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**PROPOSED AMENDMENTS TO TITLE 11, DIVISION 1,  
CHAPTER 15  
DEPARTMENT OF JUSTICE  
Notice published April 18, 2014**

**NOTICE OF PROPOSED RULEMAKING ACTION**

Notice is hereby given that the Department of Justice (DOJ) proposes to amend section 999.5 of Title 11, Division 1, Chapter 15, of the California Code of Regulations (CCR) 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**

DOJ will hold a public hearing to receive public comments on the proposed regulatory action at 10:00 AM on Wednesday, June 04, 2014, at the Junipero Serra Office Building Auditorium located at 320 West Fourth Street in Los Angeles, California 90013. The auditorium is wheelchair accessible. At the hearing, any person may present oral or written comments regarding the proposed regulatory action. DOJ requests, but does not require, that persons making oral comments at the hearing also submit a written copy of their testimony.

**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 June 13, 2014 at 5:00 p.m. Only written comments received by that time shall be reviewed and considered by the Department of Justice before it amends the regulation.

Joseph N. Zimring, Deputy Attorney General  
California Department of Justice  
Charitable Trusts Section  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Fax: (213) 897-7605  
Email: [Joseph.Zimring@doj.ca.gov](mailto:Joseph.Zimring@doj.ca.gov)

**AUTHORITY and REFERENCE**

DOJ proposes to amend California Code of Regulations Title 11, Division 1, Chapter 15, section 999.5 pursuant to the authority vested in it by Corporations Code section 5925. The proposed regulations will implement, interpret, and clarify the provisions of Corporations Code sections 5914, 5918, 5920, 5924 and 5925.

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## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### **Summary of Existing Laws and Regulations:**

Nonprofit health facilities must provide notice to and obtain the approval of the Attorney General prior to transferring ownership. (Corporations Code sections 5914 through 5925; Cal. Code Regs., tit. 11, § 999.5.) These provisions address both procedural and substantive aspects of the review process including the contents of the notice to the Attorney General, the information required to be provided, public notice and participation in the process and the time for review by the Attorney General.

### **Effect of the Proposed Rulemaking:**

The proposed amendments clarify what information is needed by the Attorney General to properly conduct the review of the proposed transaction. The proposed amendments will also increase and improve public access to the information. The information provided by the applicant to the Attorney General will be posted online to increase public access and awareness. Additional information will be provided to the Attorney General to ensure that any substantial effects that may result from the transaction can be considered and addressed by the Attorney General. This includes additional information regarding the effects of the transfer on the community served by the health facility, along with information regarding contracts with local government, treatment of Medi-Cal patients, reproductive services and compliance with seismic safety requirements. Much of this information is already routinely requested as part of the Attorney General's review. The proposed amendments will also make the language in the regulation uniform with respect to both nonprofit health facilities and nonprofit facilities that provide similar health care services. Finally, the proposed amendments codify the Attorney General's authority to enforce the conditions imposed on the approval of a transaction.

### **Comparable Federal Regulations:**

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

### **Policy Statement Overview and Anticipated Benefits of the Proposed Regulations:**

The proposed amendments are intended to assist the Attorney General in understanding the potential effects on the communities served by the health facility proposing to be transferred. The proposed amendments are also intended to ensure that members of the public are informed about the transaction and the health care services that might be impacted so that the public may participate in the process in a meaningful way.

The additional information will ensure that the Attorney General will be informed of the significant effects of the transfer and will be able to make an informed and fair decision in approving, denying or imposing appropriate conditions on the transfer to protect the public interest.

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**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 these are the only regulations dealing with notice to, and approval by, the Attorney General of transactions involving nonprofit health facilities. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations.

**Forms Incorporated by Reference:**

None.

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**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 facilities 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 an applicant. Additionally, fewer than six facilities request consent to transfer a health care facility in a typical year.

Results of the Economic Impact Analysis/Assessment:

Adoption of these regulations 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

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(4) Adversely effect the health and welfare of California residents, worker safety, or the state's environment. The proposed amendments will benefit the health and welfare of California residents who are served by the nonprofit health facility proposing to be transferred because they will have a greater ability to be informed and participate in the approval process. The additional information will assist the Attorney General in evaluating and, where appropriate, mitigating the significant effects of the transfer of the nonprofit health facility. With the additional information, the Attorney General will be better able to make an informed and fair decision in approving, denying or imposing appropriate conditions on the transfer of the nonprofit health facility to protect the health and welfare of California residents affected by the transfer.

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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:

It is necessary for the health, safety, or welfare of the people of the state that the regulations apply to businesses. Existing law requires nonprofit health facilities to provide notice to, and obtain approval from, the Attorney General prior to any transfer of ownership to protect the access to health care services for the impacted communities. The proposed amendments to the regulations do not change these requirements. The proposed amendments clarify the information which must be provided to the Attorney General and increase public access to information regarding the proposed transfer.

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 regulations only apply to nonprofit corporations, DOJ has determined that the proposed regulations do 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 regulations 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 regulations during the public comment period.

**CONTACT PERSONS**

Inquiries concerning the proposed administrative action may be directed to:

Joseph N. Zimring, Deputy Attorney General  
California Department of Justice  
Charitable Trusts Section  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Fax: (213) 897-7605  
Email: [Joseph.Zimring@doj.ca.gov](mailto:Joseph.Zimring@doj.ca.gov)

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Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Maria Elena Hernandez, Legal Analyst  
California Department of Justice  
Charitable Trusts Section  
300 S. Spring Street, Suite 1702  
Los Angeles, CA 90013  
Fax: (213) 897-7605  
Email: MariaElena.Hernandez@doj.ca.gov

Please direct requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, or other information upon which the rulemaking is based to Deputy Attorney General Joseph Zimring at the above address.

**AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, 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: (213) 897-7605, and on DOJ website at [www.ag.ca.gov/charities](http://www.ag.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 regulations, 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 person via the address or phone number listed above.

**AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all timely and relevant comments received, DOJ may adopt the proposed regulations substantially as described in this notice. If DOJ makes modifications which 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 regulations to the attention of the person at the address indicated above. DOJ will accept written comments on the modified regulations 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 Joseph N. Zimring at the above address.

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## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed on the Attorney General's website at [www.ag.ca.gov/charities](http://www.ag.ca.gov/charities).