



2020 West El Camino Avenue, Suite 800  
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hcai.ca.gov



## NOTIFICATION OF PROPOSED EMERGENCY REGULATORY ACTION WORKSHOP

### PROMOTION OF COMPETITIVE HEALTH CARE MARKETS; HEALTH CARE AFFORDABILITY (HEALTH CARE MARKET OVERSIGHT)

**To All Interested Parties:**

**NOTICE IS HEREBY GIVEN** that the Department of Health Care Access and Information (HCAI or Department), Office of Health Care Affordability (OHCA or Office) is proposing to take the actions described in the Informative Digest / Policy Statement Overview below, after considering comments, objections, and recommendations regarding the proposed action.

#### **PUBLIC WORKSHOP**

The Office has scheduled a public workshop on this proposed action to receive comments, both oral and written. The workshop will be both virtual and physical; a 30- to 60-minute lunch and/or short breaks may be taken, as appropriate.

**August 15, 2023, starting at 10am.**

#### Physical Location:

2020 West El Camino Avenue, Suite 900 (Sierra Conference Room), Sacramento CA

Free parking is available around the building. Please do not park in reserved spaces.

Individuals with disabilities may request an accommodation or modification to observe or participate in the meeting from the Contact listed below. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

Phone (Audio Only):

- Dial +1 (916) 535-0978 (United States – Sacramento, California)
- Enter Phone Conference ID: 636 969 471#

Online via Microsoft TEAMS:

Join on your computer or mobile app - Click [here](#) to join the meeting

Or copy and paste the following link into your browser:

[Click here to join the meeting](#)

- Meeting ID: 250 873 228 716
- Passcode: 6FhyUu

For best results, please use Google Chrome or Microsoft Edge browsers to join meeting. Should technical difficulties arise during the workshop, verbal comments from those at the physical location will still be accepted.

Members of the public are NOT required to identify themselves or provide other information to attend or participate in this meeting. If Microsoft Teams requires a name, you may enter “Anonymous.” You may also input fictitious information for other requested information if required to attend the meeting (e.g., anonymous@anonymous.com).

**WRITTEN COMMENT PERIOD**

Written comments relevant to the proposed regulatory action may be submitted, either brought to the above-mentioned hearing or sent by mail or e-mail to the address listed under Contact in this Notice, to be received by the Office by 5:00 p.m. on August 31, 2023.

**INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW**

The California Health Care Quality and Affordability Act was enacted by Senate Bill (SB) 184 (Chapter 47, Statutes of 2022), and became effective as an urgency statute June 30, 2022. It added Chapter 2.6 (commencing with Section 127500) to Part 2 of Division 107 of the Health and Safety Code.

Pursuant to Health and Safety Code section 127501(c)(12), the Office of Health Care Affordability within the Department of Health Care Access and Information shall:

Review and evaluate consolidation, market power, and other market failures through cost and market impact reviews of mergers, acquisitions, or corporate affiliations involving health care service plans, health insurers, hospitals, physician organizations, pharmacy benefit managers, and other health care entities.

Health and Safety Code section 127501.2 and subdivision (b) of 127507.2 require the Office to adopt emergency regulations for notification to affected parties for the basis of the review, factors considered in the review, requests for data and information from affected parties, the public, and other relevant market participants, and relevant timelines.

This proposed emergency rulemaking creates a new chapter (11.5) within Title 22 of the California Code of Regulations (CCR) and sets forth the first Article for HCAI's implementation of SB 184. Article 1 contains definitions necessary for this regulatory package and details the process of notice and review of material change transactions by health care entities: Who must file a notice, who is exempt from filing a notice, what the notice must contain, and what is required for a cost and market impact review (CMIR).

California law requires health care entities to prospectively give OHCA written notice of agreements or transactions that will occur on or after April 1, 2024, that do either of the following:

- Sell, transfer, lease, exchange, option, encumber, convey, or otherwise dispose of a material amount of its assets to one or more entities; or
- Transfer control, responsibility, or governance of a material amount of the assets or operations of the health care entity to one or more entities.

(Cal. Health & Saf. Code, § 127507, subd. (c)(1)(A) & (B).)

As required, these proposed regulations further define health care entity for purposes of filing and outline the thresholds for having to file. These proposed regulations also define circumstances under which proposed material changes warrant a notification, such as the magnitude of the transaction or the change of control of a health care entity. (*Id.*, § 127507, subd. (c)(3).)

If filing is required, these proposed regulations specify what must be disclosed regarding the parties to the transaction and a description of the transaction. The proposed regulations also detail what documents must be submitted and provide for confidentiality of certain documents.

Once a notice of material change is filed, the Office has 60 days in which to review a party's initial submission to make one or more of three findings in determining whether to conduct a CMIR:

- Whether there is a risk of a significant impact on market competitions; or
- Whether there is a risk of a significant impact on the state's ability to meet cost targets; or
- Whether there is a risk of a significant impact on costs for purchasers and consumers. (*Id.*, § 127507.2, subd. (a)(1).)

These proposed regulations specify a number of concrete factors the Office will examine to make one or more of these findings.

If the factors listed in the regulations weigh in favor of conducting a CMIR, these proposed regulations specify the criteria and process for the CMIR, including the timeframes for conducting one and for releasing preliminary and final reports, pursuant to Health and Safety Code sections 127501(c)(12) and 127507.2.

Any interested person may present relevant statements, orally or in writing, at the above-mentioned hearing or may submit written comment as detailed above.

## **CONTACT**

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## **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations may be obtained at <https://hcai.ca.gov/ohca>, at the hearing, or upon request from the Office at the address above.