

SUPPLMENTAL STATEMENT OF REASONS

The California Department of Public Health (the “Department”) has instituted additional changes to these proposed regulations, and they are discussed below. These changes are either initiated by the Department or are in response to comments that were received during the 45-day public comment period that ended on August 21, 2020.

Section 79901

Subparagraph (l)

In response to a public comment, the Department has clarified the definition of the term “contractor” used in the definition of “medical information”. The definition of “medical information” is identical to Civil Code section 56.05 (j). This provision has a unique definition of the term “contractor” found in Civil Code section 56.05(d). By incorporating, the definition of “contractor” found in Civil Code section 56.05(d) this will increase clarity and ensure the completeness of the definition of “medical information”.

Subparagraph (m)

In response to a public comment, the Department has revised the definition of the term “medical staff”. The Department has adopted the same definition of “medical staff” as found in the regulations governing medical staff in General Acute Care Hospitals (GACH) in in 22 CCR 70703(a)(1). This definition will increase clarity as to which individuals this definition applies and ensure medical providers who are practicing in a health facility will be subject to these regulations.

Section 79902

Subparagraph (a)(1)(F)

In response to a public comment, the Department has deleted the phrase “including whether the medical information was actually acquired or viewed” from the existing text. This change was made to enhance clarity. If information was not “acquired or viewed” there may not have been a breach as defined.

Subparagraph (a)(1)(G)

In response to a public comment, the Department has added the qualifier “to the extent known” to this provision. The Department recognizes that health facilities may not always know all the details of a medical information breach when reporting a breach to the Department. Therefore, the Department has revised this requirement so only information known to the facility when the breach is reported is required to be reported at that time.

Subparagraph (a)(4)

In response to a public comment, the Department has deleted the words “soon as” from the second sentence of this provision. This change was made so that this section conforms with the requirements in subparagraph (a)(2) and that health facilities to submit further information that was not available at the time of the initial report in an organized manner in a reasonable timeframe. This change improves the clarity and consistency of the regulation.