

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW**

In re:)	
)	
EMERGENCY MEDICAL)	DECISION OF DISAPPROVAL
SERVICES AUTHORITY)	OF REGULATORY ACTION
)	
REGULATORY ACTION:)	(Gov. Code, sec. 11349.3)
)	
Title 22, California Code)	
of Regulations)	OAL File No. 02-0805-01 S
)	
ADOPT SECTIONS: 100031, 10039,)	
100042, 100043)	
AMEND SECTIONS: 100031, 100032,)	
100033, 100034, 100035, 100036,)	
100038, 100040, 100041)	
REPEAL SECTIONS: 100037, 100039,)	
100043)	
_____)	

DECISION SUMMARY

The regulatory action deals with training standards and use of automated external defibrillators by non-licensed or non-certified personnel. On September 17, 2002, the Office of Administrative Law (“OAL”) notified the Emergency Medical Services Authority (“EMSA”) that the regulatory action was disapproved for incorrect procedure.

INCORRECT PROCEDURE

OAL must review rulemaking records submitted to it in order to determine whether all of the procedural requirements of the APA have been satisfied. (Gov. Code, sec. 11349.1, subd. (a).)

Government Code section 11347.3, subdivision (b)(5) mandates that the rulemaking record must include “. . . The estimate, together with supporting data and calculations, required by paragraph (6) of subdivision (a) of section 11346.5.”

Government Code section 11346.5, subdivision (a)(6) requires:

“An estimate prepared in accordance with instructions adopted by the Department of Finance, of the cost or savings to any state agency, the cost to any local agency

or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, other nondiscretionary cost or savings in federal funding to the state.

For purposes of this paragraph, ‘cost or savings’ means additional costs or savings, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations.” (Emphasis added.)

Government Code section 11357, subdivision (c), instructs the Department of Finance that it “. . . may review any estimate proposed pursuant to this section for content including, but not limited to, the data and assumptions used in its preparation.”

The Department of Finance’s instructions are contained in the State Administrative Manual (“SAM”). SAM section 6660 requires Department of Finance concurrence if the estimates contain specified costs or savings.

The rulemaking record contains data and fiscal impact estimates for the originally noticed regulation text on a standard Form 399 that the Department of Finance signed on December 19, 2001. However, substantive changes to the regulation text were properly noticed and adopted by EMSA after the Department of Finance concurrence. The Department of Finance orally notified EMSA and OAL that the changes raise cost issues that require its review and concurrence. EMSA must obtain Department of Finance concurrence before resubmitting the proposed regulations to OAL.

CONCLUSION

For the reason set forth above, OAL has disapproved this regulatory action. If you have any questions, please contact me at (916) 323-6809.

September 24, 2002

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For:

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