

**OFFICE OF ADMINISTRATIVE LAW**

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**DEBRA M. CORNEZ**  
Director

**MEMORANDUM**

TO: Dawn Basciano  
FROM: OAL Front Desk **LW**  
DATE: 4/9/2014  
RE: Return of Approved Rulemaking Materials  
OAL File No. 2014-0324-01N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2014-0324-01N regarding Primary Care Clinics: Abortion Services).

Enclosures If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved regulation is specified on the Form 400 (see item B.5). **Beginning January 1, 2013**, unless an exemption applies, Government Code section 11343.4 states the effective date of an approved regulation is determined by the date the regulation is filed with the Secretary of State (see the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State) as follows:

- (1) **January 1** if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) **April 1** if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) **July 1** if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) **October 1** if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

If an exemption applies concerning the effective date of the regulation approved in this file, then it will be specified on the Form 400. The Notice of Approval that OAL sends to the state agency will contain the effective date of the regulation. The history note that will appear at the end of the regulation section in the California Code of Regulations will also include the regulation's effective date. Additionally, the effective date of the regulation will be noted on OAL's Web site once OAL posts the Internet Web site link to the full text of the regulation that is received from the state agency. (Gov. Code, secs. 11343 and 11344.)

**Please note this new requirement:** Unless an exemption applies, Government Code section 11343 now requires:

1. Section 11343(c)(1): Within 15 days of OAL filing a state agency's regulation with the Secretary of State, the state agency is required to post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation posted on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.
2. Section 11343(c)(2): Within five (5) days of posting its regulation on its Internet Web site, the state agency shall send to OAL the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to section 11343(c)(1).

OAL has established an email address for state agencies to send the Internet Web site link to for each regulation the agency posts. Please send the Internet Web site link for each regulation posted to OAL at [postedregslink@oal.ca.gov](mailto:postedregslink@oal.ca.gov).

**NOTE ABOUT EXEMPTIONS.** Posting and linking requirements do not apply to emergency regulations; regulations adopted by FPPC or Conflict of Interest regulations approved by FPPC; and regulations not subject to OAL/APA review. However, an exempt agency may choose to comply with these requirements, and OAL will post the information accordingly.

**DO NOT DISCARD OR DESTROY THIS FILE**

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the State Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

**NONSUBSTANTIVE**

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

<b>OAL FILE NUMBERS</b>	NOTICE FILE NUMBER <b>Z-</b>	REGULATORY ACTION NUMBER <b>2014-0324-01N</b>	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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2014 MAR 24 PM 12:53  
 OFFICE OF ADMINISTRATIVE LAW

**ENDORSED FILED**  
 IN THE OFFICE OF

2014 APR -7 PM 1:56

*Debra Bowen*  
 DEBRA BOWEN  
 SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY California Department of Public Health	AGENCY FILE NUMBER (if any) DPH-13-014
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**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
<b>OAL USE ONLY</b> <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER
		PUBLICATION DATE	

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Primary Care Clinics: Abortion Services	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
<b>SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)</b>	ADOPT
	AMEND
TITLE(S) 22	REPEAL 75040, 75041, 75042, 75043, 75044

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<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"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

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)
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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 checked="" 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 Dawn Basciano	TELEPHONE NUMBER 916-440-7367	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) dawn.basciano@cdph.ca.gov
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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 <i>Karin R. Schwartz</i>	DATE 3/14/14
TYPED NAME AND TITLE OF SIGNATORY Karin R. Schwartz, Deputy Director & Chief Counsel	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

APR 07 2014

Office of Administrative Law

California Department of Public Health  
Title 22, California Code of Regulations  
Division 5. Chapter 7: Primary Care Clinics

Repeal Article 5 as follows:

**Article 5. Abortion Service [Repealed]**

Delete section 75040 provisions as follows:

**~~§ 75040. Abortion Service—General Requirements.~~**

~~(a) Primary care clinics providing abortion services shall provide:~~

~~(1) Preabortion and postabortion information and education sessions. These sessions shall include but not be limited to:~~

~~(A) How the abortion procedure is performed.~~

~~(B) Possible risks and complications.~~

~~(C) Options or alternatives to abortion.~~

~~(D) Post-procedure medical services.~~

~~(E) Family planning information and education.~~

~~(2) Laboratory Services.~~

~~(b) The physician shall make a gross examination of the aborted specimen and shall refer the specimen to a pathologist if no products of conception are visualized or if the tissue appears abnormal. Products of conception shall be disposed of after examination, in accordance with Section 75069.~~

~~(c) Preabortion informational and educational sessions shall be documented in each patient's medical record and shall be signed and dated by the person providing this instruction and by the patient.~~

Note: Authority cited: Sections 208(a) and 1225, Health and Safety Code.

Reference: Section 1226, Health and Safety Code.

Delete section 75041 provisions as follows:

**~~§ 75041. Abortion Service—Policies and Procedures.~~**

~~(a) The policies and procedures which the clinic shall implement shall include but not be limited to the following subjects:~~

~~(1) Medical criteria for selection of patients.~~

~~(2) Determination of pregnancy status.~~

~~(3) Rh typing.~~

~~(4) Information and education sessions for the patient before and after the abortion.~~

~~(5) Postabortion care of the patient in the recovery area.~~

~~(6) Referral and transfer of the patient to other agencies or programs for additional medical services and counseling beyond the scope of the clinic.~~

~~(7) Follow up of patients after the abortion.~~

~~(8) Notice to patients that they must arrange for postabortion transportation.~~

~~(9) Provision for family planning information and education.~~

Note: Authority cited: Sections 208(a) and 1225, Health and Safety Code.

Reference: Section 1226, Health and Safety Code.

Delete section 75042 provisions as follows:

**~~§ 75042. Abortion Service—Equipment and Supplies.~~**

~~(a) There shall be adequate and appropriate equipment and supplies maintained to provide the services offered, including at least the following:~~

~~(1) Standard gynecological examination table.~~

~~(2) Pharyngeal suction equipment.~~

~~(3) Oxygen source and mask.~~

~~(4) Surgical instruments necessary for the performance of the abortion.~~

~~(5) Emergency medications.~~

~~(6) Appropriate intravenous fluids.~~

Note: Authority cited: Sections 208(a) and 1225, Health and Safety Code.

Reference: Section 1226, Health and Safety Code.

Delete section 75043 provisions as follows:

**~~§ 75043. Abortion Service—Staff.~~**

~~(a) A physician who is certified or eligible for certification by the American Board of Obstetrics and Gynecology or a physician with training and experience in performing abortions shall be responsible for the abortion service. This physician may also hold the position of professional director of the clinic. Only a physician responsible to the professional director of the clinic may perform abortions.~~

~~(b) A licensed nurse shall be present in the clinic when an abortion is performed.~~

~~(c) A system ensuring availability of staff for follow up care or referral of patients shall be operative on a 24-hour basis.~~

Note: Authority cited: Sections 208(a) and 1225, Health and Safety Code.

Reference: Section 1226, Health and Safety Code.

Delete section 75044 provisions as follows:

**~~§ 75044. Abortion Service—Space.~~**

~~(a) Each abortion room shall have a floor area which can accommodate the patient, the equipment and supplies required in Section 75042 and the staff required in Section 75043.~~

~~(b) A postabortion recovery area shall be maintained. The area shall be adequate for the number of patients recovering at any given time and shall provide privacy for those patients who request it.~~

~~(c) Space for a counseling area shall be maintained and may be the same area as the postabortion recovery area. The counseling area shall provide privacy for those patients who request it.~~

~~(d) Provisions for the storage of patient's clothing and personal items shall be maintained.~~

Note: Authority cited: Sections 208(a) and 1225, Health and Safety Code.

Reference: Section 1226, Health and Safety Code.