

INITIAL STATEMENT OF REASONS
FOR
PROPOSED BUILDING STANDARDS
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

REGARDING THE CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1

SAFETY STANDARDS FOR HEALTH FACILITIES

The Administrative Procedure Act (APA) requires that an Initial Statement of Reasons be available to the public upon request when rulemaking action is being undertaken. The following information required by the APA pertains to this particular rulemaking action:

STATEMENT OF SPECIFIC PURPOSE, PROBLEM, RATIONALE and BENEFITS:

This rulemaking represents the Office of Statewide Health Planning and Development (OSHPD) proposed editorial and minor technical modifications to the existing requirements for clarification and consistency within the code as identified below.

Specific amendments are as follows:

Section 7-119 Functional Program. Amend existing functional program requirements under sub-section (c) with the addition of item 9 "Patient Safety Risk Assessment" for projects associated with acute psychiatric hospitals, acute psychiatric nursing units in general acute-care hospitals, and special treatment program service units in skilled nursing facilities.

Section 7-119 of the California Administrative Code currently provides a standardization for the presentation of programmatic information associated with new construction, additions, or modifications to specific hospital departmental functions which form an integral part of the facility. This specific new section item is relative to the psychiatric facilities noted and responds to the importance placed on risks by the Joint Commission "Standards and Rationale" 2012 *Hospital Accreditation Standards*. The criteria are based upon the *Design Guide for the Built Environment of Behavioral Health Facilities* as referenced by the Facilities Guidelines Institute (FGI) *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*. The FGI *Guidelines* are accepted as the national standard for construction and alterations of health facilities across the country. Numerous references to the acute psychiatric facility's Patient Safety Risk Assessment are made in various sections under new Section 1228 "Acute Psychiatric Hospitals" in the California Building Code, Part 2 of Title 24, as a tool to identify and establish specific design criteria intended to respond to the risks associated with the anticipated patient population.

Section 7-128 Work Performed Without a Permit and Section 7-133 Fees. Amend the following fee provisions: (1) clarify that fixed equipment cost may be the equipment value, for example, when equipment is relocated or leased; (2) fixed equipment cost includes installation and taxes; and (3) removal of the discount for imaging equipment.

- (1) The regulation is silent on the calculation of fees when equipment is relocated or leased. The labor to perform plan review and field observation are similar regardless of the source of the equipment; therefore, no difference in fee is justified.
- (2) When equipment is furnished by the contractor, all total costs (including installation, taxes, overhead and profit) are passed on to the owner and are included in the fee calculation. Owners

can avoid some of these costs by purchasing the equipment and then having the contractor install it. This revision clarifies that all costs incurred in the acquisition and installation of fixed equipment are to be included in the equipment cost.

- (3) The fee for imaging equipment is currently 10% of the fee for non-imaging equipment and all other construction. There is no basis in statute for this discount. In a sample of ten CT scanner replacement projects, OSHPD, on average, earned \$5,100 less than what it cost to review the plans. Removal of the fee discount is needed to comply with Health & Safety Code Section 129785, which requires OSHPD to determine a fee structure that covers the costs of administering the program.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENTS:

(Government Code Section 11346.2(b)(3)) requires an identification of each technical, theoretical, and empirical study, report, or similar document, if any, upon which the agency relies in proposing the regulation(s).

The proposed amendments regarding “functional program” are based on the *Design Guide for the Built Environment of Behavioral Health Facilities* as referenced by the Facilities Guidelines Institute (FGI) *Guidelines for Design and Construction of Hospitals and Outpatient Facilities*.

The proposed amendment to remove the 10% fee discount is based on historical data of projects reviewed that involve installation of equipment.

STATEMENT OF JUSTIFICATION FOR PRESCRIPTIVE STANDARDS:

(Government Code Section 11346.2(b)(1)) requires a statement of the reasons why an agency believes any mandates for specific technologies or equipment or prescriptive standards are required.)

The proposed changes do not mandate any specific technologies or equipment and do not require any prescriptive standards.

CONSIDERATION OF REASONABLE ALTERNATIVES

(Government Code Section 11346.2(b)(4)(A)) requires a description of reasonable alternatives to the regulation and the agency's reasons for rejecting those alternatives. In the case of a regulation that would mandate the use of specific technologies or equipment or prescribe specific action or procedures, the imposition of performance standards shall be considered as an alternate. It is not the intent of this paragraph to require the agency to artificially construct alternatives or describe unreasonable alternatives.)

There were no alternatives for consideration by the Office. The proposed amendments will provide clarification and consistency within the code and are in alignment with national standards.

REASONABLE ALTERNATIVES THE AGENCY HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

(Government Code Section 11346.2(b)(4)(B)) requires a description of any reasonable alternatives that have been identified or that have otherwise been identified and brought to the attention of the agency that would lessen any adverse impact on small business.)

Small business will not be adversely impacted by the proposed amendments.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS.

(Government Code Section 11346.2(b)(5)(A)) requires the facts, evidence, documents, testimony, or other evidence on which the agency relies to support an initial determination that the action will not have a significant adverse economic impact on business)

The Office did not identify any significant cost to comply with the proposed amendments. The proposed amendments provide clarification and to repeal unnecessary outdated requirements.

ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

(Government Code Sections 11346.3(b)(1) and 11346.5(a)(10))

The Office of Statewide Health Planning and Development has assessed whether or not and to what extent this proposal will affect the following:

- **The creation or elimination of jobs within the State of California.**

The proposed regulations will not create or eliminate jobs within the State of California.

- **The creation of new businesses or the elimination of existing businesses within the State of California.**

The proposed regulations will not create new businesses, or eliminate existing businesses within the State of California.

- **The expansion of businesses currently doing business with the State of California.**

The proposed regulations will not cause expansion of businesses currently doing business with the State of California.

- **The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.**

OSHPD is authorized to promulgate building standards regarding the design and construction of licensed health facilities to ensure the protection of the public's health and safety. The proposed regulations apply to administrative procedures pertaining to the plan review and construction observation of health facility projects submitted to OSHPD.

ESTIMATED COST OF COMPLIANCE, ESTIMATED POTENTIAL BENEFITS, AND RELATED ASSUMPTIONS USED FOR BUILDING STANDARDS

(Government Code Section 11346.2(b)(5)(B)(i)) states if a proposed regulation is a building standard, the initial statement of reasons shall include the estimated cost of compliance, the estimated potential benefits, and the related assumptions used to determine the estimates.)

The change to the imaging equipment fee, will increase from 0.164% to 1.64% of the equipment cost. For example, an average CT scanner costs approximately \$650,000. The fee would increase \$9,594.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

(Government Code Section 11346.2(b)(6)) requires a department, board, or commission within the Environmental Protection Agency, the Resources Agency, or the Office of the State Fire Marshal to describe its efforts, in connection with a proposed rulemaking action, to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues. These agencies may adopt regulations different from these federal regulations upon a finding of one or more of the following justifications: (A) The differing state regulations are authorized by law and/or (B) The cost of differing state regulations is justified by the benefit to human health, public safety, public welfare, or the environment.)

The proposed regulations do not duplicate or conflict with federal regulations.