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PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

*Conflict-of-Interest Code — Notice File No. Z2012-0619-02
Amendment*

Multi-County: Southern California Schools Risk Management
Yosemite Community College District
Association of California Water Agencies JPIA
Winters Joint Unified School District

Adoption

Multi-County: Public Agency Coalition Enterprise 843

TITLE 2. STATE ALLOCATION BOARD

Leroy F. Greene School Facilities Act of 1998; AB 436 — Notice File No. Z2012-0619-07 844

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

*General Safety Orders Concerning Machinery and Equipment, Used and Operated; Logging and
Sawmill Safety Orders Concerning Fueling of Helicopters Used in Logging Operations —
Notice File No. Z2012-0619-03* 855

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

Advertising, Supervision, and Continuing Education — Notice File No. Z2012-0614-01 860

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

Marriage and Family Therapist Intern Experience — Notice File No. Z2012-0614-02 864

TITLE 16. BOARD OF OPTOMETRY

Sponsored Free Health Care Events — Notice File No. Z2012-0619-04 867

TITLE 18. BOARD OF EQUALIZATION

Hearing Procedure — Notice File No. Z2012-0619-01 870

(Continued on next page)

***Time-
Dated
Material***

GENERAL PUBLIC INTEREST

DEPARTMENT OF HEALTH CARE SERVICES

Change in Non-Designated Public Hospitals Reimbursement Methodology 874

DEPARTMENT OF HEALTH CARE SERVICES

Fee-for-Service Rates Development Division 874

DEPARTMENT OF HEALTH CARE SERVICES

Proposal to Submit a State Plan Amendment to Replace the Drug Medi-Cal Program State Agency Name From Alcohol and Drug Programs to the Department of Health Care Services 875

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 875

Sections Filed, January 25, 2012 to June 20, 2012 876

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: Southern California Schools Risk Management
Yosemite Community College District
Association of California Water Agencies JPIA
Winters Joint Unified School District

ADOPTION

MULTI-COUNTY: Public Agency Coalition Enterprise

A written comment period has been established commencing on June 29, 2012, and closing on August 13, 2012. Written comments should be directed to the Fair Political Practices Commission, Attention Adrienne Tackley, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Sec-

tion 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than August 13, 2012. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Adrienne Tackley,

Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

**AVAILABILITY OF PROPOSED
CONFLICT-OF-INTEREST CODES**

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Adrienne Tackley, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. STATE ALLOCATION BOARD

THE STATE ALLOCATION BOARD PROPOSES
TO AMEND VARIOUS REGULATION
SECTIONS, ALONG WITH VARIOUS
ASSOCIATED FORMS,
TITLE 2. CALIFORNIA CODE OF
REGULATIONS, RELATING TO LEROY F.
GREENE SCHOOL FACILITIES ACT OF 1998

REGULATION SECTIONS PROPOSED FOR
AMENDMENT: 1859.2, 1859.71.4, 1859.78.1,
1859.79.2, 1859.82, 1859.83, 1859.106, 1859.125,
1859.125.1, 1859.145, 1859.163.1, 1859.163.5 AND
1859.193.

FORMS PROPOSED FOR AMENDMENT:
Application for Funding, Form SAB 50-04, (Revised ~~12/10~~ 12/11), referenced in Regulation Section 1859.2

Fund Release Authorization, Form SAB 50-05, (Revised ~~06/08~~ 12/11), referenced in Regulation Section 1859.2

Application for Joint-Use Funding, Form SAB 50-07, (Revised ~~12/10~~ 12/11), referenced in Regulation Section 1859.2

Application for Preliminary Apportionment, Form SAB 50-08, (Revised ~~12/10~~ 12/11), referenced in Regulation Section 1859.2

Application for Charter School Preliminary Apportionment, Form SAB 50-09, (Revised ~~12/10~~ 12/11), referenced in Regulation Section 1859.2

Application for Career Technical Education Facilities Funding, Form SAB 50-10, (Revised ~~12/10~~ 12/11), referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced Regulation Sections, and to amend the above-referenced associated forms, contained in Title 2, California Code of Regulations (CCR). A public

hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend the above-referenced regulation sections under the authority provided by Sections 17070.35, 17075.15, 17078.64 and 17078.72(k) of the Education Code, and Section 1771.3 of the Labor Code. The proposal interprets and makes specific reference Sections 17070.15, 17070.35, 17070.50, 17071.25; 17071.75, 17072.10, 17072.13, 17072.14, 17072.18, 17072.30, 17072.32, 17072.35, 17074.15, 17074.16, 17074.25, 17074.56, 17075.10, 17075.15, 17076.10, 17077.40, 17077.42, 17077.45, 17078.10, 17078.24, 17078.52, 17078.54, 17078.56, 17078.58, 17078.72, 17250.30, 17251, 100420(c) and 101012(a)(1) of the Education Code, and Section 1771.3 of the Labor Code.

**INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The SAB, at its meeting on December 14, 2011, adopted emergency amendments to the SFP Regulations in order to implement recently enacted legislative requirements in accordance with:

- Senate Bill (SB) X2 9, Chapter 7, Statutes of 2010 (Padilla), as amended by
- Assembly Bill (AB) 436, Chapter 378, Statutes of 2011 (Solorio).

The emergency amendments will:

- require the Department of Industrial Relations (DIR) to directly provide prevailing wage monitoring services for all State bond funded

public works projects with contracts awarded on or after January 1, 2012, and

- authorize an additional grant to school districts and charter schools calculated upon the maximum fee amount the DIR can charge for its monitoring service, and
- require all SFP funds to be returned to the State for projects that do not meet the appropriate prevailing wage monitoring compliance requirements.

The wage monitoring requirements and additional grant based upon the DIR monitoring fees will impact the following programs under the SFP:

- New Construction,
- Modernization,
- Critically Overcrowded School (COS) Facilities Program,
- Charter School Facilities Program (CSFP),
- Career Technical Education Facilities Program (CTEFP), and
- Joint-Use Program.

The DIR's Compliance Monitoring Unit (CMU) will provide their monitoring services. The proposed additional grant to school districts and charter schools will therefore be called the DIR CMU Additional Grant.

These monitoring services and the fees charged by the DIR will apply to SFP projects with a construction contract awarded after both:

- the DIR regulations are in effect (January 1, 2012) and
- the Department of Finance has approved the DIR's fee structure, except for school districts that:
- enforce a DIR-approved internal Labor Compliance Program (LCP), or
- have a qualifying collective bargaining agreement.

"Collective Bargaining Agreement" means an agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages, pursuant to Labor Code Section 1771.3(b)(3).

DIR CMU Additional Grant.

The proposed emergency regulations also authorize an additional grant to school districts and charter schools calculated upon the maximum fee amount the DIR can charge for its monitoring service. The additional grant would be equal to the State's share of one quarter of one percent of the total State bond funds for SFP projects with a construction contract awarded on or after January 1, 2012. This grant will be provided regardless of whether the CMU will be performing the

monitoring or if the district is exempt from the CMU fees because of a collective bargaining agreement or the district has a DIR-approved LCP. If the actual DIR costs are less than the grant provided, the remaining funds could be used by the district for other eligible SFP construction costs.

For example, if the total new construction project cost is \$2 million, and the State's 50 percent share is \$1 million, then the DIR CMU Additional Grant (1/4 of one percent) equals \$2,500, for which the State's 50 percent share is a final State apportionment of \$1,250. The same calculation method applies for modernization projects, except that the State share is 60 percent.

Legislative and Regulatory Background.

AB 1506, Chapter 868, Statutes of 2002 (Wesson) required an LCP for school construction projects funded from either Proposition 47 or Proposition 55. The purpose of the LCP was to ensure appropriate compliance with certain labor laws, such as the appropriate prevailing wage payments for construction work. School districts subject to these requirements had to either contract with a DIR-approved third party to perform the LCP, or seek approval from the DIR to initiate and enforce the LCP internally.

SB X2 9 applied to any State-funded public works project, including Propositions 47, 55, 1D,* and any future bond act that does not include language specifically excluding it from these provisions. It amended the Labor Code to require the DIR to perform prevailing wage monitoring and enforcement for all school construction projects that receive State bond funds. SB X2 9 specified that prevailing wage monitoring and enforcement must be directly administered by the DIR, excepting only projects for which the school district has an in-house LCP approved by DIR. Contracting with a third-party administrator does not demonstrate compliance with its requirements.

Modifications Under AB 436.

On September 30, 2011, AB 436 was signed into law, amending many of the provisions in SB X2 9. DIR regulations to implement the bill were approved by the Office of Administrative Law effective January 1, 2012. Any public works projects for which the construction contract was awarded on or after the effective date of the regulations (January 1, 2012) would be subject to its provisions, including the requirement that the DIR "enforce compliance with applicable prevailing wage requirements" for these projects. For SFP projects, appli-

*Bond/Proposition References:

- Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)

cable school districts would pay the DIR for these costs. The amount the DIR may charge is capped at one quarter of one percent of the State “bond proceeds”, pursuant to Labor Code Section 1771.3(a).

New Prevailing Wage Monitoring Requirements.

Any school construction projects that are funded in whole or in part by State bond funds, and for which the construction contract is awarded on or after January 1, 2012 are subject to the new requirement for the prevailing wage monitoring and enforcement provisions, regardless of which bond funded the project.

The CMU fees will be based on the reasonable and directly related costs of monitoring and enforcing labor compliance for the project, but will be capped at an amount equal to one-quarter of one percent of the following amounts, *whichever is lower*:

- Total State bond funds apportioned for the project, pursuant to Labor Code Section 1771.3(a).
- Total project costs, pursuant to DIR Regulation Section 16452.

The total State bond amount is equal to the total State apportionment for the project, regardless of whether the grant is for site development, site acquisition, Financial Hardship, or a loan provided to CSFP projects pursuant to SFP Regulation Section 1859.168, or CTEFP projects pursuant to SFP Regulation Section 1859.194.

Districts are exempt from this fee if the district continues to operate its existing DIR-approved internal LCP for the project or if the district “has entered into a collective bargaining agreement that binds all of the contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.”

In addition, all design-build public works are subject to the new compliance monitoring requirements whether the project is funded from State bond funds or not, pursuant to Education Code Section 17250.30. “Design-build” means a procurement process in which both the design and construction of a project are procured from a single entity [Public Contract Code Section 20193(c)(2)].

If a project is rescinded or if there is an adjustment to the total State bond amount, such as a construction cost index or site acquisition adjustment, the grant would also be adjusted. Because the “total bond proceeds” will be adjusted, the CMU fees charged to the district may also need to be adjusted so that they do not exceed the statutory cap. The DIR is developing a process to adjust any district payments that receive an adjustment.

School districts are required to notify the DIR of any projects that are or may be subject to Labor Code Section 1771.3 when the school board awards the contract, pursuant to the DIR Regulations. The CMU will begin prevailing wage monitoring for the project and will then

submit invoices to the district, which will be paid directly by the district.

The regulatory amendments are therefore consistent and compatible with State laws and regulations.

A summary of the proposed emergency regulatory amendments, including associated forms, is as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed emergency amendments change the revision date of Forms SAB 50-04, 50-05, 50-07, 50-08, 50-09, and 50-10 to “12/11.” The amendments also add a definition of “Total Projected Bond Apportionment” for the purpose of complying with the statutory cap to the DIR CMU costs as calculated based upon a percentage of the State bond proceeds. Labor Code Section 1771.3 is added to the list of reference citations.

Existing Regulation Section 1859.71.4 implements provisions for increased SFP funding for an LCP as authorized in Assembly Bill 1506, Chapter 868, Statutes of 2002. It sets forth a sliding scale and calculation for new construction projects that determines the per-pupil grant increase for initiating and enforcing a labor compliance program. The proposed emergency amendments clarify in subsection (a) the authority and funding for the existing grant increase for LCP for construction contracts awarded prior to January 1, 2012, and add new subsections (c) through (f):

- (c) implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, equaling 50 percent of one-fourth of one percent of the Total Projected Bond Apportionment for qualifying projects with construction contracts awarded on or after January 1, 2012, and
- (d) setting forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b), and
- (e) requiring school districts that fail to meet the requirements in subsection (d) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding, and
- (f) requiring school districts to return to the State all State funding for a project, including interest as described in subsection (e), if the DIR revokes

approval for the district's internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred.

Labor Code Section 1771.3 is added to the list of authority citations, and Education Code Section 17072.30 is added to the list of reference citations.

Existing Regulation Section 1859.78.1 implements provisions for increased SFP funding authorized in Assembly Bill 1506, Chapter 868, Statutes of 2002. It sets forth a sliding scale and calculation for modernization projects that determines the per-pupil grant increase for the initiation, enforcement, and monitoring of a labor compliance program. The proposed emergency amendments lengthen the Section Title to include "Prevailing Wage Monitoring and Enforcement Costs," and clarify in subsection (a) the authority and funding for the existing grant increase for LCP for construction contracts awarded prior to January 1, 2012. In addition, the proposed emergency amendments add new subsections (b) through (e):

- (b) implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, equaling 60 percent of one-fourth of one percent of the Total Projected Bond Apportionment for qualifying projects with construction contracts awarded on or after January 1, 2012, and
- (c) setting forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b), and
- (d) requiring school districts that fail to meet the requirements in subsection (c) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board's finding, and
- (e) requiring school districts to return to the State all State funding for a project, including interest as described in subsection (d), if the DIR revokes approval for the district's internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor

Code Section 1771.3, for any construction projects for which the violations occurred.

Labor Code Section 1771.3 is added to the list of authority citations, and Education Code Section 17072.30 is added to the list of reference citations.

Existing Regulation Section 1859.79.2 specifies the permissible and impermissible uses of Modernization Grant Funds, including the permissible use of modernization funds for the costs incurred by a school district for the initiation and enforcement of a labor compliance program. The proposed emergency amendments add "Labor Code Section 1771.3(a)" to the list of authorizing Code sections for Modernization grant funding. In addition, Education Code Section "17070.15(f)" is corrected to "17070.15(i)." Labor Code Section 1771.3 is added to the list of reference citations.

Existing Regulation Section 1859.82 establishes the criteria a district must meet to be eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. Subsections (a) and (b) include the sentence: "The district may be eligible for the funding provided to initiate and enforce an LCP as prescribed in Section 1859.71.4." The proposed emergency amendments clarify in both subsections (a) and (b) the authority and funding for the existing grant increase for LCP for construction contracts awarded prior to January 1, 2012, and add a new sentence implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, equaling 50 percent of one-fourth of one percent of the Total Projected Bond Apportionment for qualifying projects with construction contracts awarded on or after January 1, 2012. Education Code Section 17250.30 and Labor Code Section 1771.3 are added to the list of reference citations.

Existing Regulation Section 1859.83 sets forth district eligibility criteria for excessive cost hardship grant funding as a result of specified unusual circumstances that create excessive project costs beyond the control of the district, including subsection (e) "Excessive Cost" for qualifying rehabilitation projects, for which: "The district may be eligible for the funding provided to initiate and enforce an LCP as prescribed in Section 1859.71.4." The proposed emergency amendments clarify in subsection (e) the authority and funding for the existing grant increase for LCP for construction contracts awarded prior to January 1, 2012, and add a new sentence implementing the statutorily authorized additional grant for DIR prevailing wage monitoring and enforcement, equaling 50 percent of one-fourth of one percent of the Total Projected Bond Apportionment

for qualifying projects with construction contracts awarded on or after January 1, 2012. Education Code Section 17250.30 and Labor Code Section 1771.3 are added to the list of reference citations.

Existing Regulation Section 1859.106 specifies, for purposes of the Program Accountability Expenditure Audit, the allowable district expenditures and State apportionments for new construction projects, Joint–Use projects, Critically Overcrowded School Facilities projects, charter school projects, modernization projects, and compliance with site acquisition guidelines. The proposed emergency amendments add new subsections (c) and (d):

- (c) an adjustment in the SFP grant for projects that received funding pursuant to Sections 1859.71.4(c) or 1859.78.1(b), to equal 50 percent or 60 percent, respectively, of one–fourth of one percent of the difference between the original Total Projected Bond Apportionment and the newly calculated amount, and
- (d) a limitation that any adjustments pursuant to Section 1859.106 will be made only if sufficient bond authority is available, or else the adjustments to the projects will be placed on the Unfunded List.

Labor Code Section 1771.3 is added to the list of reference citations.

Existing Regulation Section 1859.125 sets forth the criteria for Joint–Use project grant determinations based upon square footage, including the sentence: “The district may be eligible for the funding provided to initiate and enforce an LCP as prescribed in Section 1859.71.4.” The proposed emergency amendments clarify the authority and funding for the existing grant increase for LCP for construction contracts awarded prior to January 1, 2012, and add a new sentence pertaining to qualifying projects with construction contracts awarded on or after January 1, 2012, that the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations in Section 1859.71.4(d). Education Code Section 17250.30 and Labor Code Section 1771.3 are added to the list of reference citations.

Existing Regulation Section 1859.125.1 sets forth the criteria for additional Type I Joint–Use project “Extra Cost” grant funding in addition to the square footage Joint–Use Grant provided in Section 1859.125, including the sentence: “The district may be eligible for the funding provided to initiate and enforce an LCP as prescribed in Section 1859.71.4.” The proposed emergency amendments clarify the authority and funding for the existing grant increase for LCP for construction contracts awarded prior to January 1, 2012, and add a new sentence pertaining to qualifying projects with construction contracts awarded on or after January 1,

2012, that the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations in Section 1859.71.4(d). Education Code Section 17250.30 and Labor Code Section 1771.3 are added to the list of reference citations.

Existing Regulation Section 1859.145 sets forth the criteria under the COS Program to determine preliminary apportionments, including the sentence: “The district may be eligible for the funding provided to initiate and enforce an LCP as prescribed in Section 1859.71.4.” The proposed emergency amendments clarify the authority and funding for the existing grant increase for LCP for construction contracts awarded prior to January 1, 2012, and add a new sentence pertaining to qualifying projects with construction contracts awarded on or after January 1, 2012, that the grant may be adjusted in the manner prescribed in Section 1859.71.4(c) and subject to the limitations in Section 1859.71.4(d). Education Code Section 17250.30 and Labor Code Section 1771.3 are added to the list of reference citations.

Existing Regulation Section 1859.163.1 sets forth the criteria for eligible construction and site acquisition costs for preliminary charter school new construction apportionment determinations, including a cost factor for the amount to initiate and enforce a labor compliance program if required by the Labor Code. The proposed emergency amendments delete from subsection (a) and re–state in new subsection (c) the criteria for the existing grant increase for initiating and enforcing an LCP for construction contracts awarded prior to January 1, 2012. New subsection (c) is added stating that the qualifying amount toward the Preliminary Charter School Apportionment will be either:

- (1) 50 percent of the amount to initiate and enforce an LCP as prescribed in Section 1859.71.4(a) if required by the Labor Code or
- (2) 50 percent of the amount of the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c) if required by the Labor Code, and
- (3) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as determined by the California School Finance Authority attributable to either (1) or (2) above, as applicable.

Existing subsection (c) is relettered “(d)” because of the new subsection (c) added above. The total Preliminary Charter School Apportionment amount is changed from the total of (a) and (b) to the total of (a), (b), and (c). New subsections (e), (f), and (g) are added as follows:

- (e) setting forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b), and
- (f) requiring school districts that fail to meet the requirements in subsection (e) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding, and
- (g) requiring school districts to return to the State all State funding for a project, including interest as described in subsection (f), if the DIR revokes approval for the district’s internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred.

Education Code Section 17250.30 and Labor Code Section 1771.3 are added to the list of reference citations.

Existing Regulation Section 1859.163.5 sets forth the criteria for preliminary charter school rehabilitation apportionment determinations, including a cost factor for the amount to initiate and enforce a labor compliance program if required by the Labor Code. The proposed emergency amendments re–number or re–letter all existing subsections. In addition, former subsection (g) is deleted and re–stated in new subsection (b) — this is the criteria for the existing grant increase for initiating and enforcing an LCP for construction contracts awarded prior to January 1, 2012.

New subsection (b) states that the qualifying amount toward the Preliminary Charter School Apportionment will be either:

- (1) 50 percent of the amount to initiate and enforce an LCP as prescribed in Section 1859.71.4(a) if required by the Labor Code or
- (2) 50 percent of the amount of the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c) if required by the Labor Code, and
- (3) If the Charter School is paying its matching share through the form of lease payments, pursuant to Section 1859.168, the value of the lease as

determined by the Authority attributable to either (1) or (2) above, as applicable.

New subsections (c), (d), and (e) are added as follows:

- (c) setting forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b), and
- (d) requiring school districts that fail to meet the requirements in subsection (c) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding, and
- (e) requiring school districts to return to the State all State funding for a project, including interest as described in subsection (d), if the DIR revokes approval for the district’s internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred.

Education Code Sections 17078.56 and 17250.30, and Labor Code Section 1771.3 are added to the list of reference citations.

Existing Regulation Section 1859.193 sets forth the criteria under the CTEFP to determine grants to local educational agencies for constructing qualifying new facilities, or modernizing or reconfiguring existing school buildings. The proposed emergency amendments add new subsections (a)(1)(C), (b)(1)(D), and (c)(1)(C) that CTEFP projects may qualify for the new additional grant for prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), for public works projects awarded on or after January 1, 2012.

In addition, new subsections (a)(4), (a)(5), and (a)(6) are added as follows:

- (a)(4) setting forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless

exempt pursuant to Labor Code Section 1771.3(b), and

- (a)(5) requiring school districts that fail to meet the requirements in subsection (a)(4) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding, and
- (a)(6) requiring school districts to return to the State all State funding for a project, including interest as described in subsection (a)(5), if the DIR revokes approval for the district’s internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred.

Also, new subsections (b)(5), (b)(6), and (b)(7) are added as follows:

- (b)(5) setting forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless exempt pursuant to Labor Code Section 1771.3(b), and
- (b)(6) requiring school districts that fail to meet the requirements in subsection (b)(5) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding, and
- (b)(7) requiring school districts to return to the State all State funding for a project, including interest as described in subsection (b)(6), if the DIR revokes approval for the district’s internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred.

Finally, new subsections (c)(5), (c)(6), and (c)(7) are added as follows:

- (c)(5) setting forth the new statutory requirement pursuant to Labor Code Section 1771.3 that any public works projects paid from State bonds and for which the construction contract is awarded on or after January 1, 2012 is subject to the DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless

exempt pursuant to Labor Code Section 1771.3(b), and

- (c)(6) requiring school districts that fail to meet the requirements in subsection (c)(5) to return to the State all State funding for the project, including interest at the higher of two specified rates, with the interest due to be returned calculated from the date the funds were received by the school district until the date of the Board’s finding, and
- (c)(7) requiring school districts to return to the State all State funding for a project, including interest as described in subsection (c)(6), if the DIR revokes approval for the district’s internal LCP enforcement and the district then fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, for any construction projects for which the violations occurred.

Education Code Section 17250.30 and Labor Code Section 1771.3 are added to the list of reference citations.

Existing Form SAB 50–04, *Application for Funding*, is submitted by school districts to apply for State funding for new construction or modernization projects. The proposed emergency amendments provide for the following:

- In order to determine whether the project will be subject to the AB 436 provisions, the proposed changes collect the following information:
 - Contract Award Date(s)
 - Whether the DIR will be performing the prevailing wage enforcement, or
 - Whether the project is exempt from the DIR enforcement because of a DIR–approved internal enforcement program or because the project is subject to a qualifying collective bargaining agreement.
- Because projects funded from Propositions 47 or 55 with a contract award date prior to January 1, 2012 would still be subject to the AB 1506 LCP requirements, districts will be asked whether a project with a construction contract awarded prior to January 1, 2012 had either a DIR–approved third–party LCP or an internal LCP, pursuant to AB 1506. This would allow the OPSC to determine whether a project would be eligible to be funded from Proposition 47 or 55.
- A certification that the district has contracted or will contract with the DIR for prevailing wage monitoring and enforcement if the construction contract(s) is awarded on or after January 1, 2012 and the district project is not exempt from this requirement pursuant to Labor Code Section 1771.3(b).

Existing Form SAB 50–05, *Fund Release Authorization*, is the Form submitted by school districts and charter schools asking for the State to release their approved funding, provided the project is at least 50 percent under contract and the school district has met other specific criteria. The proposed emergency amendments provide for the following:

- Require verification that the district has notified the DIR for public works contracts awarded on or after January 1, 2012. This notification is required pursuant to the DIR’s regulations and alerts the DIR’s CMU that the prevailing wage monitoring services must be provided for the construction project. If the construction contract was awarded between January 1, 2012 and July 1, 2012, the district may submit a copy of the notice it sent to the DIR in lieu of the DIR acknowledgement. For those projects, districts would be able to submit either a copy of the district’s notification to DIR that a contract for a public works project that will be subject to the DIR monitoring has been awarded or copies of the DIR letters approving the district’s internal LCP as verification of compliance. For contracts awarded after July 1, 2012, districts must submit the DIR notification along with the Form SAB 50–05.
- School districts that continue to operate a DIR–approved internal LCP are provided an option to submit either the project notification to the DIR or documentation from the DIR that the internal program is approved. Either document would provide sufficient verification of the statutory requirements of prevailing wage monitoring.
- School districts will provide the contract award date(s) to allow the OPSC to determine if the award date falls after the effective date of the new regulations.
- A certification is added that the district will contract with the DIR for the required prevailing wage monitoring and enforcement, or that the requirement is waived pursuant to the exemptions set forth in Labor Code Section 1771.3(b).
- Four concluding identification fields are added for the signer’s printed name, title, e–mail address and phone number.
- Under General Information, non–substantive corrections are made to paragraph numbers.

Existing Form SAB 50–07, *Application for Joint–Use Funding*, is used by school districts to request funding for Joint–Use Projects (Types I and II). The proposed emergency amendments provide for the following:

- In order to determine whether the project will be subject to the AB 436 provisions, the proposed changes collect the following information:
 - Contract Award Date(s)
 - Whether the DIR will be, performing the prevailing wage enforcement, or
 - Whether the project is exempt from the DIR enforcement because of a DIR–approved internal enforcement program or because the project is subject to a qualifying collective bargaining agreement.
- Because projects funded from Propositions 47 or 55 with a contract award date prior to January 1, 2012 would still be subject to the AB 1506 LCP requirements, districts will be asked whether a project with a construction contract awarded prior to January 1, 2012 had either a DIR–approved third party LCP or an internal LCP, pursuant to AB 1506. This would allow the OPSC to determine whether a project would be eligible to be funded from Proposition 47 or 55.
- A certification that the district will contract with the DIR for prevailing wage monitoring and enforcement if the construction contract(s) is awarded on or after January 1, 2012 and the district project is not exempt from this requirement pursuant to Labor Code Section 1771.3(b).

Existing Form SAB 50–08, *Application for Preliminary Apportionment*, is used by school districts to file for a preliminary apportionment under the COS Program once the SAB has determined or adjusted the school district’s eligibility for new construction funding. The proposed emergency amendments provide for the following:

- Add a section to capture whether the DIR will be performing the prevailing wage enforcement, or whether the project is exempt from the DIR enforcement due to DIR–approved internal LCP or a collective bargaining agreement.
- Clarify that the certification about LCPs initiated pursuant to Labor Code Section 1771.7 and funded from Proposition 47 or 55 pertains to construction contracts awarded before January 1, 2012.
- Add a certification that the district will contract with the DIR for prevailing wage monitoring and enforcement if the construction contract(s) is awarded on or after January 1, 2012 and the district project is not exempt from this requirement pursuant to Labor Code Section 1771.3(b).

Existing Form SAB 50–09, *Application for Charter School Preliminary Apportionment*, is used by school districts and charter schools for purposes of requesting a preliminary apportionment for the new construction

of charter school facilities. The proposed emergency amendments provide for the following:

- In order to determine whether the project will be subject to the AB 436 provisions, the proposed changes collect the following information:
 - Contract Award Date(s)
 - Whether the DIR will be performing the prevailing wage enforcement, or
 - Whether the project is exempt from the DIR enforcement because of a DIR-approved internal enforcement program or because the project is subject to a qualifying collective bargaining agreement.
- Because projects funded from Propositions 47 or 55 with a contract award date prior to January 1, 2012 would still be subject to the AB 1506 LCP requirements, districts will be asked whether a project with a construction contract awarded prior to January 1, 2012 had either a DIR-approved third party LCP or an internal LCP, pursuant to AB 1506. This would allow the OPSC to determine whether a project would be eligible to be funded from Proposition 47 or 55.
- A certification that the district will contract with the DIR for prevailing wage monitoring and enforcement if the construction contract(s) is awarded on or after January 1, 2012 and the district project is not exempt from this requirement pursuant to Labor Code Section 1771.3(b).

Existing Form SAB 50–10, *Application for Career Technical Education Facilities Funding*, is the form submitted by school districts or joint powers authorities to request a CTEFP grant. The proposed emergency amendments provide for the following:

- In order to determine whether the project will be subject to the AB 436 provisions, the proposed changes collect the following information:
 - Contract Award Date(s)
 - Whether the DIR will be performing the prevailing wage enforcement, or
 - Whether the project is exempt from the DIR enforcement because of a DIR-approved internal enforcement program or because the project is subject to a qualifying collective bargaining agreement.
- Because projects funded from Propositions 47 or 55 with a contract award date prior to January 1, 2012 would still be subject to the AB 1506 LCP requirements, districts will be asked whether a project with a construction contract awarded prior to January 1, 2012 had either a DIR-approved third party LCP or an internal LCP, pursuant to AB 1506. This would allow the OPSC to determine

whether a project would be eligible to be funded from Proposition 47 or 55.

- A certification that the district will contract with the DIR for prevailing wage monitoring and enforcement if the construction contract(s) is awarded on or after January 1, 2012 and the district project is not exempt from this requirement pursuant to Labor Code Section 1771.3(b).

Due to the large amount of regulatory text and six associated forms, this information is not attached and may be reviewed on the Office of Public School Construction Web site at:

http://www.documents.dgs.ca.gov/opsc/Regulations/SFP_Proposed/12-2011/LCP_Amend.pdf. Copies of the amended regulatory text and forms will be mailed to any person requesting this information by using the OPSC contact information set forth below under “Submission of Comments, Documents and Additional Information.”

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require school districts or charter schools to incur additional costs in order to comply with the proposed regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

The Executive Officer of the SAB has made the following initial determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The proposed regulatory amendments will have a minimal impact in the creation or elimination of jobs within the State, the creation of new businesses or the elimination of existing businesses or the expansion of businesses in California. However, SB X2 9 as amended by AB 436 requires State bond-funded public works projects with construction contracts awarded on or after January 1, 2012 to have the DIR directly monitor and enforce prevailing wage compliance. The SAB is not aware of any cost impacts that a

representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- The proposed regulations do not require a report to be submitted other than as required by law. However, SB X2 9 as amended by AB 436 requires that school districts and charter schools report to the DIR when they award a construction contract on or after January 1, 2012 for a State bond–funded public works project.
- There will be no non–discretionary costs or savings to local agencies.
- The proposed regulations create no costs to school districts and charter schools beyond those required by law, except for the required district/charter school contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any State agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.
- The proposed regulatory action promotes fairness and social equity by carrying out the intent of AB 436 that employees need to be properly paid on all State bond–funded public works projects for which the construction contract is awarded on or after January 1, 2012.
- There are benefits to the health and welfare of California residents, worker safety, and the State’s environment. Implementing these amendments will have a positive impact on the availability of a skilled labor force, and encourage improved health and safety of construction and trades employees through proper apprenticeship and training. Public health and safety is enhanced through the proposed regulations because a properly paid and trained work force will build school construction projects that are structurally Code–compliant and safer for use by pupils, staff, and others on the site.

It is SB X2 9 as amended by AB 436 that creates the prevailing wage monitoring requirements. The proposed regulations incorporate these legal requirements into the SFP Regulations to carry out the Legislative purposes. The SAB finds that the proposed emergency amendments are reasonably necessary to implement SB X2 9 as amended by AB 436.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits of AB 436 as

set forth in the Bill’s Legislative Declaration. The AB 436 Legislative Declaration recites:

1. that in 2009 the Legislature determined that it would be more cost effective to use the experience of the DIR to monitor and enforce compliance with prevailing wage requirements on public works projects than to use LCPs;
2. the Legislature therefore required that, upon adoption of implementing regulations and fee schedules, the DIR would monitor and enforce compliance with the prevailing wage requirements on all future awarded contracts for public works projects for which LCPs have previously been used, or for public works projects paid in whole or part with State bond funds, but with exceptions for awarding bodies to continue existing approved LCPs in lieu of the DIR monitoring and enforcement;
3. the Legislature further authorized that the cost of the DIR monitoring and enforcement activities on State bond–funded public works projects could be paid from State bond proceeds;
4. that AB 436 is intended to clarify the method by which the DIR may charge and be reimbursed for monitoring and enforcing compliance with the prevailing wage requirements for contracts for construction of public works projects paid for out of public funds derived from State–issued bonds;
5. that the Legislature finds that it “is and historically has been a necessary and prudent oversight activity” to have monitoring and enforcement of applicable prevailing wage requirements on public works projects paid for out of public funds derived from State–issued bonds;
6. that the authority to use State bond proceeds for the construction of public works projects inherently includes authority to pay reasonable costs of such oversight activities that are directly related to such construction from State bond proceeds allocated to such construction;
7. the Legislature finds that the reasonable and directly related costs for such monitoring and enforcement for compliance with prevailing wage requirements on State bond–funded public works projects is a necessary and prudent oversight activity and constitutes an inherent cost of construction, payable from State bond proceeds allocated to such project.

In addition, various provisions of AB 436 recite purposes to foster a “skilled labor force availability,” to verify the existence of a “registered apprenticeship program approved by the California Apprenticeship Council,” and to be consistent with the California Occupational Safety and Health Act of 1973, contained in

Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), and the Contractors' State License Law (Chapter 9 commencing with Section 7000) of Division 3 of the Business and Professions Code.

The SAB finds that the proposed emergency amendments are fully consistent with and help to implement the DIR regulations that became effective January 1, 2012. The DIR regulations, California Code of Regulations, Title 8, Chapter 8, Subchapters 4 and 4.5, amending the "Operation of Labor Compliance Program and Contracts Subject to Labor Compliance Program Jurisdiction," and adopting new regulation sections for "Compliance Monitoring and Enforcement by Department of Industrial Relations," including Notices, Fees, and Fee Waivers. The DIR authority to establish fee rates for its services derives from the AB 436 repeal and adoption of Labor Code Section 1771.5(h). The proposed additional grant to school districts and charter schools in these SAB regulatory amendments is calculated upon the maximum fee amount the DIR can charge for its monitoring service.

The proposed SAB regulatory amendments also incorporate the AB 436 creation of exceptions to the DIR prevailing wage monitoring requirement for construction contracts under the control of the awarding body that were previously approved by the DIR to operate its own in-house LCP for all projects, or meet the LCP requirements through a third party contract. This exception was codified in amendments to Public Contract Code Section 20919.3. That list can be reviewed at www.dir.ca.gov/lcp.asp. Also excepted from the DIR CMU monitoring and enforcement requirement, in accordance with AB 436 and Labor Code Section 1771.3, are projects covered by qualified project labor agreements (i.e., collective bargaining agreements that bind all contractors on the project and contain mechanisms for resolving wage disputes).

The proposed requirement in the regulations that all SFP funds must be returned to the State for projects that do not meet the prevailing wage monitoring compliance requirements carries out the purposes of AB 436 and ensures the legal use of State bond funds on public works projects.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)-(4) of Section 4, Title 1, CCR. The regulations only apply to school districts and charter schools for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than August 13, 2012, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Robert Young,
Regulations Coordinator

Mailing Address: Office of Public School
Construction
707 Third Street, Room 1-430
West Sacramento, CA 95605

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 376-5332

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 375-5939. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested

notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulations coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.dgs.ca.gov/opsc> under "Resources," then click on "Laws and Regulations," then click on "SFP Pending Regulatory Changes."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention 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.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the

agency's regulations coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **August 16, 2012**, at 10:00 a.m. in the Auditorium of the State Resources Building, 1416 9th Street, Sacramento, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **August 16, 2012**, following the Public Meeting, in the Auditorium of the State Resources Building, 1416 9th Street, Sacramento, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **August 16, 2012**, following the Public Hearing, in the Auditorium of the State Resources Building, 1416 9th Street, Sacramento, California.

At the Business Meeting, the Board will conduct its monthly business.

DISABILITY ACCOMMODATION NOTICE: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the public hearings/meetings of the Oc-

cupational Safety and Health Standards Board should contact the Disability Accommodation Coordinator at (916) 274-5721 or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders and Logging and Sawmill Safety Orders as indicated below, at its Public Hearing on **August 16, 2012**.

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 7
 Article 7, Section 3328(b)
 **Machinery and Equipment,
 Used and Operated**

2. TITLE 8: **LOGGING AND SAWMILL SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 13
 Article 11, Section 6325
 **Fueling of Helicopters Used
 in Logging Operations**

Descriptions of the proposed changes are as follows:

1. TITLE 8: **GENERAL INDUSTRY SAFETY ORDERS**
 Division 1, Chapter 4, Subchapter 7
 Article 7, Section 3328(b)
 **Machinery and Equipment,
 Used and Operated**

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking proposal is the result of an Occupational Safety and Health Appeals Board (OSHAB) Decision in the Matter of S & S Services, Docket Nos. 08-R2D1-2131 and 2132 dated June 17, 2010, and the OSHAB Denial of the Division of Occupational Safety and Health (Division) Petition for Reconsideration in that matter. The Division issued a serious violation citation under Section 3328(b) for using a personnel lift without installing the outriggers as recommended by the manufacturer. As stated in the OSHAB Decision, the use of the lift without its outriggers is not in accordance with the manufacturer’s operating instruction and led to the lift becoming unstable and toppling resulting in serious employee injury. However, the improper use of the lift as described in the Decision does not violate Section 3328 which only requires employers to ensure that manufacturer’s inspection and maintenance recommendations are followed. As a result, the Administrative Law Judge held that the Division did not prove the alleged violation of Section 3328(b).

This proposal is needed in addition to Section 3328(a), since Section 3328(a) is limited to dangers relating to “speeds, stresses, or loads,” while manufacturers’ recommendations might well address additional hazards associated with the machinery or equipment to which the recommendations apply. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is “the only agency in the state authorized to adopt occupational and health standards.” When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations, in that the federal regulations do not have specific provisions dealing with systems for machinery and equipment except as it pertains to a particular machine, tool or component.
- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system’s component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the State

regulations be at least as effective as their federal counterparts.

- Is the least burdensome effective alternative responding to a lack of guidance as it pertains to the use or operation of machinery and equipment. This proposal directs users to follow the manufacturer’s recommendations when using or operating machinery and equipment unless otherwise directed by other Title 8 standards that may be more stringent or provide alternatives not mentioned by the manufacturer.

Section 3328. Machinery and Equipment.

Subsection (b)

Existing Section 3328 establishes requirements for machinery and equipment to be adequately designed, operated and maintained to ensure employee safety. However, Section 3328(b) is silent in regard to the use or operation of machinery and equipment in accordance with the manufacturer’s operating instructions. This deficiency could result in the unsafe use of equipment or machinery leading to serious injury or fatality. The proposed amendment adds the words “used and operated” to ensure that machinery and equipment is used and operated in accordance with the manufacturer’s recommendations. The subsequent exception to subsection (b) gives notice that other Title 8 standards may permit the operation of machinery and equipment in a manner that may deviate from the manufacturer’s recommendations in which case those specific standards have precedence. The amendment will provide clarity for employers, promote consistency among Title 8 standards and ensure that machinery and equipment is used and operated safely.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposal expands the scope of the standard to direct users to follow the

manufacturer’s recommendations when using or operating machinery and equipment as they would during inspection and maintenance.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

This proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, this proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

This proposed standard does not impose unique requirements on local governments. All state, local and

private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES AND RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The Board has determined that the proposed amendments may affect small businesses. However, no adverse economic impact is anticipated. The proposal would provide businesses, small or large, clear direction in the use and operation of machinery and equipment as recommended by the manufacturer. This regulatory proposal will promote worker safety by specifying safe practices already developed by the manufacturer of the machinery and equipment.

Therefore, the proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

ALTERNATIVES STATEMENT

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

2. TITLE 8: **LOGGING AND SAWMILL SAFETY ORDERS**
Division 1, Chapter 4, Subchapter 13
Article 11, Section 6325
Fueling of Helicopters Used in Logging Operations

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as a staff proposal to amend Section 6325(e) of the Logging and Sawmill Safety Orders (LSSO) to prohibit grounding of the aircraft and fuel supply, thereby making Section 6325(e) consistent with Section 1905 of the Construction Safety Orders (CSO). This proposal removes obsolete requirements regarding fueling procedures for helicopters in the logging industry. Specifically, consistent

with current Federal Aviation Administration (FAA) recommendations and the National Fire Protection Association (NFPA) prohibition of grounding the aircraft and fueling equipment, the amendment deletes the grounding requirement.

An FAA Safety Alert for Operators dated November 23, 2010, states in part that, "Before fueling, the aircraft must be bonded to the fuel source to equalize static electricity between the fuel source and the aircraft. Grounding of the aircraft and/or fuel truck is no longer recommended because it does not prevent sparks at the fuel source, and the grounding cable may not be sufficient to discharge the electrical current." Further, Chapter 5.4.1 of NFPA 407-2007 states in part, "Grounding during aircraft fueling shall not be permitted." Title 8, LSSO Section 6325 has not been amended since 1985.

Board staff contacted several area helicopter flying services regarding the practice of grounding and bonding the aircraft and fuel source. The operations contacted indicated that they are not grounding either the aircraft or the fuel source but strictly bonding the aircraft to the fuel supply. Board staff also learned that, in terms of the effectiveness and safety of the proposal to eliminate the grounding requirement, the engine type, refueling method (hot or cold) and fuel type make no difference. Consequently, to ensure Section 6325 is kept up to date with the latest aircraft fueling and static discharge control methodology, Board staff proposes to amend Section 6325 consistent with the FAA and NFPA. This regulatory proposal is intended to provide worker safety at places of employment in California.

This proposed rulemaking action:

- Is based on the following authority and reference: Labor Code Section 142.3, which states, at Subsection (a)(1) that the Board is "the only agency in the state authorized to adopt occupational safety and health standards." When read in its entirety, Section 142.3 requires that California have a system of occupational safety and health regulations that at least mirror the equivalent federal regulations and that may be more protective of worker health and safety than are the federal occupational safety and health regulations.
- Differs from existing federal regulations in that the federal regulations do not provide specific provisions dealing with helicopter operations. Federal OSHA standards are silent in the use of aircraft for logging operations and do not address bonding or grounding before and during aircraft fueling. This proposal will minimize electrical discharges and the potential for fire and explosion which could result in serious employee injury or fatality.

- Is not inconsistent or incompatible with existing state regulations. This proposal is part of a system of occupational safety and health regulations. The consistency and compatibility of that system's component regulations is provided by such things as the requirement of the federal government and the Labor Code to the effect that the State regulations be at least as effective as their federal counterparts.
- Is the least burdensome effective alternative. The proposal is consistent with current FAA and NFPA standards prohibiting grounding the aircraft before and during fueling operations. The amendment will align the CSO and LSSO regarding helicopter fueling operations and ensure Section 6325 is kept up to date with the latest aircraft fueling and static discharge control methodology.

Section 6325. Fueling and Fueling Area.

Existing Section 6325 describe helicopter operations and fueling area requirements in preparation for fueling helicopters.

Subsection (e)

Existing subsection 6325(e) sets forth requirements for refueling helicopters used in the logging/sawmill industry. The proposed amendment revises Section 6325(e) by deleting the words, “. . .and grounded, with a driven rod attached to the rear of the fuel pump. . .” This amendment will provide consistency with FAA guidance and NFPA standards and reduce static discharge to minimize the potential for fire and explosion which could result in serious employee injury or fatality.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses/Significant Statewide Adverse Economic Impact Directly Affecting Businesses Including the Ability of California Businesses to Compete

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposal removes obsolete requirements regarding fueling procedures for heli-

copters in the logging industry to be consistent with the FAA and NFPA. Therefore, the Board believes the proposal will not have any adverse cost impact upon employers.

Cost Impact on Private Persons or Businesses

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

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

This proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

**EFFECT ON SMALL BUSINESSES AND
RESULTS OF THE ECONOMIC
IMPACT ASSESSMENT**

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated. The proposal would provide helicopter logging operations clear direction in the latest accepted methodology for fueling the aircraft. This regulatory proposal will promote worker safety by minimizing the potential for fire or explosion from static electrical discharge consistent with the FAA and NFPA recommendations.

Therefore, the proposed regulation will not have any effect on the creation or elimination of California jobs or the creation or elimination of California businesses or affect the expansion of existing California businesses.

ALTERNATIVES STATEMENT

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law than the proposal described in this Notice.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than August 10, 2012. The official record of the rule-

making proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on August 16, 2012, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposals substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based is open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Marley Hart, Executive Officer, or Mike Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

**TITLE. 16 BOARD OF BEHAVIORAL
SCIENCES**

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Board of Behavioral Sciences
1625 N. Market Blvd.
El Dorado Room, Suite 220
Sacramento, CA 95834
August 14, 2012
1:00pm-2:00pm

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at

its office no later than 5:00 p.m. on **August 13, 2012** or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.60, and 4990.20 of the Business and Professions Code, and to implement, interpret, or make specific Sections 4980, 4980.44, 4996.18, 4996.23, 4999.45, and 4999.76 of the Business and Professions Code, the Board is considering changes to Division 18 of Title 1.6 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Amend Section 1811 — Use of License Number in Directories and Advertisements

Section 1811 provides general requirements regarding advertisements for Licensed Marriage and Family Therapists (LMFTs), Licensed Clinical Social Workers (LCSWs), Licensed Educational Psychologists (LEPs), and Licensed Professional Clinical Counselors (LPCCs).

AB 956 (Chapter 166, Statutes of 2011) changed the law relating to advertisements for marriage and family therapy services. AB 956 became effective on January 1, 2012, and any advertisement by or on behalf of a marriage and family therapist registered intern must now include, at a minimum, all of the following (BPC §4980.44(d)):

1. That he or she is a marriage and family therapist registered intern;
2. The intern's registration number;
3. The name of his or her employer; and
4. That he or she is supervised by a licensed person.

In addition, AB 956 prohibits the use of the abbreviation "MFTI" in an advertisement unless the title "marriage and family therapist registered intern" appears in the advertisement. (BPC §4980.44(d)(2)).

The Board is proposing amendments to Section 1811 that would clarify the law related to advertising, and would make the regulations consistent with the require-

ments of AB 956. Specific changes that would apply to all licensees include the following:

1. Requires an advertisement to contain the complete title of a license or registration, or an acceptable abbreviation. The amendments also spell out acceptable titles and abbreviations.
2. Prohibits the use of "MFTI" or "PCCI" in an advertisement unless the titles "marriage and family therapist registered intern" or "professional clinical counselor registered intern" are used, respectively.
3. Requires an advertisement to contain the practitioner's license or registration number.
4. Requires a registrant to include the name of his or her employer, or the entity for which he or she volunteers, in any advertisement.
5. Allows use of the words "psychotherapy" or "psychotherapist" in an advertisement as long as all of the other requirements listed in the section are met.

Policy Statement Overview: Adoption of these proposed amendments will protect the public by further clarifying what information can and cannot be contained in an advertisement by a licensee or registrant. It also increases public protection by requiring the practitioner to include their license number in the advertisement, making it easier for the public to look up a practitioner's license or file a complaint with the Board if necessary.

Amend Section 1870 — Requirements for Associate Clinical Social Worker Supervisors

Section 1870 specifies the requirements for supervisors of associate clinical social workers (ASWs). These requirements currently include a valid California license in good standing, as well as specific education and experience requirements.

The Board is proposing an amendment to this section that would require supervisors of ASWs to be licensed for at least two years prior to commencing any supervision. This proposed change would make the requirements for supervisors of ASWs consistent with Section 1833.1, which requires that supervisors of MFT interns be licensed for at least two years prior to performing any supervision.

Policy Statement Overview: Adoption of these proposed amendments would enhance public protection by ensuring that supervisors of ASWs have adequate experience as licensees before they are able to supervise.

Amend Section 1887.3 — Continuing Education Course Requirements

Section 1887.3 sets forth continuing education (CE) criteria for LMFT, LCSW, LEP, and LPCC license renewals. The regulation requires all Board licensees to

complete thirty–six (36) hours of CE coursework every two years.

Currently, the Board’s LMFT and LCSW licensees are required to take a one–time seven–hour continuing education course covering the assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) as part of their 36–hour CE coursework requirement. (California Code of Regulation (CCR) Title 16 Section 1887.3(c)).

Current regulations do not require the Board’s LPCC licensees to take a continuing education course covering HIV/AIDS, even though LPCCs are just as likely as LMFTs and LCSWs to treat patients affected by HIV or AIDS. Therefore, the Board is proposing an amendment that would also require LPCCs to take the one–time seven–hour CE course covering the assessment and treatment of people living with HIV and AIDS, as part of their 36–hour CE coursework requirement.

Policy Statement Overview: Adoption of these proposed amendments will protect consumers by ensuring that all LPCC practitioners have education in the subject of patients who are living with HIV and AIDS.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

This proposal is consistent and compatible with existing state regulations. It modifies existing state regulations related to advertising so that they are consistent and compatible with last year’s statutory changes to LMFT advertising requirements (AB 965, Chapter 166, Statutes of 2011).

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

- The proposed regulation changes to Section 1811 would not result in an economic or fiscal impact. The proposal would only refine the regulations by specifying certain information that must be disclosed in an advertisement.
- The proposed amendments to Section 1887.3 require LPCC licensees to take a one–time, 7–hour CE course covering the assessment and treatment of people living with HIV and AIDS. However, because this course can be counted as part of the 36 hours of CE that is already required for license renewal, it does not represent an additional cost to the licensee.
- The proposed amendments to Section 1870 would have minimal if any impact on individuals and businesses, as licensees who supervise MFT Interns and trainees frequently supervise ASWs. Newly licensed individuals and private therapy practices rarely have a large enough client base to employ and take on a supervisee.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following:

- The proposed regulatory amendments to the advertising requirements in Section 1811 specify that certain information must be disclosed in an advertisement. Providing this information would not have an economic impact on licensees.
- The proposed regulatory amendments to Section 1870 requiring supervisors of ASWs to have held a license for at least two years would affect only a small number of individuals, as newly licensed individuals rarely supervise.

- The proposed regulatory amendments to Section 1887.3 requiring LPCC licensees to take a one-time CE course covering assessment and treatment of people living with HIV and AIDS would not have an economic impact on licensees, because the course can be taken as part of the 36 hours of CE that is already required for license renewal. Therefore, there is no additional cost to the licensee above and beyond what they would already pay to take their required CE.

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. This proposal does not impact multiple industries.

Effect on Small Businesses: The Board has determined that the proposed regulations will not affect small businesses for the reasons specified above.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs, businesses, or the expansion of businesses in the State of California.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: The Board has determined that this regulatory proposal will benefit the health and welfare of California residents who seek the services of the Board's licensees. Health and welfare is increased by doing the following:

- Increasing and clarifying the information that must be provided in a licensee or registrant's advertisements;
- Ensuring that supervisors of ASW's have been licensed for two years and therefore have experience as a licensee; and
- Requiring that LPCC practitioners have education relating to patients living with HIV and AIDS.

The proposal will have no effect on worker safety or the State's environment.

Occupations/Businesses Impacted: The Board has determined that there will be no economic impact of this proposed regulation.

Reporting Requirements: None.

Comparable Federal Regulations: None.

Benefits: Business and Professions Code Section 4990.16 states the following: "Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protec-

tion of the public shall be paramount." The public will benefit from the increased protections this proposal provides, as described above.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the this Notice under Contact Person listed below, or by accessing the Board's website, www.bbs.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared, by making a written request to the Contact Person named below (or by accessing the website listed below).

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Rosanne Helms
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7897
Fax: 916-574-8626
Email: Rosanne.Helms@dca.ca.gov

The backup contact person is:

Name: Marc Mason
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7828
Fax: 916-574-8626
Email: Marc.Mason@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.bbs.ca.gov.

TITLE 16. BOARD OF BEHAVIORAL SCIENCES

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Board of Behavioral Sciences
1625 N. Market Blvd.
El Dorado Room, Suite 220
Sacramento, CA 95834
August 14, 2012
1:00pm-2:00pm

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on August 13, 2012 or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.35 and 4980.60 of the Business and Professions Code, and to implement, interpret, or make specific Sections 4980.35, 4980.40, 4980.42, and 4980.43, of the Business and Professions Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

1. Amend Section 1833 — Experience

Section 1833 sets forth the experience requirements for an applicant seeking LMFT licensure.

Currently, applicants for LMFT licensure are allowed to obtain no more than a total of 250 experience hours toward the licensure experience requirements performing the following activities (California Code of Regulation (CCR) Title 16 Section 1833(a)(4)):

- Administering and evaluating psychological tests of counselees;
- Writing clinical reports;
- Writing progress notes; and
- Writing process notes.

This regulation is now in direct conflict with a recent statutory change. SB 363 (Chapter 384, Statutes of 2011), which became law on January 1, 2012, addressed concerns that MFT interns were being allowed to gain too many client centered advocacy hours. Previously, the law limited the number of hours an MFT intern could obtain for direct supervisor contact, professional enrichment activities, and client centered advocacy together to 1,250 hours. SB 363 revised the law to allow up to 500 hours of experience in the following areas:

- Administering and evaluating psychological tests;
- Writing clinical reports;
- Writing progress notes;
- Writing process notes; and
- Client centered advocacy.

The Board is proposing an amendment to strike out Section 1833(a)(4), which allows 250 hours of experience administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes and writing process notes and which is in direct conflict with the new statute that allows up to a total 500 hours of experience in these areas and in client centered advocacy. The new requirement in law is already clearly specified in Section 4980.43(a)(9) of the Business and Professions Code (BPC), and therefore clarification is no longer needed in regulation.

Policy Statement Overview: Adoption of this proposed amendment will increase clarity to both consum-

ers and individuals who are seeking an LMFT license by clarifying the experience needed to obtain a license.

2. Amend Section 1833 — Telephone Counseling

BPC Section 2290.5 defines telehealth as a means of delivering health care services and public health via information and communication technologies. For example, psychotherapy performed via the telephone or over the internet may both be considered telehealth.

Current law limits the number of experience hours that an applicant for licensure as a marriage and family therapist (LMFT) may gain performing services via telehealth as follows:

Business and Professions Code (BPC) Section 4980.43(a)(11)

Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.

However, this statute is in conflict with CCR Title 16, Section 1833(a)(5), which limits an applicant seeking LMFT licensure to count no more than 250 hours of experience gained counseling or crisis counseling on the telephone.

The Board believes that the regulation is outdated, as it only limits counseling via telephone and does not provide for counseling provided over the internet. Therefore, the Board is proposing an amendment to strike out Section 1833(a)(5).

Policy Statement Overview: Adoption of this proposed amendment will increase clarity to both consumers and individuals who are seeking an LMFT license by clarifying the amount of experience for licensure that may be obtained via telehealth.

3. Amend Section 1833 — Errant References

In addition to the changes described above, the Board is also proposing an amendment to correct errant references in Sections 1833 (a) and (c) which have occurred as the statutes have changed over time.

Policy Statement Overview: Adoption of this proposed amendment will increase clarity to both consumers and individuals who are seeking an LMFT license by clarifying regulatory references to statute.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

This regulatory proposal is consistent and compatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Modification and clarification of the content of experience hours required for licensure is not related to the operations of a business.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None .

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following:

- The proposed regulatory amendment to strike out Section 1833(a)(4) and (5) simply deletes requirements that are in conflict with statute. An increase in the allowable number of experience hours in certain content areas has no effect in the overall total number of hours required for licensure, and would not have an economic impact on businesses because it does not affect their daily operations.

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. This proposal does not impact multiple industries.

Effect on Small Businesses: The Board has determined that the proposed regulations will not affect small businesses for the reasons specified above.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs, businesses, or the expansion of businesses in the State of California.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: The Board has determined that this regulatory proposal will benefit the health and welfare of California residents who seek the services of the Board's marriage and family therapist licensees. Health and welfare is increased by doing the following:

- Increasing clarity to both consumers and individuals who are seeking an LMFT license by clarifying the experience needed to obtain a license.

The proposal will have no effect on worker safety or the State's environment.

Occupations/Businesses Impacted: The Board has determined that there will be no economic impact of this proposed regulation.

Reporting Requirements: None.

Comparable Federal Regulations: None.

Benefits: Business and Professions Code Section 4990.16 states the following: "Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." The public will benefit from the increased clarity this proposal provides, as described above.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person listed below (or by accessing the website listed below).

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the Contact Person named below (or by accessing the website listed below).

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Rosanne Helms
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7897
Fax: 916-574-8626
Email: Rosanne.Helms@dca.ca.gov

The backup contact person is:

Name: Marc Mason
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7828
Fax: 916-574-8626
Email: Marc.Mason@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.bbs.ca.gov.

TITLE 16. BOARD OF OPTOMETRY

NOTICE IS HEREBY GIVEN that the California State Board of Optometry (hereafter “Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Department of Consumer Affairs
 2420 Del Paso Road, Yosemite Room
 Sacramento, California 95834
 Monday, August 13, 2012
 10:00 a.m.

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on Monday, August 13, 2012 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 3025 of the Business and Professions Code, and to implement, interpret or make specific Sections 144, 480 and 901 of said Code, the Board is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST

Informative Digest:

The Board currently regulates about 8,000 licensees. The Board’s highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants, investigating complaints against licensees and disciplining licensees for violating the Optometry Practice Act; and monitoring licensees whose licenses have been placed on probation.

Business and Professions Code (BPC) Section 3025 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable the Board to carry into effect the provisions of the Optometry Practice Act.

This proposal requires the Board to implement legislation, AB 2699 (Bass, Chapter 270, Statutes of 2010), enacting BPC Section 901. BPC Section 901 provides an exemption, except for what the Board may require, for a health-care practitioner, licensed or certified in another state, from all the licensing and regulatory requirements of the applicable California healing arts board. To be exempted from California licensure requirements, an out-of-state health-care practitioner must be providing services at a sponsored health-care event to uninsured or underinsured people on a short-term, voluntary basis. BPC Section 901 requires the out-of-state health-care provider to meet certain requirements, and seek authorization from the applicable healing arts board in California. BPC Section 901 provides the regulatory framework for the approval of an out-of-state health-care practitioner and a sponsoring entity to seek approval from the applicable healing arts boards. However, each individual healing arts board is responsible for promulgating regulations to prescribe the specific requirements for the approval of an out-of-state practitioner and a sponsoring entity.

The primary purpose of these proposed regulations is to implement, interpret, and make specific the provisions of BPC Section 901, as it pertains to licensed optometrists, including the application and registration requirements, disciplinary actions, recordkeeping requirements, and provisions for termination for the exemption of an out-of-state licensed optometrist who wishes to participate in a sponsored free health-care event. The Registration of Sponsoring Entity Form 901-A (DCA/2011) and the Request for Authorization to Practice Without a California License Form 901-B (OPT/2011) are incorporated by reference. The Board’s highest priority is the protection of the public, and these proposed regulations are intended to implement BPC Section 901 in a manner that will provide the greatest protection for the people of California.

Policy Statement Overview/Anticipated Benefits of Proposal:

The implementation of AB 2699 by these proposed regulations will ensure that sponsored free health-care events will not be hampered by shortages of health-care practitioners, and will allow more of these individuals to volunteer.

According to the author of AB 2699, “Thousands of low-income children, families, and individuals in California are uninsured or underinsured and do not receive basic health, vision, and dental care and screenings. Lack of basic services and preventive care may lead to more serious and costly health, dental, and vision problems. In August 2009, the Remote Area Medical (RAM) Volunteer Corps conducted an eight-day health event in Los Angeles County. Volunteer medical,

dental and other health-care practitioners provided \$2.9 million in free services to over 14,000 individuals during the event.

While the event was extremely successful, RAM experienced a shortage of volunteer medical, dental, and vision providers because of restrictions in state laws which prohibit volunteer out-of-state licensed medical personnel from providing short-term services. As a result, thousands of residents needing services were turned away.”

To prevent future volunteer shortages at sponsored free health-care events such as RAM, AB 2699 was introduced to permit health-care providers licensed in other states, who are willing to help to practice in California for a limited time.

Consistency and Compatibility with Existing State Regulations:

This Board has evaluated this regulatory proposal, and it is not inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

- Registration of Sponsoring Entity Under Business and Professions Code Section 901 Form 901-A (DCA/2011)
- Request for Authorization to Practice Without a California License At a Sponsored Free Health-Care Event Form 901-B (OPT/2011)

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: It is unknown how many sponsors of free health-care events and how many volunteer out-of-state optometrists may apply to the Board as a result of these regulations. However, the Board estimates that it will receive at least 50 applications per year from out-of-state optometrists seeking authorization to provide services at sponsored free health-care events. In order for the Board to absorb the workload associated with processing the requests for authorization from the out-of-state optometrists, the Board will need to charge a \$40.00 non-refundable processing fee (\$89.00 for individuals who have to submit fingerprints on hard cards and not via Live Scan). This fee will offset the costs associated with staff’s processing of the application.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

These proposed regulations will provide the Board with the means to implement, interpret, and make specific BPC Section 901, as it pertains to licensed optometrists, including application and registration requirements, disciplinary actions, recordkeeping requirements, and provisions for termination of authorization for an out-of-state licensed optometrist who wishes to participate in a sponsored free health-care event.

Sponsoring entities may incur nominal expenses associated with submitting the registration form to the Board and complying with recordkeeping requirements and reporting requirements. Sponsoring entities shall be responsible for submitting the registration Form 901A (DCA/2011) to the Board. Expenses associated with submitting the registration form include printing and mailing; these expenses are minimal, and should not have a significant fiscal impact on sponsoring entities. Additionally, sponsoring entities shall be responsible for maintaining copies of all records required by BPC Section 901, as well as the copy of the authorization for participation issued by the Board to an out-of-state practitioner at a physical location in California. The records must be maintained for a period of at least five (5) years after the date the sponsored event ended; the records may be kept in electronic or paper form. The sponsoring entity shall also be responsible for maintaining copies of all records required by BPC Section 901(g) at the physical location of the sponsored event. Expenses associated with these recordkeeping requirements are nominal and include storage and transportation of the required records; these expenses are minimal and should not have a significant fiscal impact on sponsoring entities. Finally, the sponsoring entity shall be responsible for providing a report to the Board summarizing the details of the sponsored event within 15 days after the conclusion of such event. The report may be provided to the Board on a form of the sponsoring entity’s choosing. Expenses associated with these reporting requirements are nominal and include printing and postage; these expenses are minimal and should not have a significant fiscal impact on sponsoring entities.

Out-of-state optometrists seeking authorization from the Board to participate in a sponsored event will incur a \$40.00 fee for application processing. Addition-

ally, applicants will incur costs associated with furnishing fingerprints for the purpose of the Board conducting a criminal history check. These costs are necessary for the protection of the public, and to provide staff time and resources for registration of sponsored events and volunteer out-of-state practitioners in the short time-frames set in the statute.

This regulation will have a positive impact on the health of uninsured or under-insured Californians that are currently unable to receive vision care due to lack of funding and resources.

There may also be benefits to private businesses that are not able to provide vision care to their employees. Many small businesses are legally required to provide health care, but are not required to provide vision care. Their employees could attend these free health-care events to meet their vision needs. This helps the businesses maintain employees with healthy vision so they can continue to work. Poor health in vision can impact the total health of an individual. These regulations will benefit the health of Californians who attend sponsored events, in addition to providing public protection through registration of out-of-state volunteer optometrists.

Cost Impact on Representative Private Person or Business:

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

Sponsors of free health-care events and out-of-state practitioners will incur minimal costs to apply and register with the Board in compliance with the statute and these regulations. Out-of-state optometrists seeking authorization from the Board to participate in a sponsored event will incur a \$40.00 fee for application processing. Additionally, applicants will incur costs associated with furnishing fingerprints for the purpose of the Board conducting a criminal history check. The cost for a person to get fingerprinted is \$49.00. Of this fee, \$32.00 goes to the Department of Justice for conducting the background check and providing criminal record reports to the Board. The vendor's fee ranges from \$5.00 to \$45.00. For those who are not able to submit fingerprints electronically via Live Scan, the fee for the Board to process "hard cards" fingerprints is \$49.00. These fees will have to be factored into the cost of the individual's volunteered services. The fees may be covered by sponsoring entities.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not have a significant economic impact on

small businesses. Instead, the impact of this rulemaking is to offer free health-care to uninsured or under-insured Californians by volunteer health-care practitioners coming from out of state to provide optometric services. These services may benefit small businesses that do not provide vision care to their employees.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

The proposed regulations impact those out-of-state health-care practitioners applying to the Board to participate in community-based organizations that provide sponsored free health-care events in California. The proposed regulations may provide an opportunity for out-of-state licensed volunteers to participate in community-sponsored free health-care events.

Benefits of Regulation:

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents, worker safety, and the state's environment:

- This regulatory proposal benefits the health and welfare of California residents, specifically, uninsured or under-insured Californians that are currently unable to receive optometric care due to lack of funding and resources. These proposed regulations will permit sponsoring entities to have access to out-of-state optometrists as an additional resource for volunteer recruitment purposes. This will prevent a shortage of optometrists at sponsored free health-care events, in turn increasing access to care.

There may also be benefits to private businesses that are not able to provide vision care to their employees. Many small businesses are legally required to provide healthcare, but are not required to provide vision care. Poor health in vision can impact the total health of an individual, such as a diagnosis of glaucoma, which could lead to blindness if left undetected. These regulations will benefit the health of Californians who attend sponsored events, in addition to providing public protection through registration of out-of-state volunteer optometrists.

- This regulatory proposal benefits worker safety because as Californians, they will be able to attend sponsored events to obtain health care, improving

their overall health. Studies have shown that healthy vision improves productivity, thus keeping employees safe to continue to work

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention 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 proposal described in this Notice, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board at 2450 Del Paso Road, Suite 105, Sacramento, California 95834.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Andrea Leiva, Policy Analyst
Address: 2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: 916-575-7182
Fax No.: 916-575-7292
E-mail Address: andrea.leiva@dca.ca.gov

The backup contact person is:

Name: Mona Maggio, Executive Officer
Address: 2450 Del Paso Road, Suite 105
Sacramento, CA 95834
Telephone No.: 916-575-7170
Fax No.: 916-575-7292
E-mail Address: mona.maggio@dca.ca.gov

Website Access: Materials regarding this proposal can be found at <http://www.optometry.ca.gov/lawsregs/propregs.shtml>.

TITLE 18. BOARD OF EQUALIZATION

Section 313, *Hearing Procedure*, and Section 321, *Burden of Proof*

NOTICE IS HEREBY GIVEN

The State Board of Equalization (Board), pursuant to the authority vested in it by Government Code section 15606, proposes to adopt amendments to California Code of Regulations, title 18, sections (Property Tax Rules) 313, *Hearing Procedure*, and 321, *Burden of Proof*. Property Tax Rule 313 prescribes the procedures that county boards of equalization (county boards) must follow when conducting hearings on property tax applications. Property Tax Rule 321 prescribes the burden of proof in county boards' hearings regarding property tax applications. The proposed amendments clarify and make both Property Tax Rules 313 and 321 consistent with Assembly Bill No. (AB) 711 (Stats. 2011, ch. 220), which defined the term "owner-occupied single-family dwelling" for purposes of the rebuttable presumption regarding the burden of proof in hearings on specified property tax applications provided by Revenue and Taxation Code (RTC) section 167.

PUBLIC HEARING

The Board will conduct a meeting in Room 121, at 450 N Street, Sacramento, California, on August 21-23, 2012. The Board will provide notice of the meeting to any person who requests that notice in writing and make the notice, including the specific agenda for the meeting, available on the Board's Website at www.boe.ca.gov at least 10 days in advance of the meeting.

A public hearing regarding the proposed regulatory action will be held at 9:30 a.m. or as soon thereafter as the matter may be heard on August 21, 22, or 23, 2012. At the hearing, any interested person may present or submit oral or written statements, arguments, or contentions regarding the adoption of the proposed amendments to Property Tax Rules 313 and 321.

AUTHORITY

Government Code section 15606.

REFERENCE

RTC sections 167, 205.5, and 218.

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Prior Law

RTC section 167, subdivision (a), establishes a rebuttable presumption regarding the burden of proof in county boards' hearings on property tax applications regarding owner-occupied single-family dwellings. RTC section 167, subdivision (a) provides that "Notwithstanding any other provision of law to the contrary, and except as provided in subdivision (b), there shall be a rebuttable presumption affecting the burden of proof in favor of the taxpayer or assessee who has supplied all information as required by law to the assessor in any administrative hearing involving the imposition of a tax on an owner-occupied single-family dwelling, the assessment of an owner-occupied single-family dwelling pursuant to this division, or the appeal of an escape assessment."

Property Tax Rule 313 prescribes the procedures county boards must follow when conducting hearings on property tax applications. Property Tax Rule 313, subdivision (c)(2), incorporates the rebuttable presumption in RTC section 167 and provides, in relevant part, that "The board shall not require the applicant to present evidence first when the hearing involves: . . . (2) The assessment of an owner-occupied single-family dwelling or the appeal of an escape assessment, and the applicant has filed an application that provides all of the information required in regulation 305(c) of this subchapter and has supplied all information as required by law to the assessor. In those instances, the chair shall require the assessor to present his or her case to the board first."

In addition, Property Tax Rule 321 prescribes the burden of proof in county boards' hearings regarding property tax applications. Property Tax Rule 321, subdivi-

sion (d), also incorporates the rebuttable presumption in RTC section 167 and provides that "in any hearing involving the assessment of an owner-occupied single-family dwelling . . . the presumption in section 167 of the Revenue and Taxation Code affecting the burden of proof in favor of the applicant who has supplied all information to the assessor as required by law imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment."

Amendments Made by AB 711

AB 711 added subdivision (c) to RTC section 167 to define the term "owner-occupied single-family dwelling" as used in the rebuttable presumption. New subdivision (c) provides that:

For the purposes of this section, an owner-occupied single-family dwelling means a single-family dwelling that satisfies both of the following:

- (1) The dwelling is the owner's principal place of residence.
- (2) The dwelling qualifies for a homeowners' property tax exemption.

Effect, Objectives, and Benefits of the Proposed Amendments

Board staff initiated a project the objective of which was to recommend language that could be added to Property Tax Rules 313 and 321 to incorporate the definition of owner-occupied single-family dwelling added to RTC section 167, subdivision (c), by AB 711, and thereby make the rules consistent with the new subdivision. As a result, Board staff issued Letter to Assessors No. (LTA) 2012/007 on January 30, 2012, which recommended amending Property Tax Rule 313, subdivision (c)(2), and Property Tax Rule 321, subdivision (d), to add the following sentence, and solicited comments regarding the recommendation from county assessors, county boards, and other interested parties:

An owner-occupied single-family dwelling means a single-family dwelling that is the owner's principal place of residence and qualifies for a homeowners' property tax exemption.

Board staff received one comment in response to LTA 2012/007. The comment explained that real property that is the owner's principal residence and qualifies for the \$100,000 disabled veterans' exemption provided by RTC section 205.5 also qualifies for the \$7,000 homeowners' property tax exemption provided by RTC section 218, even though taxpayers that are eligible for both exemptions choose to claim the larger disabled veterans' exemption, and that such property is therefore subject to the rebuttable presumption in RTC section 167, subdivision (a). The comment also recommended adding a sentence to the proposed amendments to both

Property Tax Rules 313 and 321 to clarify that property that qualifies for a homeowners' property tax exemption includes property that is the principal place of residence of its owner and qualifies for the disabled veterans' exemption provided by RTC section 205.5.

Board staff agreed with the above comment because RTC section 218, subdivision (b)(1), expressly provides that the homeowners' property tax exemption does not "apply to property on which the owner receives the veterans' exemption" specified by RTC section 205, but RTC section 218 does not contain similar language providing that property on which the owner receives the disabled veterans' exemption provided by RTC section 205.5 cannot qualify for the homeowners' property tax exemption. Subsequently, Board staff prepared Formal Issue Paper 12-004 and submitted it to the Board for consideration at its May 30, 2012, Property Tax Committee meeting. The issue paper recommended that the Board add references to RTC sections 205.5 and 218, which respectively prescribe the disabled veterans exemption and homeowners' property tax exemption, to the reference notes to Property Tax Rules 313 and 321, and add the following two sentences to Property Tax Rule 313, subdivision (c)(2), and Property Tax Rule 321, subdivision (d), to incorporate and clarify the definition of owner-occupied single-family dwelling added to RTC section 167, subdivision (c), by AB 711:

An owner-occupied single-family dwelling means a single-family dwelling that is the owner's principal place of residence and qualifies for a homeowners' property tax exemption pursuant to Revenue and Taxation Code section 218. "Property that qualifies for a homeowners' property tax exemption" also includes property that is the principal place of residence of its owner and qualifies for the disabled veterans' exemption provided by Revenue and Taxation Code section 205.5.

During its May 30, 2012, Property Tax Committee meeting, the Board determined that staff's recommended amendments are reasonably necessary to accomplish the objectives of making Property Tax Rules 313 and 321 consistent with the provisions of RTC section 167, subdivision (c), as added by AB 711, and further clarifying the meaning of the phrase "qualifies for a homeowners' property tax exemption," as used in RTC section 167, subdivision (c), as added by AB 711. Therefore, the Board unanimously voted to propose the adoption of the recommended amendments.

The proposed amendments are anticipated to provide the following specific benefits:

- Make Property Tax Rules 312 and 321 consistent with the provisions of RTC section 167, subdivision (c), as added by AB 711; and

- Clarify the meaning of the phrase "qualifies for a homeowners' property tax exemption," as used in RTC section 167, subdivision (c), as added by AB 711.

The Board has performed an evaluation of whether the proposed amendments to Property Tax Rules 313 and 321 are inconsistent or incompatible with existing state regulations and determined that the proposed amendments are not inconsistent or incompatible with existing state regulations because Property Tax Rules 313 and 321 are the only existing state regulations prescribing the burden of proof in county boards' hearings on property tax applications regarding owner-occupied single-family dwellings. In addition, there is no federal property tax and there are no comparable federal regulations or statutes to Property Tax Rules 313 and 321.

NO MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Property Tax Rules 313 and 321 will not impose a mandate on local agencies or school districts, including a mandate that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code.

NO COST OR SAVINGS TO STATE AGENCIES, LOCAL AGENCIES, AND SCHOOL DISTRICTS

The Board has determined that the adoption of the proposed amendments to Property Tax Rules 313 and 321 will result in no direct or indirect cost or savings to any state agency, any cost to local agencies or school districts that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of title 2 of the Government Code, other non-discretionary cost or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The adoption of the proposed amendments to Property Tax Rules 313 and 321 will not change the burden of proof in county boards' hearings on property tax applications regarding owner-occupied single-family dwellings, as prescribed by RTC section 167. The adoption of the proposed amendments to Property Tax Rules 313 and 321 will only make the rules consistent with the provisions, of RTC section 167, subdivision (c), as added by AB 711, and clarify the meaning of the phrase "qualifies for a homeowners' property tax exemption," as used in RTC section 167, subdivision (c), as added by

AB 711. Therefore, the Board has made an initial determination that the adoption of the proposed amendments to Property Tax Rules 313 and 321 will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The adoption of the proposed amendments to Property Tax Rules 313 and 321 may affect small business.

**NO COST IMPACTS TO PRIVATE PERSONS
OR BUSINESSES**

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

**RESULTS OF THE ECONOMIC IMPACT
ANALYSIS REQUIRED BY GOVERNMENT
CODE SECTION 11346.3, SUBDIVISION (b)**

The Board has prepared the economic impact analysis required by Government Code section 11346.3, subdivision (b)(1), and included it in the initial statement of reasons. The Board has determined that the adoption of the proposed amendments to Property Tax Rules 313 and 321 will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California. Furthermore, the Board has determined that the adoption of the proposed amendments to Property Tax Rules 313 and 321 will not affect the health and welfare of California residents, worker safety, or the state's environment.

**NO SIGNIFICANT EFFECT ON
HOUSING COSTS**

Adoption of the proposed amendments to Property Tax Rules 313 and 321 will not have a significant effect on housing costs.

**DETERMINATION REGARDING
ALTERNATIVES**

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention 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 than the proposed action.

CONTACT PERSONS

Questions regarding the substance of the proposed amendments should be directed to Bradley M. Heller, Tax Counsel IV, by telephone at (916) 323-3091, by e-mail at Bradley.Heller@boe.ca.gov, or by mail at State Board of Equalization, Attn: Bradley M. Heller, MIC:82, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0082.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Mr. Rick Bennion, Regulations Coordinator, by telephone at (916) 445-2130, by fax at (916) 324-3984, by e-mail at Richard.Bennion@boe.ca.gov, or by mail at State Board of Equalization, Attn: Rick Bennion, MIC:80, 450 N Street, P.O. Box 942879, Sacramento, CA 94279-0080.

WRITTEN COMMENT PERIOD

The written comment period ends at 9:30 a.m. on August 21, 2012, or as soon thereafter as the Board begins the public hearing regarding the proposed amendments to Property Tax Rules 313 and 321 during the August 21-23, 2012, Board meeting. Written comments received by Mr. Rick Bennion at the postal address, email address, or fax number provided above, prior to the close of the written comment period, will be presented to the Board and the Board will consider the statements, arguments, and/or contentions contained in those written comments before the Board decides whether to adopt the proposed amendments to Property Tax Rules 313 and 321. The Board will only consider written comments received by that time.

**AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATION**

The Board has prepared an underscore and strikeout version of the text of Property Tax Rules 313 and 321 illustrating the express terms of the proposed amendments and an initial statement of reasons for the adoption of the proposed amendments, which includes the economic impact analysis required by Government Code section 11346.3, subdivision (b)(1). These documents and all the information on which the proposed amendments are based are available to the public upon request. The rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed amendments and the initial statement of reasons are also available on the Board's Website at www.boe.ca.gov.

**SUBSTANTIALLY RELATED CHANGES
PURSUANT TO GOVERNMENT CODE
SECTION 11346.8**

The Board may adopt the proposed amendments to Property Tax Rules 313 and 321 with changes that are nonsubstantial or solely grammatical in nature, or sufficiently related to the original proposed text that the public was adequately placed on notice that the changes could result from the originally proposed regulatory action. If a sufficiently related change is made, the Board will make the full text of the proposed amendments, with the change clearly indicated, available to the public for at least 15 days before adoption. The text of the resulting amendments will be mailed to those interested parties who commented on the original proposed amendments orally or in writing or who asked to be informed of such changes. The text of the resulting amendments will also be available to the public from Mr. Bennion. The Board will consider written comments on the resulting amendments that are received prior to adoption.

**AVAILABILITY OF FINAL STATEMENT
OF REASONS**

If the Board adopts the proposed amendments to Property Tax Rules 313 and 321, the Board will prepare a final statement of reasons, which will be made available for inspection at 450 N Street, Sacramento, California, and available on the Board's Website at www.boe.ca.gov.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF HEALTH CARE
SERVICES**

**NON-DESIGNATED PUBLIC HOSPITALS
WILL BE REIMBURSED BASED ON A
CERTIFIED PUBLIC EXPENDITURE
METHODOLOGY UPON THE ENACTMENT
OF THE STATE BUDGET ACT OF 2012**

This notice is to provide information of public interest with respect to changes in the reimbursement methodology for Non-Designated Public Hospitals (NDPHs) to add a Certified Public Expenditure (CPE) methodology.

Currently NDPHs are reimbursed with 50% General Fund and 50% federal financial participation in addi-

tion to supplemental payments, based on intergovernmental transfers, under the NDPH Medi-Cal Rate Stabilization Act (commencing with Section 14165.55 of the Welfare and Institutions Code) added by AB 113 (Statutes of 2011).

Under the new CPE methodology, NDPHs will certify the cost of providing inpatient services to fee-for-service Medi-Cal beneficiaries and will receive, as reimbursement, the federal financial participation resulting from the certification of those costs. Further, under the legislation enacting the new CPE methodology, the intergovernmental transfer based supplemental payments authorized by AB 113 will be terminated.

Changes to Welfare and Institutions Code and the State Plan are necessary to allow NDPHs to participate in the CPE reimbursement methodology. These changes will take effect July 1, 2012.

PUBLIC REVIEW AND COMMENTS

Copies of the State Plan Amendment to the California Medicaid State Plan and/or the proposed California legislation that amends the Welfare and Institutions Code to make the changes described in this notice may be requested, in writing, from Ms. Pilar Williams, Department of Health Care Services, Safety Net Financing Division, MS 4518, P.O. Box 997436, Sacramento, CA 95899-7436.

Written comments concerning the proposal may be mailed to Pilar Williams at the above address and must be received on or before August 17, 2012.

**DEPARTMENT OF HEALTH CARE
SERVICES**

**THE DEPARTMENT OF HEALTH CARE
SERVICES TO DEVELOP A NEW
REIMBURSEMENT METHODOLOGY AND
IMPLEMENT A PROVIDER PAYMENT
REDUCTION UP TO 10 PERCENT FOR
CLINICAL LABORATORY OR
LABORATORY SERVICES**

This notice provides information of public interest about the proposed payment reduction that may be implemented for Medi-Cal clinical laboratory or laboratory services on July 1, 2012, and the development of a new rate reimbursement methodology for clinical laboratory or laboratory services.

The California Department of Health Care Services (DHCS) proposes to develop a new reimbursement methodology that is based on the lowest amounts other payers are paying for similar clinical laboratory services. Additionally, until the new methodology is ap-

proved by the federal Centers for Medicare and Medicaid Services and in addition to the payment reductions implemented pursuant to Welfare and Institutions Code Section 14105.192, DHCS proposes a payment reduction of up to 10% percent for clinical laboratory or laboratory services. The proposed provider payment reductions and adjustments will only be implemented if the Director of DHCS determines that the payments comply with applicable federal Medicaid requirements and that federal financial participation will be available.

When available, DHCS intends to notify the public of any activities required by this proposal via the DHCS website and provider bulletin.

PUBLIC REVIEW AND COMMENTS

A detailed description of the proposed California legislation that will amend Welfare and Institutions Code Section 14105.22 to make the changes described in this notice will be made available for public review at local county welfare offices throughout the State. A copy of the description may also be requested, in writing, from:

Ms. Arlene Sakazaki, Chief
 Provider Rate Section
 Department of Health Care Services
 Fee-For-Service Rates Development Division
 1501 Capitol Avenue, MS 4600
 P.O. Box 997413
 Sacramento, CA 95899-7413

Any written comments concerning the proposal may also be mailed to Ms. Sakazaki at the above address.

DEPARTMENT OF HEALTH CARE SERVICES

AMEND THE STATE PLAN TO REPLACE REFERENCES TO THE DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS WITH THE DEPARTMENT OF HEALTH CARE SERVICES IN ORDER TO TRANSFER THE DRUG MEDI-CAL RESPONSIBILITIES TO DHCS

This notice provides information of public interest with respect to the mandates of Assembly Bill 106, Chapter 32, Statutes of 2011, Section 63 to transfer the Drug Medi-Cal program functions from the Department of Alcohol and Drug Programs (ADP) to the Department of Health Care Services (DHCS), effective July 1, 2012. DHCS will seek federal approval via a State Plan Amendment (SPA) to implement the transition.

The proposed SPA will transfer the Drug Medi-Cal program functions from ADP to DHCS. Additionally, the SPA will remove an obsolete reference to Adult Day Health Care services. Any communications related to the Drug Medi-Cal program shall be directed to DHCS effective July 1, 2012.

Public Review and Comment

The California statutes discussed above are available for public review at local county welfare offices throughout the State. Written comments (or requests for copies of the statutes and/or copies of the written comments) may be submitted to: Janice Spitzer, Chief, Benefits Analysis Section; Medi-Cal Benefits, Waiver Analysis and Rates Division; Department of Health Care Services; MS 4600; P.O. Box 997417; Sacramento, CA 95899-7417.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2012-0606-04
 BOARD FOR PROFESSIONAL ENGINEERS,
 LAND SURVEYORS AND GEOLOGISTS
 Inspection of Examination

The Board for Professional Engineers, Land Surveyors and Geologists repealed subdivision (c)(1) of section 443 of title 16 of the California Code of Regulations.

Title 16
 California Code of Regulations
 AMEND: 443
 Filed 06/18/2012
 Effective 06/18/2012
 Agency Contact: Larry Kereszt (916) 263-2240

File# 2012-0504-02
 BOARD OF CHIROPRACTIC EXAMINERS
 Use of Laser

The Board of Chiropractic Examiners (BCE) is adopting section 302.5 in Title 16 of the California

Code of Regulations. This section establishes safety standards for the use of lasers by licensed chiropractors and any person under their direct or indirect supervision. This regulation also defines a violation of this section as unprofessional conduct subject to discipline by BCE.

Title 16
California Code of Regulations
ADOPT: 302.5
Filed 06/14/2012
Effective 07/14/2012
Agency Contact: Dixie Van Allen (916) 263-5329

File# 2012-0507-03
BOARD OF PHARMACY
Pharmacist Exam Applicants; Intern Pharmacist Applicants: Requirements

This regulatory action requires an applicant for a pharmacist intern license and an applicant seeking board authorization to take the pharmacist licensure examination to submit to the board with his/her application a sealed original Self-Query Report from the National Practitioner Data Bank-Healthcare Integrity and Protection Data Bank (NPDB-HIPDB).

Title 16
California Code of Regulations
ADOPT: 1727.2 AMEND: 1728
Filed 06/18/2012
Effective 07/18/2012
Agency Contact: Carolyn Klein (916) 574-7913

File# 2012-0507-01
CALIFORNIA EARTHQUAKE AUTHORITY
Conflict-of-Interest Code Amendment

This is a Conflict-of-Interest Code filing that has been approved by the Fair Political Practices Commission and is being submitted to OAL for filing with the Secretary of State and printing only.

Title 2
California Code of Regulations
AMEND: 56800
Filed 06/19/2012
Effective 07/19/2012
Agency Contact: Niel Hall (916) 325-3800

File# 2012-0507-02
DEPARTMENT OF PESTICIDE REGULATION
Prevention of Surface Water Contamination

This rulemaking action by the Department of Pesticide Regulation amends section 6000 of, and adds sections 6970 and 6970 to, title 3 of the California Code of Regulations. This action identifies pesticides that have a high potential to contaminate surface water in outdoor

non-agricultural settings, requires businesses that apply these pesticides to take actions to minimize contamination, and defines various related terms.

Title 3
California Code of Regulations
ADOPT: 6970, 6972 AMEND: 6000
Filed 06/19/2012
Effective 07/19/2012
Agency Contact:
Linda Irokawa-Otani (916) 445-3991

File# 2012-0612-01
DEPARTMENT OF PUBLIC HEALTH
Newborn Screening Panel Fee Increase

The Department of Public Health submitted this action for filing with the Secretary of State. This action is a deemed emergency and is exempt from OAL review pursuant to Health & Safety Code section 124977(d). The action amends title 17, CCR, section 6508 by increasing the fee for a newborn screening panel from \$101.75 to \$111.70. It also repeals a subdivision which allows birth attendants and physicians to submit blood specimens for newborn screenings on a form other than a DPH-approved form for an additional fee.

Title 17
California Code of Regulations
AMEND: 6508
Filed 06/15/2012
Effective 06/15/2012
Agency Contact: Dawn Basciano (916) 440-7367

File# 2012-0504-01
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
Proposition 65 — NSRL Trichloroethylene

This matter adjusts the oral and inhalation levels to the existing No Significant Risk Levels (NSRLs) for Trichloroethylene contained in section 25705 of title 27 of the California Code of Regulations.

Title 27
California Code of Regulations
AMEND: 25705
Filed 06/18/2012
Effective 07/18/2012
Agency Contact: Monet Vela (916) 323-2517

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN January 25, 2012 TO
June 20, 2012**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations

titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

- 06/19/12 AMEND: 56800
- 06/04/12 ADOPT: 18313.6
- 05/29/12 AMEND: 20811(c)
- 05/15/12 AMEND: 1859.2
- 05/10/12 AMEND: 1859.2, 1859.82
- 05/08/12 ADOPT: 559.1
- 04/30/12 ADOPT: 565.5 AMEND: 565.1, 565.2, 565.3
- 04/26/12 AMEND: 554.4
- 04/23/12 AMEND: 18705.5
- 04/23/12 AMEND: 554.3
- 04/19/12 ADOPT: 18412 AMEND: 18215, 18413
- 04/10/12 ADOPT: 18215.3
- 04/09/12 ADOPT: 59710
- 03/26/12 AMEND: 1859.2, 1859.71.4, 1859.78.1, 1859.79.2, 1859.82, 1859.83, 1859.106, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.163.5, 1859.193
- 03/13/12 AMEND: 1859.2, 1859.82
- 03/06/12 ADOPT: 589.11
- 03/06/12 AMEND: 1189.10
- 03/02/12 AMEND: 560
- 02/16/12 AMEND: 18401.1
- 02/13/12 AMEND: 18943
- 01/31/12 ADOPT 260.1, 261.1 AMEND 258, 260, 262
- 01/31/12 AMEND 640
- 01/26/12 AMEND 37000

Title 3

- 06/19/12 ADOPT: 6970, 6972 AMEND: 6000
- 05/17/12 AMEND: 4603(i)
- 05/01/12 AMEND: 3423(b)
- 04/16/12 AMEND: 3591.19
- 04/16/12 AMEND: 3439
- 04/12/12 AMEND: 3591.21(b)
- 04/12/12 ADOPT: 3435(c)
- 04/12/12 AMEND: 3434(b)&(c)
- 04/03/12 ADOPT: 3639
- 04/03/12 ADOPT: 3439
- 04/02/12 AMEND: 480.9, 498, 499, 499.5, 500, 501, 576.1, 623, 755.2, 756.2, 760.2, 790, 790.2, 791, 791.1, 796.2, 797, 799, 820.1, 821.2, 900, 900.1, 900.2, 901.3, 901.8, 901.9, 901.11, 902, 902.15, 907.3, 909.3, 910.4, 910.7, 913, 913.1, 1180, 1180.11,

- 1200, 1204, 1205, 1210, 1235, 1242, 1246, 1246.14, 1247, 1256, 1266, 1268, 1269, 1271, 1300.1, 1310.1
- 03/20/12 AMEND: 1430.5, 1430.6, 1430.35, 1430.36, 1430.37, 1430.38
- 03/09/12 AMEND: 3436(b)
- 03/08/12 AMEND: 3437(b)
- 03/07/12 ADOPT: 1180, 1180.20, 1180.22, 1180.23, 1180.24, 1180.25, 1180.27, 1180.28, 1180.29, 1180.30, 1180.31, 1180.32, 1180.33, 1180.34, 1180.35, 1180.36, 1180.37, 1180.38, 1180.39 AMEND: 1180.1, 1180.2, 1180.3, 1180.3.1, 1180.3.2, 1180.13, 1180.14, 1180.15, 1180.16, 1180.17, 1180.18, 1180.19, 1180.31, 1180.32, 1180.33, 1180.34, 1180.35, 1180.36, 1180.37, 1180.38, 1180.39, 1180.40, 1180.41 REPEAL: 1180, 1180.21, 1180.22, 1180.23, 1180.24, 1180.25, 1180.26, 1180.27, 1180.28, 1180.29, 1180.30
- 02/28/12 ADOPT: 2320.1, 2320.2, 2322, 2322.1, 2322.2, 2322.3, 2323 AMEND: 2300, 2300.1, 2302, 2303, 2320, 2321
- 02/23/12 AMEND: 3700(c)
- 02/13/12 AMEND: 3591.2(a)
- 02/06/12 AMEND: 3435(b)
- 02/02/12 AMEND: 3423(b)

Title 4

- 06/06/12 AMEND: 1843.3
- 06/01/12 ADOPT: 5205 AMEND: 5000, 5054, 5144, 5170, 5190, 5200, 5230, 5350, 5370 REPEAL: 5133
- 05/15/12 REPEAL: 61.3
- 05/04/12 ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056, 10057, 10058, 10059, 10060
- 04/30/12 ADOPT: 511 AMEND: 399
- 04/26/12 AMEND: 2066
- 04/19/12 ADOPT: 10192, 10193, 10194, 10195, 10196, 10197, 10198, 10199
- 04/17/12 AMEND: 53
- 04/12/12 AMEND: 10317, 10325
- 04/11/12 AMEND: 10302, 10310, 10315, 10317, 10322, 10325, 10327, 10328
- 04/04/12 AMEND: 5000, 5170, 5200, 5230, 5370, 5500, 5540
- 03/29/12 AMEND: 12008, 12335, 12342, 12345, 12357, 12359
- 03/21/12 AMEND: 12200, 12200.9, 12200.10A, 12200.11, 12200.13, 12220, 12220.13, 12342, 12464
- 03/08/12 AMEND: 10032, 10033, 10034, 10035

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 26-Z

03/08/12 AMEND: 60, 60.5
 03/06/12 ADOPT: 4075
 03/05/12 AMEND: 10152, 10153, 10154, 10155,
 10157, 10159, 10160, 10161, 10162
 REPEAL: 10156, 10158, 10164
 03/02/12 AMEND: 8070
 02/29/12 AMEND: 8070, 8072, 8073, 8074
 02/22/12 AMEND: 10176, 10177, 10178, 10182,
 10188
 02/16/12 AMEND: 12572
 02/14/12 AMEND: 1844
 02/14/12 AMEND: 1843.3
 02/08/12 AMEND: 66
 02/03/12 AMEND: 5000, 5052

Title 5

06/12/12 ADOPT: 18004 AMEND: 18000, 18001,
 18002, 18003
 05/29/12 AMEND: 42600
 04/25/12 AMEND: 80028, 80301, 80442
 04/20/12 AMEND: 18013, 18054, 18111
 REPEAL: 18006, 18200, 18201, 18202,
 18203, 18205, 18206, 18207
 04/11/12 AMEND: 19816, 19816.1, 19845.2
 04/02/12 ADOPT: 27000, 27001, 27002, 27003,
 27004, 27005, 27006, 27007, 27008,
 27009
 04/02/12 ADOPT: 1039.2, 1039.3
 03/26/12 AMEND: 1216.1
 03/26/12 ADOPT: 620, 621, 622, 623, 624, 625,
 626, 627
 03/12/12 AMEND: 41000
 03/06/12 AMEND: 18600
 03/01/12 ADOPT: 30001.5
 02/27/12 AMEND: 42397.2, 42397.6
 02/09/12 ADOPT: 19824.1, 19841, 19851.1,
 19854.1 AMEND: 19816, 19816.1,
 19824, 19850, 19851, 19854
 02/09/12 ADOPT: 27100, 27101, 27102, 27103

Title 8

05/21/12 ADOPT: 10582.5, 10770.1 AMEND:
 10770
 05/07/12 AMEND: 477
 05/07/12 AMEND: 2340.22
 05/02/12 AMEND: 20363, 20365, 20393, 20400,
 20402
 05/01/12 AMEND: 1533, 1541, 8403
 03/14/12 AMEND: 32602, 32603, 32620, 32621,
 32625, 32630, 32635, 32640, 32644,
 32647, 32648, 32649, 32650, 32661,
 32680, 32690, 61360(a)
 02/23/12 AMEND: 1905
 02/16/12 AMEND: 5155
 02/08/12 AMEND: 1675, 3276, 3278

02/08/12 ADOPT: 374.2 AMEND: 350.1, 371,
 371.1, 376
 02/01/12 AMEND 1504, 1591, 1597

Title 9

03/22/12 AMEND: 9795, 9800, 9801.5, 9801.6,
 9804, 9812, 9816, 9820, 9822, 9829,
 9836, 9838, 9846, 9848, 9849, 9851,
 9852, 9854, 9858, 9862, 9866, 9867,
 9868, 9874, 9876, 9876.5, 9878, 9879,
 9884, 9886

Title 10

05/31/12 AMEND: 2318.6, 2353.1, 2354
 05/09/12 AMEND: 2698.208
 04/23/12 AMEND: 2355.1, 2355.2
 04/10/12 AMEND: 260.204.9
 04/09/12 ADOPT: 6400
 03/15/12 AMEND: 2690
 02/16/12 AMEND: 2498.6
 02/13/12 AMEND: 2202
 02/08/12 AMEND: 2222.12
 02/03/12 AMEND: 2699.6700, 2699.6709,
 2699.6721, 2699.6725

Title 11

05/09/12 ADOPT: 1019 REPEAL: 9020
 05/07/12 ADOPT: 999.24, 999.25, 999.26, 999.27,
 999.28, 999.29 AMEND: 999.10,
 999.11, 999.14, 999.16, 999.17, 999.19,
 999.20, 999.21, 999.22
 04/03/12 AMEND: 1001, 1005, 1007, 1008, 1052,
 1055
 03/14/12 AMEND: 1005, 1007, 1008

Title 12

06/04/12 AMEND: 506

Title 13

04/19/12 ADOPT: 345.31, 345.32, 345.42
 AMEND: 345.02, 345.04, 345.05,
 345.06, 345.07, 345.11, 345.13, 345.15,
 345.16, 345.18, 345.20, 345.22, 345.23,
 345.24, 345.27, 345.28, 345.29, 345.30,
 345.34, 345.36(renumbered to 345.33),
 345.38 (renumbered to 345.35), 345.39
 (renumbered to 345.36), 345.40, 345.41
 REPEAL: 345.17, 345.21, 345.25,
 345.26
 04/10/12 ADOPT: 553.30 AMEND: 553, 553.10,
 553.20, 553.50, 553.70, 553.72
 02/29/12 AMEND: 553
 02/13/12 REPEAL: 158.00

Title 14

06/06/12 ADOPT: 18950, 18951, 18952, 18953,
 18954, 18955, 18955.1, 18955.2,
 18955.3, 18956, 18957, 18958
 06/01/12 REPEAL: 660

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 26-Z

05/30/12	AMEND: 11960	Title 16	
05/29/12	AMEND: 360, 361, 362, 363, 364, 365, 708.12	06/18/12	ADOPT: 1727.2 AMEND: 1728
05/21/12	AMEND: 703	06/18/12	AMEND: 443
05/21/12	AMEND: 7.50	06/14/12	ADOPT: 302.5
05/21/12	AMEND: 705	05/25/12	ADOPT: 1399.364, 1399.375, 1399.377, 1399.381, 1399.384 AMEND: 1399.301, 1399.302, 1399.303, 1399.320, 1399.330, 1399.352.7, 1399.353, 1399.360, 1399.370, 1399.374, 1399.376 (renumbered to 1399.382), 1399.380, 1399.382 (renumbered to 1399.383), 1399.383 (renumbered to 1399.385), 1399.384 (renumbered to 1399.378), 1399.385 (renumbered to 1399.379), 1399.395 REPEAL: 1399.340, 1399.381, 1399.387, 1399.388, 1399.389, 1399.390, 1399.391
05/17/12	AMEND: 7.50	05/17/12	ADOPT: 4544, 4600, 4602, 4604, 4606, 4608, 4610, 4620, 4622 AMEND: 4422, 4440, 4446, 4470
05/07/12	ADOPT: 18835, 18836, 18837, 18838, 18839	05/14/12	AMEND: 932
05/01/12	AMEND: 27.80	05/04/12	ADOPT: 2509, 2518.8, 2524.1, 2568, 2576.8, 2579.11 AMEND: 2503, 2524.1 (renumber to 2524.5), 2563, 2579.11 (renumber to 2579.20)
05/01/12	ADOPT: 4870, 4871, 4872, 4873, 4874, 4875, 4876, 4877	04/27/12	AMEND: 407, 428
05/01/12	AMEND: 791.7, 870.17	04/26/12	AMEND: 3605
04/30/12	AMEND: 632	04/23/12	AMEND: 3005
04/27/12	AMEND: 228, 228.5	04/16/12	ADOPT: 2295, 2295.1, 2295.2, 2295.3 AMEND: 2252, 2275, 2284
04/05/12	AMEND: 28.29, 52.10, 150.16	03/30/12	AMEND: 3340.43, 3394.3, 3394.4, 3394.5, 3394.6, 3394.7
04/03/12	ADOPT: 791.6 AMEND: 791.7, 795, 796	03/29/12	AMEND: 109, 116, 117, 121
03/28/12	AMEND: 11900, 11945	03/19/12	AMEND: 4155
03/26/12	AMEND: 11960	03/08/12	AMEND: 318
03/22/12	AMEND: 27.80	03/07/12	AMEND: 2615, 2620
02/24/12	AMEND: 29.15	03/07/12	AMEND: 1889.2 REPEAL: 1832.5
02/13/12	AMEND: 29.17, 127	03/07/12	AMEND: 2615, 2620
02/08/12	AMEND: 1257	03/07/12	AMEND: 1889.2 REPEAL: 1832.5
01/31/12	AMEND 29.15	02/27/12	AMEND: 2, 8.2, 9.1, 26, 49, 58, 59, 62, 65, 75.4, 87, 87.5, 88, 88.1, 88.2, 89, 90, 94 REPEAL: 5.1, 7, 7.2
01/26/12	ADOPT 18940, 18941, 18942, 18943, 18944, 18945, 18945.1, 18945.2, 18945.3, 18946, 18947, 18948	02/16/12	AMEND: 1397.60, 1397.61, 1397.62, 1397.63, 1397.64, 1397.65, 1397.66, 1397.67, 1397.68, 1397.69, 1397.70, 1397.71
01/25/12	AMEND: 18419	02/09/12	AMEND: 28 REPEAL: 30
Title 15		02/08/12	ADOPT: 1018.05 AMEND: 1020
06/06/12	AMEND: 3000, 3006, 3170.1, 3172.1, 3173.2, 3315, 3323	02/01/12	ADOPT 3340.16.4 AMEND 3306, 3340.1, 3340.10, 3340.15, 3340.16.5, 3340.17, 3340.22, 3340.22.1, 3340.23, 3340.28, 3340.29, 3340.30, 3340.31, 3340.50, 3351.1 3340.16.4 3306, 3340.1, 3340.10, 3340.15, 3340.16.5, 3340.17,
05/10/12	ADOPT: 3375.6 AMEND: 3000, 3375		
04/11/12	AMEND: 3187, 3188		
04/09/12	AMEND: 3172.2		
04/05/12	AMEND: 3341.5, 3375.2, 3377.1		
04/02/12	ADOPT: 3571, 3582, 3590, 3590.1, 3590.2, 3590.3 AMEND: 3000		
03/28/12	ADOPT: 3352.3 AMEND: 3350.1, 3352, 3352.1, 3352.2, 3354, 3354.2, 3355.1, 3358		
03/19/12	ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323		
03/12/12	ADOPT: 3999.11		
03/08/12	ADOPT: 8006		
03/08/12	AMEND: 3315, 3323		
02/22/12	AMEND: 173		
02/22/12	ADOPT: 4845, 4849, 4853, 4854, 4939.5, 4961.1, 4977.5, 4977.6, 4977.7, 4983.5 AMEND: 4846, 4847, 4848, 4848.5, 4850, 4852, 4900, 4925, 4926, 4927, 4928, 4929, 4935, 4936, 4937, 4938, 4939, 4940, 4977, 4978, 4979, 4980, 4981, 4982, 4983		

CALIFORNIA REGULATORY NOTICE REGISTER 2012, VOLUME NO. 26-Z

	3340.22, 3340.22.1, 3340.23, 3340.28, 3340.29, 3340.30, 3340.31, 3340.50, 3351.1	04/11/12 AMEND: 97174 03/15/12 ADOPT: 123000 and Appendices REPEAL: 123000 and Appendices
Title 17		02/21/12 AMEND: 51003
06/15/12	AMEND: 6508	02/21/12 AMEND: 66261.21(a)(3), 66261.21(a)(4)
04/18/12	AMEND: 100607, 100608	02/08/12 AMEND: 66261.33, 66268.40
03/28/12	AMEND: 100080	02/06/12 AMEND: 80001, 80075, 83000, 83001, 84001, 84061, 86001, 88001
03/15/12	ADOPT: 58883	01/31/12 ADOPT 126010, 126020, 126030, 126040, 126042, 126050, 126055, 126060, 126070, 126072, 126074, 126076, 126090 126010, 126020, 126030, 126040, 126042, 126050, 126055, 126060, 126070, 126072, 126074, 126076, 126090
03/15/12	AMEND: 6020, 6035, 6051, 6065, 6070, 6075	01/26/12 AMEND 50273
03/12/12	AMEND: 95307	Title 23
02/21/12	AMEND: 95486	04/23/12 ADOPT: 3979.4
02/15/12	AMEND: 95802, 95833, 95841.1, 95852, 95852.1.1, 95852.2, 95870, 95891, 95892, 95914, 95920, 95971, 95974, 95975, 95977.1, 95979, 95980, 95981, 95981.1, 95985, 95986, 95987, 95990, 95993, 95994, 96021 REPEAL: 95893, 95943	04/10/12 AMEND: 2631
01/26/12	AMEND 6540	04/09/12 ADOPT: 3969.1
Title 18		04/05/12 AMEND: 645
05/01/12	AMEND: 1685.5	03/21/12 ADOPT: 3969
03/26/12	ADOPT: 25137-8.2 AMEND: 25137-8 (re-numbered to 25137-8.1)	03/21/12 ADOPT: 3939.41
02/27/12	ADOPT: 25136-2	03/21/12 ADOPT: 3939.44
02/07/12	AMEND: 1807, 1828	03/15/12 ADOPT: 3939.43
Title 19		03/12/12 AMEND: 2922
02/16/12	ADOPT: 560.4 AMEND: 557.19, renumber 560.4, 560.5, and 560.6 as 560.5, 560.6, and 560.7, respectively	03/09/12 ADOPT: 3919.11
Title 22		02/29/12 ADOPT: 3939.42
06/12/12	AMEND: 66261.32	02/27/12 ADOPT: 3919.12
05/24/12	AMEND: 90417	02/15/12 ADOPT: 20, 21, 22, 23, 24, 25, 26, 27 AMEND: 4, 5, 5.1, 9, 10, 11, 12, 13, 14, 16, 17, 23 (re-numbered to 28), 103, 109, 110, Appendix A REPEAL: 20, 21, 22
05/22/12	ADOPT: 60098, 64400.05, 64400.29, 64400.36, 64400.41, 64400.66, 64400.90, 64402.30, 64400.46 AMEND: 60001, 60003, 63790, 63835, 64001, 64211, 64212, 64213, 64252, 64254, 64256, 64257, 64258, 64259, 64400.45, 64415, 64463.1, 64463.4, 64470, 64481, 64530, 64531, 64533, 64534, 64534.2, 64534.4, 64534.6, 64534.8, 64535, 64535.2, 64535.4, 64536.6, 64537, 64537.2 REPEAL: 60430, 64002, 64439, 64468.5	Title 25
05/17/12	AMEND: 51240, 51305, 51476	06/07/12 ADOPT: 4326, 4328 AMEND: 4004, 4200, 4204, 4208
05/04/12	AMEND: 123000	03/13/12 ADOPT: 6932 REPEAL: 6932
		Title 27
		06/18/12 AMEND: 25705
		03/26/12 AMEND: 25705
		03/15/12 AMEND: 25705
		01/25/12 AMEND: 27001
		Title MPP
		04/11/12 AMEND: 47-230, 47-240, 47-401
		03/15/12 AMEND: 25705