



California
Department of
Health Services

SANDRA SHEWRY
Director

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



ARNOLD SCHWARZENEGGER
Governor

August 16, 2005

AFL 05-31

TO: GENERAL ACUTE CARE HOSPITALS

SUBJECT: CLARIFICATION ON 22 CCR70217: ENFORCEMENT OF LICENSED NURSE-TO-PATIENT RATIO REGULATION FOR GENERAL ACUTE CARE HOSPITALS FOLLOWING THE ORDERS OF THE SACRAMENTO COUNTY SUPERIOR COURT

On July 17, 2005, the Sacramento County Superior Court permanently enjoined the emergency regulation which attempts to change the rules for documenting nurse/patient ratios in emergency departments and delays the implementation of the 1:5 nurse/patient ratio in medical/surgical units. On July 21, 2005, the Superior Court enjoined the second re-adoption of the emergency regulation by the Department of Health Services (CDHS) on July 1, 2005, declaring that, "The California Department of Health Services, their agents, servants, employees, assigns, subordinate agencies, departments, and executive branch officers and officials, and all those acting in concert with them, are **HEREBY RESTRAINED AND ENJOINED** from taking any action, either directly or indirectly, by formal or informal means, to implement, apply, enforce, recognize, observe, or otherwise afford any legal effect, application, or sanction whatsoever, to the R-01-04E dated July 1, 2005, the third emergency regulation." The CDHS is appealing the permanent injunction order to the Court of Appeal.

The Court's orders mean that the original nurse/patient ratio regulations (R-37-01) which were distributed by Barclays as a change to Title 22 dated 09/26/2003, are the regulations that currently have the force of law and are being enforced by CDHS.

There may be some confusion because Barclays has sent out revisions to Title 22 which embody the enjoined emergency regulations and the Office of Administrative Law website has published the enjoined emergency regulations on its website. However, the enjoined regulations are not being enforced by CDHS. The nurse/patient regulations that are being enforced are dated 09/26/2003. If you need a copy of these regulations, you may contact your local district office which will provide them to you or you may go to <http://www.applications.dhs.ca.gov/regulations>. Click on "Select DHS

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Regulations” then select R-01-04E from the drop down menu, click submit, select document No. 13 and download the regulations.

CDHS appreciates your cooperation with this process.

Sincerely,

Original Sign by Tom Kraus for Brenda Klutz

Brenda G. Klutz
Deputy Director