adopts the regulations as revised. If the text is modified, the text may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov). Please send requests for copies of any modified regulations to the contact persons named above.

### **Final Statement of Reasons**

When the Final Statement of Reasons is available, it may be viewed over the internet at [www.dds.ca.gov](http://www.dds.ca.gov). Additionally, requests for the Final Statement of Reasons could be made to the contact persons named above.

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