

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2019-1001-04	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
RECEIVED DATE OCT 01 '19		PUBLICATION DATE OCT 11 '19	
Office of Administrative Law			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Justice			AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Amendment of Health Facilities Regulation		TITLE(S) 11	FIRST SECTION AFFECTED 999.5	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Julia Zuffelato	TELEPHONE NUMBER (916) 210-6040	FAX NUMBER (Optional) (916) 324-5033
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S)		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT		
	AMEND		
	REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)

8. **I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.**

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DATE
TYPED NAME AND TITLE OF SIGNATORY Sean McCluskie, Chief Deputy to the Attorney General	

For use by Office of Administrative Law (OAL) only

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-2013) (REVERSE)

**INSTRUCTIONS FOR PUBLICATION OF NOTICE
AND SUBMISSION OF REGULATIONS**

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

**PROPOSED AMENDMENTS TO TITLE 11, DIVISION 1,
CHAPTER 15
DEPARTMENT OF JUSTICE
Notice published October 11, 2019**

NOTICE OF PROPOSED RULEMAKING ACTION

Notice is hereby given that the Department of Justice (DOJ) proposes to amend California Code of Regulations, title 11, section 999.5 regarding the Attorney General's review of proposals to transfer health facilities under Corporations Code sections 5914 *et seq.* and 5920 *et seq.*

PUBLIC HEARING

No public hearing has been scheduled for the proposed regulatory action; however, any interested person, or his or her duly authorized representative, may request, no later than 15 days before the close of the written comment period, a public hearing pursuant to Government Code section 11346.8.

WRITTEN COMMENT PERIOD

Any interested party, or his or her duly authorized representative, may submit written comments relevant to the proposed regulatory action to the contact person listed below. The written comment period closes on **November 26, 2019** at 5:00 p.m. Only comments received by that time shall be reviewed and considered by DOJ before it amends the regulation. Written comments may be sent to:

Wendi A. Horwitz, Deputy Attorney General
California Department of Justice
Charitable Trusts Section
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
Fax: (916) 731-2145
Email: Wendi.Horwitz@doj.ca.gov

AUTHORITY and REFERENCE

Authority: 5914, 5918, 5920, and 5925, Corporations Code

Reference: 5914 - 5926, Corporations Code

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

Nonprofit corporations that operate or control a health facility are required to provide written notice to, and obtain the approval of, the Attorney General prior to entering into any agreement or transaction to sell, transfer, lease, exchange, option, convey or otherwise dispose of a material

amount of its assets, or transfer control, responsibility, or governance of a material amount of its assets. (Corp. Code §§ 5914 through 5926.) Corporations Code sections 5914 through 5926 address both procedural and substantive aspects of the review and approval process including the contents of the written notice submitted to the Attorney General, the health care impact statement, public notice and participation in the process, and timing of the Attorney General's decision.

California Code of Regulations, title 11, section 999.5 implements the review and approval process by specifying the requirements of the written notice, the review procedures, the factors to be considered by the Attorney General, and the procedures to enforce compliance with the terms and conditions of the Attorney General's approval.

Effect of the Proposed Rulemaking:

AB 651 made amendments to the review and approval process described in Corporations Code sections 5914, 5915, 5916, 5917, 5920, 5921, 5922, and 5923 and added Corporations Code section 5926. The new law gives discretion to the Attorney General to require certain components of the written notice to be in languages other than English, if applicable. The new law specifies that the approval process applies regardless of whether a health facility is currently operating or providing health care services or has a suspended license. The new law requires the notice of the public meetings be in languages other than English, if applicable. In addition to other factors, the new law requires the Attorney General to consider whether the proposed transaction will significantly affect cultural interests provided by the facility in the affected community. It requires the Attorney General to conduct a public meeting before granting a waiver to the approval requirements and permits the Attorney General to enforce conditional approvals through specific performance, injunction, and other equitable remedies a court deems appropriate, and to recover attorney's fees.

The proposed amendments to California Code of Regulations, title 11, section 999.5 incorporate these statutory changes made by AB 651. In addition, a few of the proposed amendments provide clarification and consistency. One proposed amendment is a correction.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to the proposed regulation.

Policy Statement Overview and Anticipated Benefits of the Proposed Regulation:

The proposed amendments to California Code of Regulations, title 11, section 999.5 incorporate the statutory changes by AB 651 chaptered on October 14, 2017. In addition, a few of the proposed amendments provide clarification and consistency, and one proposed amendment is a correction.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has conducted an evaluation for any regulations relating to this area and has concluded that this is the only regulation dealing with notice to, and approval by, the Attorney General of these agreements and transactions. Therefore, the proposed regulation is not inconsistent or incompatible with existing state regulations.

Forms Incorporated by Reference:

None.

Mandated by Federal Law or Regulations:

None.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

DOJ has made the following initial determinations:

Mandate on Local Agencies and School Districts: None.

Cost to any Local Agency or School District: None.

Cost or Savings to any State Agency: None.

Other Non-Discretionary Cost or Savings Imposed on Local Agencies: None.

Cost or Savings in Federal Funding to the State: None.

Significant Effect on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including Ability to Compete:

DOJ initially determines that there is no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DOJ is not aware of any significant cost impacts that a business would necessarily incur in reasonable compliance with the proposed action. Nonprofit health corporations are already subject to the notice and consent requirements set forth with California Code of Regulations, title 11, section 999.5. The proposed amendments should not create any significant increase in the costs incurred by the nonprofit corporation.

Results of the Economic Impact Analysis/Assessment:

Adoption of these regulation amendments will not:

- (1) Create or eliminate jobs within California;
- (2) Create new businesses or eliminate existing businesses within California;
- (3) Affect the expansion of businesses currently doing business within California; or
- (4) Adversely affect the health and welfare of California residents, worker safety, or the state's environment.

The benefit of the proposed amendments is to avoid confusion by making the regulation consistent with the statutory changes made by AB 651.

Cost Impacts on Representative Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Business Report:

None.

Small Business Determination:

Pursuant to Government Code section 11342.610, subdivision (b)(6), a "small business" does not include an entity organized as a nonprofit corporation. Because the regulation only applies to nonprofit corporations, DOJ has determined that the proposed regulation does not affect small businesses. There is no adverse economic impact on small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DOJ must determine that no reasonable alternative to the proposed regulation that would be more effective in carrying out the purpose for which the action is proposed, would be as effective or less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. DOJ invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation during the public comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Wendi. A. Horwitz, Deputy Attorney General
California Department of Justice
Charitable Trusts Section
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
Fax: (916) 731-2145
Email: Wendi.Horwitz@doj.ca.gov

James Toma, Supervising Deputy Attorney General
California Department of Justice
Charitable Trusts Section
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013
Fax: (916) 731-2145
Email: James.Toma@doj.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. Please direct requests for copies of the proposed text of the regulation, the Initial Statement or Reasons, the modified text of the regulation, or other information upon which the rulemaking is based to the above contact person at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION, AND RULEMAKING FILE

DOJ will make the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office located at California Department of Justice, Charitable Trusts Section, 300 S. Spring Street, Suite 1702, Los Angeles, CA 90013, Fax: (916) 731-2145, and on the DOJ website at <https://oag.ca.gov/charities>.

As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the express terms of the regulation, the Initial Statement of Reasons, any information upon which the proposed rulemaking is based, and an economic impact assessment contained in the Initial Statement of Reasons. Copies may be obtained by contacting the above contact person at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, DOJ may adopt the proposed regulation substantially as described in this notice. If DOJ makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DOJ adopts the

regulations as revised. Please send requests for copies of any modified regulation to the attention of the person at the address indicated above. DOJ will accept written comments on the modified regulation for 15 days after the date on which they are made available to the public.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Deputy Attorney General Wendi A. Horwitz at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed on the Attorney General's website at <https://oag.ca.gov/charities>.