



California
Department of
Health Services

SANDRA SHEWRY
Director

State of California—Health and Human Services Agency
Department of Health Services



ARNOLD SCHWARZENEGGER
Governor

May 17, 2005

AFL 05-17

TO: PROGRAM LIAISONS AND
FACILITY STANDARDS & COMPLIANCE COORDINATORS for
CALIFORNIA YOUTH AUTHORITY
CALIFORNIA DEPARTMENT OF CORRECTIONS
CALIFORNIA DEPARTMENT OF MENTAL HEALTH
CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS
CALIFORNIA DEPARTMENT OF DEVELOPMENTAL SERVICES
LOS ANGELES COUNTY JAIL

SUBJECT: PROCEDURE FOR PROGRAM FLEXIBILITY REQUESTS

**BACK-
GROUND:** The Department of Health Services, Licensing and Certification Program (L&C), State Facilities Unit (SFU) has no authority to waive laws and regulations, regardless of whether or not they are outdated or obsolete as a result of changes in technology, procedure, etc. However, in order to serve the patients in health care facilities, L&C has a statutorily authorized concept call "Program Flexibility" which recognizes that regulations cannot keep pace with modern technology and that often new alternatives, approaches, and techniques which meet the intent of the regulation is preferable to strict compliance.

STATUTE: The Health and Safety Code, Section 1276(b) permits the use of program flexibility as long as statutory requirements are met and there is prior written approval from L&C. The approval must provide for the terms and conditions under which the exception to the regulation is granted, and must be supported by a request from the provider with adequate documentation.

REQUEST FORM: The licensed health care facility must complete the Program Flexibility Request Form (SFU – pf form 2.2003) enclosed. Note: Program Flexibility applies only to the Title 22 regulatory requirements of the California Code of Regulations.

The completed request form with the proposed alternate methods, concepts, procedures, techniques, equipment, or personnel qualifications and supportive documentation should be submitted to the designated person in your Department, who in turn submits it to the State Facilities Unit as indicated below.

SUBMIT TO: Mr. Gary Marlin, HFE II
California Department of Health Services
Licensing & Certification - State Facilities Unit
P.O. Box 997413, MS 3800
Sacramento, CA 95899-7413
(916) 552-8663
[GMarlin@dhs.ca.gov]

For:
CALIFORNIA YOUTH AUTHORITY
CALIFORNIA DEPARTMENT OF CORRECTIONS
LOS ANGELES COUNTY JAIL

Ms. Jean Ismail, HFE II
California Department of Health Services
Licensing & Certification - State Facilities Unit
P.O. Box 997413, MS 3800
Sacramento, CA 95899-7413
(916) 552-8664
[JIsmail@dhs.ca.gov]

For:
CALIFORNIA DEPARTMENT OF MENTAL HEALTH
CALIFORNIA DEPARTMENT OF VETERAN AFFAIRS

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Mr. Francisco Olveda, HFE II
California Department of Health Services
Licensing & Certification - State Facilities Unit
P.O. Box 997413, MS 3800
Sacramento, CA 95899-7413
(916) 552-8635
[FOlveda@dhs.ca.gov]

For:
CALIFORNIA DEPARTMENT OF DEVELOPMENTAL SERVICES

**SFU
PROCESS:**

The SFU Headquarters Staff will review the proposed request and documentation. The facility will receive a letter with either an approval or the denial of the request.

The licensed health care facility, upon receipt of an approval letter, must post the letter adjacent to the facility license.

TITLE 24

See attached letter dated August 2, 2004: ENFORCEMENT OF CALIFORNIA CODE OF REGULATIONS TITLE 24 BY THE STATE FACILITIES UNIT.

Sincerely,

Original signed by Mark Helmar

Robert G. Kennard, Chief
State Facilities Unit
Licensing and Certification Program