

FINAL STATEMENT OF REASONS

PROPOSED AMENDMENT OF REGULATION ADOPTED PURSUANT TO AB 651 THAT MADE AMENDMENTS TO CORPORATIONS CODE SECTIONS 5914, 5915, 5916, 5917, 5920, 5921, 5922, 5923 AND ADDED CORPORATIONS CODE SECTION 5926

The Attorney General incorporates the Initial Statement of Reasons (ISOR) and the Notice of Proposed Rulemaking Action by reference, with the following changes.

I. UPDATE TO INITIAL STATEMENT OF REASONS

AB 174 chaptered on October 12, 2019 (Chapter 795) amended Corporations Code section 5922 to correct an erroneous cross-reference relating to the Attorney General's written waiver. No changes were made to the regulations because of the enactment of Assembly Bill 174.

II. LOCAL MANDATE DETERMINATION

The proposed amendments do not impose a mandate on local agencies or school districts.

III. ALTERNATIVES DETERMINATION

No alternatives considered by the Attorney General would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

IV. TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS OR DOCUMENTS

The Attorney General's Office did not rely upon any technical, theoretical or empirical study, report, or other similar document in proposing these amendments.

V. REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The proposed amendments will not have an adverse impact on small business. An entity organized as a nonprofit institution is excluded from the definition of a small business under Government Code section 11342.610, subdivision (b)(6). The Attorney General's Office has not identified any reasonable alternatives that would lessen any adverse impact on small businesses, and none has been proposed.

VI. MANDATES OR PRESCRIPTIVE STANDARDS

None.

VII. EVIDENCE SUPPORTING DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

The proposed amendments only impact nonprofit health facilities and facilities that provide similar health care services seeking the Attorney General's approval to transfer a facility pursuant to Corporations Code sections 5914 and 5920. In a typical year, this includes fewer than six facilities.

VIII. SUMMARY AND RESPONSE TO COMMENTS

The Attorney General's Office accepted public comments through November 26, 2019.

The Attorney General's Office only received one written comment anonymously submitted. The comment proposes striking the word "services" from the four proposed amendments of the phrase "regardless of whether it is currently operating or providing health care services or has a suspended license." The phrase was added to section 999.5(a)(1), (a)(6), (b)(3) and (b)(4). The basis for the comment is because it would be consistent with the other currently proposed amendments to strike the word "services" in the regulation.

Response: This comment has not been adopted. The phrase "regardless of whether it is currently operating or providing health care services or has a suspended license" is the amended language from AB 651 to Corporations Code section 5914(a)(1) and (d) and section 5920(a)(1) and (d) that identifies what types of entities are subject to this statutory scheme. The language in Title 11, California Code of Regulations, Section 999.5(a)(1) and (a)(6) is identical to these two code sections. Thus, any amendment to these two code sections should be identical in the regulation. Similarly, Title 11, California Code of Regulations, Section 999.5(b)(3) that defines "facility that provides similar health care" and Title 11, California Code of Regulations, Section 999.5 (b)(4) that defines "health facility" uses some of the same language from Corporations Code sections 5914(a)(1) and 5920(a)(1) in identifying what types of entities are subject to this statutory scheme. Thus, any amendment to these two code sections should be identical in the regulation. The other proposed deletions of the word "services" after the phrase "facility that provides similar health care" are made for purposes of consistency with Corporations Code section 5914(a)(1) and 5920(a)(1) and Title 11, California Code of Regulations, Section 999.5(b)(3).

IX. PUBLIC HEARING

No public hearing was requested, and none was held.

X. AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Copies of the Final Statement of Reasons may be obtained by contacting:

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Copies of the final text of the amended regulations can be accessed on the Attorney General's website at: www.ag.ca.gov/charities.

XI. NON-DUPLICATION

Some of the regulations may repeat or rephrase in whole or in part a state or federal statute or regulation. This was necessary to satisfy the clarity standard set forth in Government Code section 11349.1, subdivision (a)(3), and to include all relevant requirements in the regulations without reference to statute for ease of reference.