

Memorandum 2019-14

**Technical and Minor Substantive Statutory Corrections:
Health and Safety Code Section 131052
(Public Comment)**

In 2015, while studying the Fish and Game Code, the Commission¹ discovered that Health and Safety Code Section 131052 contained what appeared to be a number of defective cross-references.² The Commission elected to examine the matter as a separate study,³ pursuant to its general authority to study and recommend revisions to correct technical or minor substantive statutory defects.⁴

At its October 2018 meeting, the Commission approved a tentative recommendation to address the apparent defects. In response, the Commission received comment from the California Department of Public Health and the Health Officers Association of California. That comment is attached as an Exhibit, as follows:

Exhibit p.

- California Department of Public Health (11/21/18)1
- Kat DeBurgh, Health Officers Association of California (1/10/19)9

The staff greatly appreciates their helpful input, which is discussed below.

Except as otherwise indicated, all statutory references in this memorandum are to the Health and Safety Code.

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See Memorandum 2015-40, pp. 8–9.

3. See Minutes (Oct. 2015), p. 8.

4. See Gov’t Code § 8298.

BACKGROUND

The California Public Health Act of 2006 (hereafter, “the Act”)⁵ divided the statutory responsibilities of the former Department of Health Services between (1) the newly named Department of Health *Care* Services (hereafter, “DHCS”), and (2) a newly created agency, the California Department of Public Health (hereafter, “CDPH”).⁶

One chapter of the Act⁷ assigned many of those statutory responsibilities to CDPH.⁸ Section 131052, a lengthy section in that chapter, assigned CDPH public health responsibilities set forth in more than 200 code provisions that are cross-referenced in the section.

REVISIONS PROPOSED IN THE TENTATIVE RECOMMENDATION

The tentative recommendation proposed technical revisions of several of the cross-references in Section 131052. One cross-reference contained a likely typographical error,⁹ and the remainder referred to provisions that appeared to have been repealed subsequent to the enactment of Section 131052.¹⁰

The tentative recommendation also proposed, as a stylistic improvement to the section, that the paragraphs of the section be designated with letters rather than numbers, and arranged in a slightly different order.

Finally, the tentative recommendation asked for public comment on the apparent inconsistency between the effect of Section 131052 (which assigned responsibilities to CDPH by reference to the provisions that govern the responsibilities) and the effect of some of the provisions referenced by Section 131052 (which assign the responsibilities at issue to DHCS).

5. See 2006 Cal. Stat. ch. 241.

6. See 2006 Cal. Stat. ch. 241, § 1(b)(1).

7. Chapter 2 (commencing with Section 131050) of Part 1 of Division 112.

8. Another provision of the act, Section 20, assigns any public health responsibility *not* assigned to CDPH by that newly enacted chapter to DHCS.

9. A cross-reference to “Section 551017.1 of the Government Code,” a section of the Government Code that has never existed, appeared very likely to have been intended to instead refer to “Section 51017.1.”

10. In all but one case, the Commission proposed that the repealed cross-reference be deleted from Section 131052, as the substance of the repealed provision did not appear to have been continued elsewhere. In one instance, where the substance of the repealed section appeared to have been continued in a new section, the Commission proposed that the new section be cross-referenced in place of the repealed section.

GENERAL COMMENT

From the outset of this study, the staff has reached out to both DHCS and CDPH for their input. As the agencies directly affected by Section 131052, it seemed likely that those entities would be able to evaluate the proposed revisions and let the Commission know if they had any concerns.¹¹

CDPH maintains that the proposed revisions would not only be unnecessary, but counterproductive:

CDPH believes that is not necessary to make the proposed revisions to HSC Section 131052, and that the revisions could cause ambiguity and confusion rather than clarify its authority. The problems of concern to the Commission could be or have been addressed in other ways. The proposed revisions could, however, cause uncertainty as to CDPH's jurisdiction and authority; create unanticipated issues; and create ambiguity as to whether other related provisions would then conflict.

For context, HSC Section 131052 was part of a series of statutes that were intended to give directions for a specific point in time – i.e., for the transition of certain programs that occurred on July 1, 2007 from the old Department of Health Services (DHS) to the newly created CDPH. HSC Section 131052 should be read and interpreted in context with this series of related statutes. It was not intended to delineate the ultimate scope of CDPH's authority on a going forward basis. As such, HSC Section 131052 is largely historic.¹²

The main point made by CDPH is that Section 131052 served only as a transitional provision. As such, its only current relevance is historical. Thus, there is no need to update the provision as time passes and responsibilities change. Such changes are not needed for a transition that occurred over 10 years ago. Moreover, any updates would disturb the value of the section as a record of the past transition.

In addition, CDPH points out that Section 131052 is just one of a number of provisions that governed the transition. To update just one of those provisions, without change to the others, could be confusing and could give rise to problematic inferences as to the Legislature's intentions.

If the Commission were to proceed with its proposal to revise Section 131052, CDPH suggests that it should conduct a much broader study, updating all of the

11. DHCS has advised that it does not plan to comment on the tentative recommendation.

12. Exhibit, p. 2.

provisions that governed the 2007 transition, with systematic review by CDPH attorneys.¹³

The staff finds the input from CDPH to be convincing. It was expected that DHCS and CDPH would be among the main beneficiaries of any clean-up of Section 131052. If one of those agencies is convinced that the revisions would be unhelpful and perhaps even counter-productive, the staff sees no reason to proceed. This study was a minor spin-off from the Fish and Game study, which the staff expected could be effected with minimal resources, for a modest benefit. The staff does not believe that the Commission has the resources to launch the kind of comprehensive study proposed by CDPH as an alternative to the proposed law, especially given CDPH's position that the obsolescence of the transitional provisions at issue is not causing any harm.

In light of CDPH's input, the staff recommends against proceeding with the proposed law.

MINOR TECHNICAL ISSUES

Despite the overall concerns about the proposed law, the study did expose three technical issues that could be addressed by other means. They are discussed below.

Government Code Section 6254

Both CDPH and the Health Officers Association of California agree that Government Code Section 6254(s) contains an error. It currently refers to DHCS; the commenters believe that it should refer to CDPH.¹⁴

As the Commission knows, Section 6254 is part of the California Public Records Act, a statute that the Commission is recodifying in another study. The possible error in Section 6254(s) can be considered in that study.

Government Code "551017.1"

Section 131052 refers to Government Code Section 551017.1. That section has never existed and its number is beyond the last number in that code. It seems clear that the reference should have been to Section 51017.1, which refers to the former State Department of Health Services.

13. Exhibit, p. 3.

14. Exhibit, pp. 5, 9.

If that error is not corrected by the Commission, it could perhaps be addressed in the annual “maintenance of the codes” bill.

Fish and Game Code

CDPH points out that one of the numerous code sections that refers to the former State Department of Health Services is Fish and Game Code Section 1786. This suggests an additional clean-up step that should be conducted in the Commission’s recodification of the Fish and Game Code. The staff should search that code for obsolete references to the State Department of Health Services and update them.

CONCLUSION

The Commission needs to decide how to proceed in this study. Should the proposed law set aside, as the staff recommends? May the staff address the technical issues described above in the manner proposed?

Respectfully submitted,

Steve Cohen
Staff Counsel



KAREN L. SMITH, MD, MPH
Director and State Public Health Officer

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



EDMUND G. BROWN JR.
Governor

November 21, 2018

California Law Revision Commission
c/o King Hall Law School
Davis, CA 95616

RE: Tentative Recommendation by the California Law Revision Commission to Health and Safety Code (HSC) Section 131052

The California Department of Public Health (CDPH) appreciates the opportunity to comment on the Tentative Recommendation by the California Law Revision Commission (Commission) to Health and Safety Code (HSC) Section 131052.

CDPH believes that is not necessary to make the proposed revisions to HSC Section 131052, and that the revisions could cause ambiguity and confusion rather than clarify its authority. The problems of concern to the Commission could be or have been addressed in other ways. The proposed revisions could, however, cause uncertainty as to CDPH's jurisdiction and authority; create unanticipated issues; and create ambiguity as to whether other related provisions would then conflict.

For context, HSC Section 131052 was part of a series of statutes that were intended to give directions for a specific point in time – i.e., for the transition of certain programs that occurred on July 1, 2007 from the old Department of Health Services (DHS) to the newly created CDPH. HSC Section 131052 should be read and interpreted in context with this series of related statutes. It was not intended to delineate the ultimate scope of CDPH's authority on a going forward basis. As such, HSC Section 131052 is largely historic.

The series of statutes includes key provisions in HSC 131050 (transfer to CDPH, initial organization of CDPH, and authority to re-organize); HSC 131051 (a list of programs by name that were transferred to CDPH, which by its language was not all-inclusive); HSC 131052 (transfer of certain statutory duties, powers, purposes, responsibilities and jurisdiction, by listed code sections); HSC 131053 (precedence in the event of conflicts); HSC 131055 (transfer of regulations, orders, funds, books, documents, records, property, and staff positions). It is important to note that there are other related statutes that also served significant purposes in the 2007 transition, such as HSC 100100 mentioned below.

HSC Section 131052 should be read and interpreted in context with this series of related statutes. We believe that before making revisions to HSC 131052, there should be careful consideration given to the need to make corresponding revisions to provisions in these other, related statutes.

Office of Legal Services, 1415 L Street, Suite 500, Sacramento, CA 95814
(916) 558-1710 • (916) 319-9821 FAX
Internet Address: www.cdph.ca.gov

The proposed revisions, however, make changes only to HSC 131052 and not to other statutes in the series.

Former DHS/CDPH Assistant Chief Counsel (retired) Pete Baldrige, who wrote this statute, has confirmed our understanding that HSC Section 131052 was intended to describe the transition that was to occur on July 1, 2007 and was not intended to serve later as a comprehensive/all-inclusive list of CDPH programs or authorities.

That the Legislature understood this and agreed that HSC Section 131052 would not limit CDPH's future organization or mix of programs is confirmed by the related statute, HSC Section 131050(b), which provides, in part, that:

Nothing in this article shall be construed to require that the State Department of Public Health maintain, or refrain from terminating, any program described in this article except to the extent that maintenance of the program is otherwise required by law. Nothing in this article shall be construed to limit or expand the authority of any program described in this article.

Revising HSC 131052 alone may cause uncertainty as to CDPH's authority to make future organizational changes. Because the revisions to HSC 131052 would be enacted more recently, a court could construe those later revisions as prevailing, notwithstanding the legislature's intent expressed in HSC 131050(b).

HSC Section 131052 has not been updated each time a program has been terminated, moved or added. The proposed revisions also do not include each such change (e.g., references to the Drinking Water Program statutes are retained by the proposed revisions, although the Drinking Water Program was transferred effective July 1, 2014 to the State Water Board by Senate Bill 861 (2013-2014) and SB-851 the Budget Act of 2014).

Existing statutes already address how outdated references to former departments (including DHS) should be interpreted. The first such statute was enacted as part of the creation CDPH in 2007. Subdivision (d) of HSC 131005 was enacted to provide that "any statutory reference to "department" or "state department" regarding a function transferred to the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), shall refer to the State Department of Public Health."

Legislation enacted when programs were later transferred to or from CDPH also addressed how statutory references to a former department should be interpreted. For example, Section 46 of the Trailer Bill, AB 1467 (Stats. 2012, c. 23.), added HSC Section 131055.1 to transfer eight programs from CDPH to DHCS effective July 1, 2012. Subdivision (b) of HSC 131055.1 negated the need to revise other statutory references to CDPH in connection with the transferred programs, by providing that "commencing July 1, 2012, any reference to the State Department of Public Health with regard to the [transferred programs] shall refer to the State Department of Health Care Services."

The provisions of HSC Section 131055.1 suggest another risk of revising HSC 131052 alone, without a comprehensive review and likely revisions to several other statutes. HSC Section

131055.1 carefully dealt with the transfer of the duties, powers, purposes, functions, responsibilities, and jurisdiction for the transferred programs; the effectiveness and enforceability of regulations and orders adopted by CDPH and any of its predecessors; transfer of the unexpended balance of all funds, books, documents, records, and property; and the transfer of positions; transfer of contracts, leases, licenses, and other agreements. We are concerned that the proposed revisions that would edit cross-references to statutes in HSC 131052 may not deal with these significant collateral matters.

The related statutes for the transfer of programs on July 1, 2007 from DHS to the newly created CDPH are not confined to Division 112 of the HSC [Sections 131000 - 131231], but also include related provisions in other Divisions and codes. One example is HSC 100100 which renamed DHS to the Department of Health Care Services (DHCS), but also provided that the duties, powers, purposes, responsibilities, and jurisdiction of the former DHS that were not transferred to CDPH were retained by and to be performed by the renamed DHCS. Revisions to HSC 131052 would need to consider the effect on these other related statutes as well.

CDPH recognizes that there are outdated statutes "still on the books" that could be revised or deleted. Some of these survived the last major revision of the HSC, by Stats. 1995, Ch. 415, Sec. 3. An example that comes to mind is HSC 100125, which required DHS to submit a proposal to the Legislature on or before January 1, 1984 for the possible consolidation of several named programs. We must assume now, some thirty-four years after the proposal was due, that the purpose of HSC 100125 was fulfilled. Some of the programs named in HSC 100125 were later transferred to CDPH in 2007 by HSC 131051 and HSC 131052, but HSC 100125 is not included in the sections transferred to CDPH by HSC 131052 and remains in an area of the HSC that describes the authority and programs of DHCS.

Accordingly, CDPH does not believe revisions to HSC 131052 are needed. The statute is largely historical in its operation. Other statutory revisions have addressed changes in CDPH's structures, functions, and jurisdictions, without further amendment to HSC 131052. No such amendment is needed now.

However, if the Commission believes revisions to HSC 131052 are needed, CDPH recommends a more comprehensive approach that would include systematic review by CDPH attorneys, with recommendations for revisions to the related statutes and cross-referenced statutes. In this case, we might propose to revise HSC 131050, 131051, 131052, 131053 and 131055 (at a minimum) to replace references to the then-anticipated transfer from DHS to CDPH, with provisions that describe the current duties, powers, purposes, responsibilities, and jurisdiction of CDPH. We might also suggest that, if the goal is to remove outdated references to DHS in other statutes, the revisions amend references in the multiple Codes outside of the HSC (e.g., the reference to DHS in Fish and Game Code Section 1786(a) is confusing to members of the public who do not know that this function was transferred to CDPH in 2007, and the proposed revisions to HSC 131052 will not solve that confusion). This undertaking would clearly be significantly more complex and, because it would likely need to involve other departments, could be a multi-year effort.

In addition to seeking public comment on the proposed statutory changes to HSC 131052, the Commission also requested public comment on the following:

Note. Section 131052 uses cross-references to identify programs that were assigned to the Department of Public Health.

However, several of the referenced provisions were subsequently amended to refer to either the Department of Health Care Services or its director (rather than the Department of Public Health or its director). It is not clear whether those subsequent amendments were erroneous or were intended to reassign program responsibility to the Department of Health Care Services.

Those provisions are as follows: Business and Professions Code Section 1241; Education Code Sections 8286, 8803, 49423.5; Family Code Section 7572; Government Code Section 6254(s); Health and Safety Code Sections 1250.2, 1254, 1254.1, 1266.1, 1268.6, 1275.1, 1275.2, 1275.5, 1317.1, 1323.5, 1324.9, 1324.20, 1336.1, 1422.1, 1572, 1580.1, 104150, 104151, 104160, 104162.1, 104163, 104314, 104322, 109276, 115340, 11839.26, 120840, 120860, 120971, 121026, 123223, 123472; Welfare and Institutions Code Sections 5326.9, 5328, 24000, 24001, 24005.

The Commission requests public comment on which agency is currently responsible for the programs governed by the listed provisions.

CDPH provides the following information:

BPC 1241:

- Business and Professions Code Section 1241(b)(6) provides an exemption for those clinical laboratories and persons who perform clinical laboratory tests that register with DHCS pursuant to 1241(c) to perform blood glucose testing. The statute refers to clinical laboratories that provide Medi-Cal laboratory services to children under the CA Child Health and Disability Prevention Program. In order to participate in the program and receive Medi-Cal reimbursement, the labs register with the Children's Medical Services Branch at DHCS. DHCS registers these laboratories. CDPH believes that this reference to DHCS is correct.

Education Code Sections 8286, 8803, 49423.5:

- Section 8286 pertains to an advisory committee that assists the developing a state plan for child development programs, among other specified functions, and provides that one representative on the committee shall be from DHCS. CDPH believes that this reference to DHCS is correct. SB 942 (Ch. 347, Stats. Of 2011) amend section to include DHCS on the committee.
- Section 8803 establishes the Healthy Start Support Services for Children Program Council, and provides that one member of the Council will be the director of DHCS. CDPH believes that this reference to DHCS is correct. SB 942 (Ch. 347, Stats. Of 2011) amend section to include DHCS on council.
- Section 49423.5 requires DHCS and the State Department of Education to jointly develop regulations concerning employment of individuals who provide specialized physical health care services, during the regular school day. CDPH believes that this

reference to DHCS is correct. AB 342 (Ch. 12, Stats. Of 2007) amend section to include DHCS.

Family Code Section 7572:

- Section 7572 requires the Department of Child Support Services, in consultation with DHCS, the California Association of Hospitals and Health Systems, and other affected health provider organizations, shall work cooperatively to develop written materials to provide unmarried parents with a form to sign to voluntarily declare paternity and information on the legal rights and obligations of both parents and the child that result from the establishment of paternity. CDPH believes that this reference to DHCS is correct. AB 176 (Ch. 88, Stats of 2009) amend section to specify DHCS. This was a maintenance of codes bill and DHCS handles providers.

Government Code Section 6254(s):

- Section 6254(s) provides a narrow exception to the Public Records Act (Govt. Code sections 6250 et seq.) for a final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code. CDPH believes that this reference to DHCS is incorrect, as HSC 1282(b) requires report to be submitted to CDPH.

Health and Safety Code Sections 1250.2, 1254, 1254.1, 1266.1, 1268.6, 1275.1, 1275.2, 1275.5, 1317.1, 1323.5, 1324.9, 1324.20, 1336.1, 1422.1, 1572, 1580.1, 104150, 104151, 104160, 104162.1, 104163, 104314, 104322, 109276, 115340, 11839.26, 120840, 120860, 120971, 121026, 123223, 123472:

- Sections 1250.2, 1254, 1254.1, 1266.1, 1275.1 and 1275.5 deal with DHCS's inspection, licensing and regulation of psychiatric health facilities. CDPH believes that this reference to DHCS is correct. AB 1847 (Ch. 144, stats of 2014) took psychiatric health facilities from DSS and gave to DHCS.
- Section 1268.6 requires, as a requirement of initial licensure of an intermediate care facility/developmentally disabled-habilitative or an intermediate care facility/developmentally disabled-nursing, the applicant or designee of the applicant to attend a sixteen-hour orientation program approved by the State Department of Developmental Services. Eight hours of the orientation program must outline the statutory and regulatory requirements related to business management, including DHCS's audit process. CDPH believes that this reference to DHCS is correct. AB 2675 (Ch. 473, Stats of 2010) establishes business management training and DHCS is the appropriate entity for this.
- 1275.2 provides that two representatives of DHCS will be on an advisory committee concerning operating facilities with alcohol or medicinal drug dependency programs. CDPH is unsure whether or not this reference to DHCS is correct. We believe that AB 75 (Ch. 22, stats. of 2013) added this language.
- Section 1317.1 provides that for the purposes of Section 1371.4, emergency services and care as defined in subparagraph (A) shall not apply to Medi-Cal managed care plan

contracts entered into with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), and Chapter 8.75 (commencing with Section 14590) of Part 3 of Division 9 of the Welfare and Institutions Code, to the extent that those services are excluded from coverage under those contracts. CDPH believes that this reference to DHCS is correct.

- Section 1323.5 provides that each Small House Skilled Nursing Facilities Pilot Program (SHSNF PP) (shall receive a peer group weighted average Medi-Cal reimbursement rate as calculated by DHCS. CDPH believes that this reference to DHCS is correct.
- Section 1324.9 pertains to revenues received by DHCS that are to be deposited into the Long-Term Care Quality Assurance Fund. CDPH believes that this reference to DHCS is correct.
- Section 1324.20 pertains to the Skilled Nursing Facility Quality Assurance Fee. CDPH believes that this reference to DHCS is correct. Added by SB 853 (Ch. 717, Stats of 2010) DHCS currently collects QAF payments.
- Section 1336.1 requires a Long-Term Care Facility to give written notification to the State Department of Health Care Services and any health plan of an affected resident of the change in the status of the license or the operation of the facility, including a voluntary closure and the planned date of closure, at least 60 days prior to any change in the status of the license or the operation of the facility. The notification is to include the names of residents that are covered by Medi-Cal or by the specific health plan. CDPH believes that this reference to DHCS is correct.
- Section 1422.1 requires CDPH to conduct, when feasible, annual licensing inspections of licensed long-term health care facilities providing special treatment programs for the mentally disordered, concurrently with inspections conducted by DHCS. CDPH believes that this reference to DHCS is correct.
- Section 1572 requires CDPH, DHCS and the California Department of Aging to enter into an Interagency Agreement pertaining to the authority, functions, and responsibility for the administration of the adult day health care program by the California Department of Aging, and to clarify each department's responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. CDPH believes that this reference to DHCS is correct.
- Section 1580.1 authorizes DHCS, CDPH, and the California Department of Aging to grant certain exemptions from the provisions contained in that chapter to entities contracting with the State Department of Health Care Services under the Program of All-Inclusive Care for the Elderly (PACE) program, in accordance with the requirements of Section 100315. HSC 100315 clarifies and provides that the exemptions are to be from duplicative, conflicting, or inconsistent requirements and may allow for the use of alternate concepts, methods, procedures, techniques, space, equipment, personnel,

personnel qualifications, or the conducting of pilot projects, provided that the exemptions are implemented in a manner that does not jeopardize the health and welfare of participants receiving services under PACE, or deprive beneficiaries of rights specified in federal or state laws or regulations. In determining whether to grant exemptions under this section, the departments shall consult with each other. CDPH believes that this reference to DHCS is correct.

- Sections 104150, 104151, 104160, 104162.1 and 104163 describe certain authority and duties of DHCS in connection with the Breast and Cervical Cancer Early Detection Program and the Every Woman Counts Program. These programs were transferred to DHCS by Section 46 of the Trailer Bill, AB 1467 (Stats. 2012, c. 23). CDPH believes that this reference to DHCS is correct.
- Sections 104314 and 104322 describe certain authority and duties of DHCS in connection with the Prostate Cancer Screening Program, which was transferred to DHCS by Section 46 of the Trailer Bill, AB 1467 (Stats. 2012, c. 23). CDPH believes that this reference to DHCS is correct.
- Section 109276 requires DHCS to incorporate information relating to breast cancer susceptibility gene (BRCA) mutations, in order to achieve increased genetic counseling and screening rates of individuals for whom BRCA test results can inform treatment decisions, consistent with evidence-based national recommendations. CDPH believes that this reference to DHCS is correct.
- Section 115340 requires DHCS to work with the KI working group, which is coordinated by the Office of Emergency Services, to establish and implement a program to oversee the distribution of potassium iodide (KI) tablets to all persons who reside, work, visit, or attend school within the state-designated emergency planning zone of an operational nuclear power plant. CDPH believes that this reference to DHCS is correct.
- Section 11839.26 requires DHCS to enforce Article 2 (Body Fluids Testing) of the Narcotic Treatment Program. AB 75 (stats 2013) transferred, as of July 1, 2013, the administration of prevention, treatment, and recovery services for alcohol and drug abuse to the State Department of Health Care Services and services for problem gambling to the State Department of Public Health. CDPH believes that this reference to DHCS is correct.
- Section 120840 requires DHCS to establish an AIDS mental health project. CDPH believes that this reference to DHCS is correct.
- Section 120860 requires that CDPH, in coordination with DHCS, develop a plan that assesses the need for, a program of acquired immune deficiency syndrome (AIDS) primary prevention, health education, testing, and counseling, specifically designed for women and children, that shall be integrated, as the department deems appropriate, into certain programs. CDPH believes that this reference to DHCS is correct.

- Section 120971 requires CDPH and DHCS to cooperate and to perform certain functions in connection with state expenditures for the AIDS Drug Assistance Program (ADAP) that are identified by California to be used as a certified public expenditure for the purpose of obtaining federal financial participation under the Medi-Cal program. CDPH believes that this reference to DHCS is correct.
- Section 121026 authorizes CDPH and qualified entities (as defined in HSC 121026), which include DHCS, to share with each other certain health records related to a beneficiary enrolled in federal Ryan White Act funded programs who may be eligible for services, for the sole purpose of enrolling the beneficiary in Medi-Cal, the bridge programs, Medicaid expansion programs, and any insurance plan certified by the California Health Benefit Exchange or any other programs authorized under the federal Patient Protection and Affordable Care Act, and for the purpose of continuing his or her access to those programs and plans without disruption. CDPH believes that this reference to DHCS is correct.
- Section 123223 creates the Children's Medical Services Rebate Fund, provides that rebates for the delivery of health care, medical supplies, pharmaceuticals, including blood replacement products, and equipment for clients enrolled in the state funded Genetically Handicapped Persons Program and the California Children's Services Program be deposited in the Children's Medical Services Rebate Fund, and continuously appropriates those funds to the State Department of Health Care Services and make the funds available for expenditure for those purposes. Both of those programs are administered by DHCS. CDPH believes that this reference to DHCS is correct.
- Section 123472 requires DHCS to determine the primary threshold languages for Medi-Cal beneficiaries in a county. CDPH believes that this reference to DHCS is correct.

Welfare and Institutions Code Sections 5326.9, 5328, 24000, 24001, 24005:

- Sections 5326.9 and 5328 described certain authority and duties of DHCS pertaining to the legal and civil rights of persons involuntarily detained for psychiatric evaluation or treatment, and makes all information and records obtained in the course of providing services confidential. CDPH believes that this reference to DHCS is correct.
- Sections 24000, 24001 and 24005 establish within DHCS the State-Only Family Planning Program to provide comprehensive clinical family planning services to low-income men and women. CDPH believes that this reference to DHCS is correct.

**EMAIL FROM KAT DEBURGH, EXECUTIVE DIRECTOR,
HEALTH OFFICERS ASSOCIATION OF CALIFORNIA
(JANUARY 10, 2019)**

Thanks so much for allowing the health officers to commend on the potential code revisions. The only revision we have concerns about is Government Code Section 6254(s), which states “A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.”

We think this report ought to go to the California Department of Public Health rather than the Department of Health Care Services, since CDPH regulates hospitals.

We have no comments on the other code sections.

Thank you again for your consideration. Please let me know if you have any questions.

