

**STATE OF CALIFORNIA  
DEPARTMENT OF MENTAL HEALTH  
1600 9<sup>TH</sup> STREET  
SACRAMENTO, CA 95814**

**TITLE 9, CALIFORNIA CODE OF REGULATIONS  
ADOPT SECTIONS 4000 AND 4005 REGARDING THE STANDARDIZED  
ASSESSMENT PROTOCOL TO DETERMINE WHETHER A PERSON SHOULD  
BE DEEMED TO BE A SEXUALLY VIOLENT PREDATOR**

**INITIAL STATEMENT OF REASONS**

**INTRODUCTION**

Welfare and Institutions Code Section 6601 (c) requires the Department of Mental Health (DMH) to develop and update as necessary a standardized assessment protocol to be used to evaluate whether a person is a sexually violent predator, as such term is defined in Welfare and Institutions Code Section 6600 (a)(1). The proposed regulation seeks to permanently establish into law the evaluator requirements as part of the standardized assessment protocol to determine whether a person should be deemed to be a sexually violent predator.

Emergency regulations containing the identical language of the proposed regulation were filed with the Office of Administrative Law (OAL) on January 30, 2009, and were accepted for filing by the OAL on February 6, 2009. To make the emergency regulation language permanent after the expiration of the 180-day period where the language has the force and effect of law, DMH needs to complete this regular, noticed rulemaking action, and submit it, along with a certification that it has complied with the procedures for a regular, noticed rulemaking action no later than August 5, 2009.

**SPECIFIC PURPOSE OF EACH SECTION – GOVERNMENT CODE 11346.2  
(b)(1)**

**Proposed Section 4000** provides that the new Chapter 15 applies to evaluators performing an assessment to determine whether a person is a sexually violent predator pursuant to Welfare and Institutions Code Sections 6600, et seq. This section is necessary in order to clarify that Chapter 15 of Title 9 of the Code of Regulations applies to evaluators of sexually violent predators.

**Proposed Section 4005** sets forth the responsibilities of evaluators, according to their professional judgment, to apply on a case-by-case basis, tests or instruments, along with other static and dynamic risk factors that are appropriate to the particular individual being evaluated. The section also provides that the tests, instruments and risk factors must have gained professional recognition or acceptance in the field of diagnosing, evaluating or treating sexual offenders. The term “professional recognition or acceptance” as used in

the proposed section is further defined. This section is necessary to ensure that the standards to be applied by evaluators are clearly defined.

**OTHER REQUIRED SHOWINGS – GOVERNMENT CODE 11346.2 (b)(2)-(4)**

**Studies, Reports, or Documents Relied Upon – Gov. Code 11346.2(b)(2):** None

**Reasonable Alternatives Considered – Gov. Code 11346.2(b)(3)(A):** None

**Reasonable Alternatives That Would Lessen the Impact on Small Businesses – Gov. Code 11346.2 (b)(3)(B):** None

**Evidence Relied Upon to Support the Initial Determination That the Regulation Will Not Have A Significant Adverse Economic Impact On Business – Gov. Code 11346.2(b)(4):**

The proposed regulation will not have a significant adverse economic impact upon business since it applies only to evaluators determining whether a person being evaluated is a sexually violent predator, and to those persons being evaluated.