Your Name
Address
City, State Zip
Phone Number (optional)

Date: (place date here)

SENT VIA EMAIL AND U.S. MAIL
(Optional)

To: Jon Cordova
Department of Mental Health
1600 9th Street, Room 435
Sacramento, CA 95814

RE: Public Comments on:
NOTICE OF PROPOSED RULEMAKING
TITLE 9, CALIFORNIA CODE OF REGULATIONS
ADOPT CHAPTER 15 REGARDING
ASSESSMENT OF SEXUALLY VIOLENT PREDATORS

I am a citizen of the State of California and am concerned about the subject of the above referenced proposed rulemaking.

Pursuant to the provisions of the California Government Code, section 11346.8, I submit the following public comments on the above referenced proposed additions to Title 9, California Code of Regulations.

(Place Your Comments Here)

(Sample Comment)

While I normally would applaud the Department of Mental Health's ("DMH") attempt to come into compliance with State law and follow the Administrative Procedures Act, I am concerned that the DMH is not doing so in good faith. In this situation, I do believe the DMH has not been completely honest with the public in respect to the present filing of proposed rules, and has subverted the process.

Previously, the DMH has issued several revisions of the *Clinical Evaluator Handbook and Standardized Assessment Protocol*, all of which have been underground regulations. The *Clinical Evaluator Handbook and Standardized Assessment Protocol (2007)* was declared an underground regulation on August 15, 2008 by the OAL in 2008 OAL Determination No. 19. Nevertheless, the DMH subsequently issued the *Clinical Evaluator Handbook and Standardized Assessment Protocol, November 2008.* A Petition challenging the *November 2008* Revision as yet another underground regulation was subsequently filed with the OAL on January 20, 2009. On February 18, 2009, the DMH certified to the California Secretary of State that, "The Department will not issue, use, enforce, or attempt to enforce the alleged underground regulation, ...," thereby admitting the allegations contained in the Petition.

Thus, the DMH has a history of attempting to avoid compliance with the Administrative Procedures Act by issuing another version when the previous version is, or is about to be, declared an underground regulation. The time frame tells it all.

This practice continues. The DMH has recently issued two versions of the Standardized Assessment Protocol during the same time period. One, which is the subject of this hearing, was proffered to the OAL and accepted for filing on February 6, 2009, and the second which the DMH has made no attempt to legally promulgate was issued to the public for enforcement on February 11, 2009.

A true and correct copy of
Standardized Assessment Protocol
For Sexually Violent Predator Evaluations, February 11, 2009,
is attached hereto as **EXHIBIT A**.

At this time, I do not object to the language of the sections being proposed as 9 CCR §§ 4000 and 4005. However, I do object to the failure of the DMH to follow the requirements, the intent, and the spirit of the Administrative Procedures Act. As such, I specifically object to the DMH claiming in the ***Initial Statement of Reasons*** that this proposed regulation is the ***Standardized Assessment Protocol*** as required by ***Welfare and Institutions Code Section 6601 (c)***, while at the same time issuing to the public and enforcing a completely differently version containing the same claim. (See **EXHIBIT A**.)

The version which the DMH is presently attempting to legally promulgate as Sections 4000 and 4005 of Title 9 of the California Code of Regulations, was filed with the Office of Administrative Law (OAL) on January 30, 2009, and was accepted for filing by the OAL on February 6, 2009.

Then five days later, on February 11, 2009, the DMH issued a new ***Protocol***, entitled, ***Standardized Assessment Protocol For Sexually Violent Predator Evaluations***. This is a six page document that begins with the statement: "The Department of Mental Health is required to develop a 'Standardized Assessment Protocol.' (Welfare and Institutions Code Section 6601(c)." (See **EXHIBIT A**.)

This February 11, 2009, ***Protocol*** which the DMH claims, within its own text, is the Standardized Assessment Protocol required by ***Welfare and Institutions Code Section 6601(c)***, is **not** the same ***Protocol*** that the DMH submitted for adoption pursuant to the Administrative Procedures Act just five days earlier, which the DMH also claimed, in the ***Initial Statement of Reasons,*** was Standardized Assessment Protocol required by ***Welfare and Institutions Code Section 6601(c)***.

The Department of Mental Health cannot have it both ways. There can be only one Standardized Assessment Protocol at any given time. As a taxpaying citizen, I find it reprehensible that the DMH has proffered one version, which was accepted for filing by the OAL on February 6, 2009, to satisfy the public that it (the DMH) was following the Administrative Procedures Act ("APA"). Then, just five days later, issued to the public and is enforcing a totally different version of the Standardized Assessment Protocol which is by all definitions an Underground Regulation.

Based on the foregoing, I object to the adoption of this regulation at this time. I believe as follows:

(1) That the Initial Statement of Reasons submitted by the DMH is legally defective because it contains inaccurate, misleading and/or false information, and therefore, the DMH has not fulfilled the requirements of the APA.

(2) That the DMH must be required to present complete, accurate, and honest documents reflecting its true actions and intentions before they are allowed to adopt this regulation.

(3) Of the two versions the DMH presently has in circulation, that the DMH must be required to decide which of these two versions of the Standardized Assessment Protocol it wants to actually use and to legally promulgate that version.

(4) Because the regulation at issue herein is presently in effect as an emergency regulation, that before this adoption process is allowed to be completed, the DMH must withdraw all other versions, including but not limited to, the February 11, 2009, version of the Standardized Assessment Protocol from use and not issue, use, enforce, or attempt to enforce any other version unless and until it is promulgated pursuant to the Administrative Procedures Act and filed with the Secretary of State.

As a concerned taxpaying citizen, I demand that the oversight process provided for in the Administrative Procedures Act put a stop to the abuses and violations of law by the DMH. To date, the DMH has considered itself above the law, and has made a mockery of this whole process. It has behaved in the manner of a dictator of a third world country. This must be stopped and the Officials in charge at the DMH must be held accountable to the citizens of California.

Respectfully submitted,

_____(Signature)_____
Type or Print Name, Concerned Citizen