Office of Health Care Affordability

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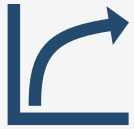
OHCA Objectives and Responsibilities

Increase transparency on spending



Set spending targets for the health care field

Enforce compliance, including through financial penalties

Monitor and review market transactions

Establish new standards, including for quality, equity, workforce

Market Oversight

Statutory Intent and Charge

California Hospital Association

Findings

"Escalating health care costs are being primarily driven by high prices and... market conditions... in areas where there is a lack of consolidation, market power, venture capital activity, and market failures."

Intent

"The office shall monitor... the impact of consolidation, market power, venture capital activity, profit margins, and other market failures on competition, prices, access, quality, and equity."

Charge

Conduct **cost and market impact reviews (CMIRs)** on material transactions involving health care entities that take place on or after **April 1, 2024**

"The role of the office is to collect and report information that is informative to the public"

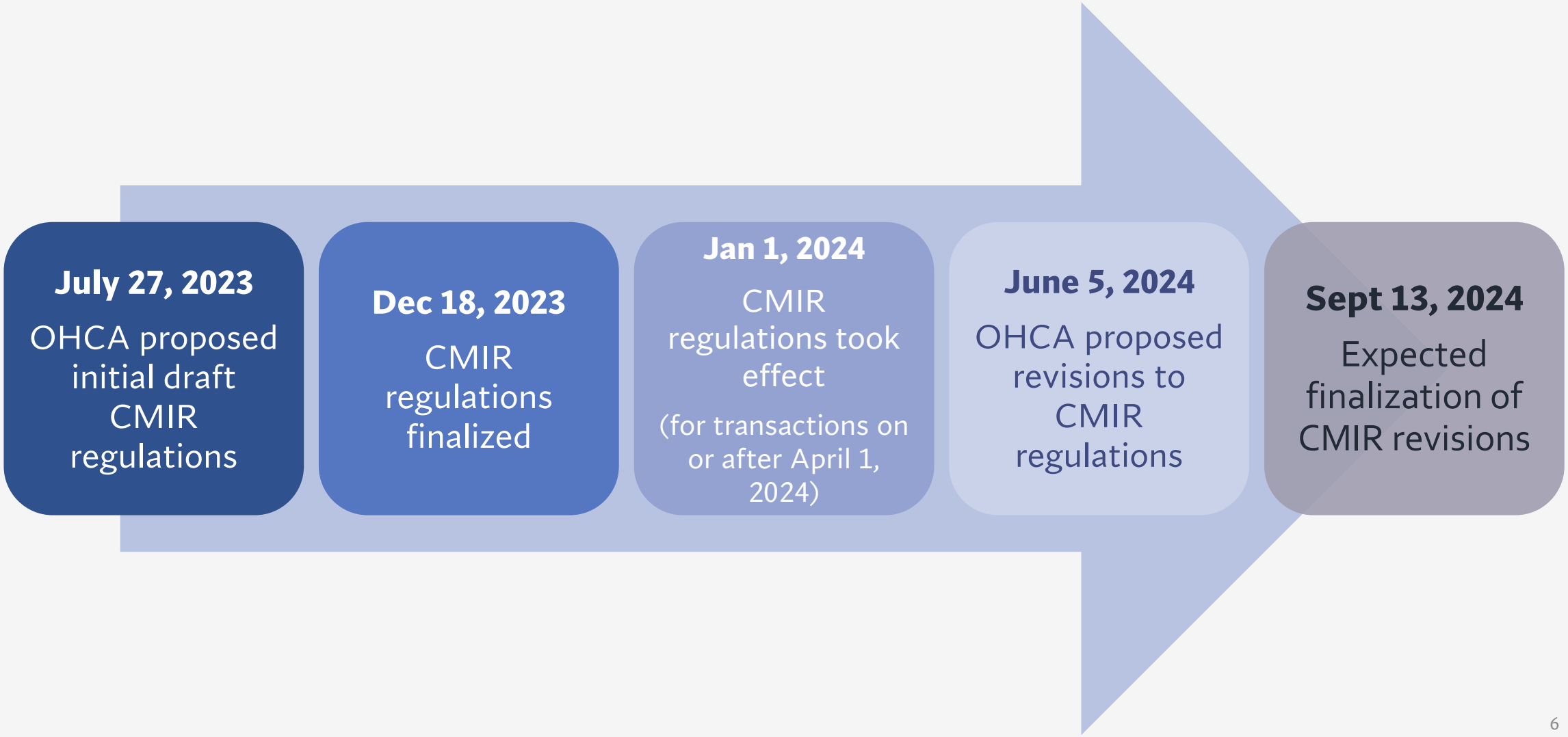
OHCA Market Oversight Supplements Other Agencies

California Hospital Association

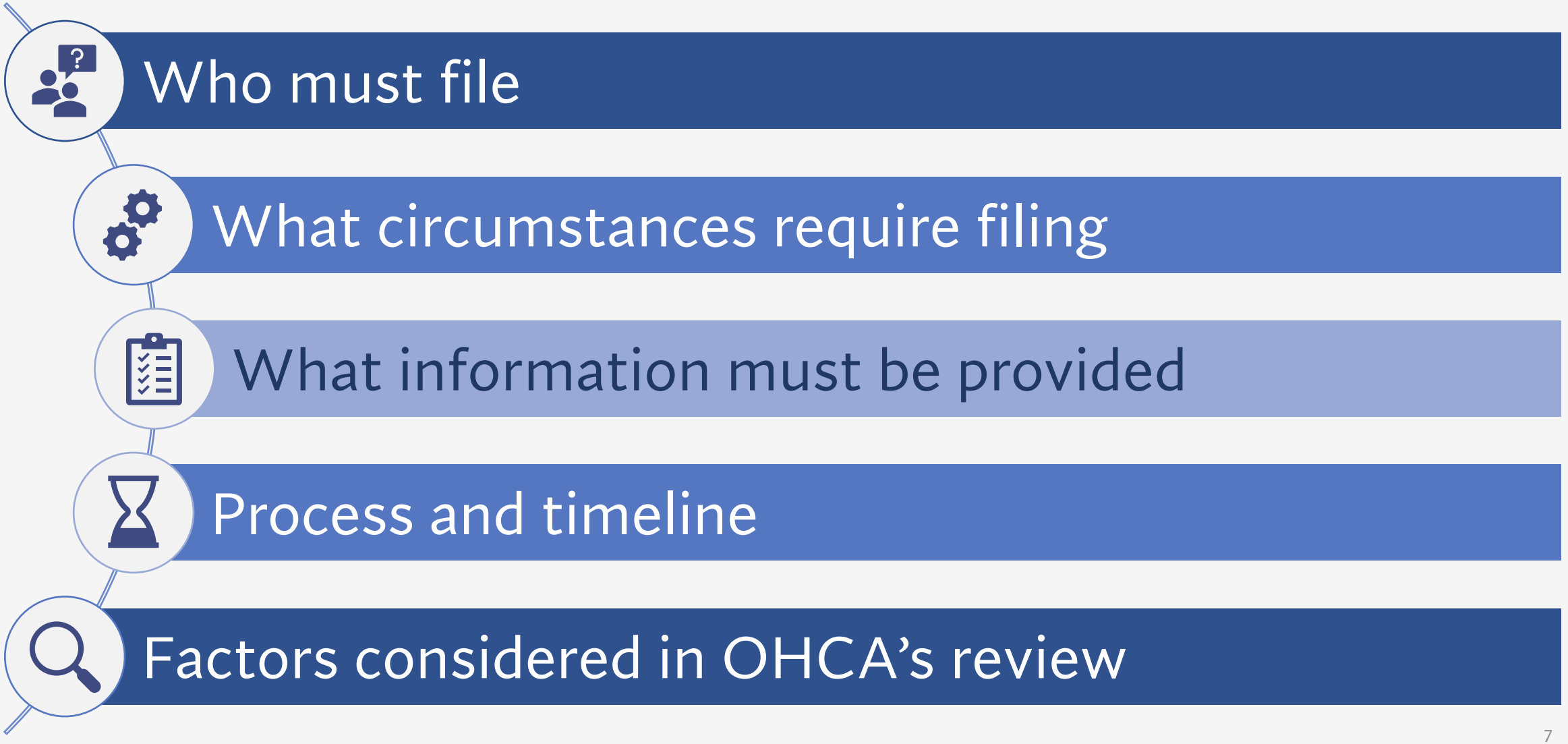
Existing Merger Oversight in California

Attorney General	Department of Managed Health Care	California Department of Insurance
• Approval Authority for non-profit health facilities • Authority to investigate and enforce laws relating to antitrust, unfair competition, and consumer protection	• Approval Authority for major transactions of health care service plans • DMHC evaluates the impact on enrollees and the stability of the health care delivery system.	• Approval Authority for mergers of domestic health insurers. • CDI reviews impact on the marketplace and consumers.

CMIR Regulatory Development Timeline



Key Features of the Regulations



Who Must File

California Hospital Association

Health care entities:

1. Annual revenues or California assets of at least $25 million
2. Annual revenues or California assets of at least $10 million if transacting with a health care entity that qualifies under the first criterion
3. Located in a designated primary care health professional shortage area*

* Proposed revision to specify that this applies to entities that provide health care services in a shortage area

Circumstances Requiring Filing

Material change transactions that meet any specified conditions, *not including*:

- Transactions in the usual and regular course of business
- Situations where there is already common control

Material Change Transactions include:

- Mergers
- Acquisitions
- Affiliations
- Other agreements involving a transfer of:
  - Assets
  - Control
  - Responsibility
  - Governance of assets or operations

Circumstances Requiring Filing

California Hospital Association

Material change transactions meeting any of the following eight conditions:

1. Fair market value is $25 million or more
2. Likely to increase annual revenue of a party by $10 million or more or 20% or more
3. Involves the sale, transfer, lease, exchange, option, encumbrance, or other disposition of 25% or more of the total assets of a submitter
4. Involves a transfer of control, responsibility, or governance, in whole or in part

Circumstances Requiring Filing

California Hospital Association

Material change transactions meeting any of the following eight conditions (continued):

5. Will result in an entity contracting with payers on behalf of consolidated or combined providers and is likely to increase the annual revenue of any transacting providers by at least $10 million or 20%

6. Involves the formation of a new health care entity, affiliation, partnership, joint venture, or parent corporation for the provision of health care services that is projected to have at least $25 million in annual revenue or transfer of control of assets valued at $25 million or more

Circumstances Requiring Filing

California Hospital Association

Material change transactions meeting any of the following eight conditions (continued):

7. Is part of a series of related transactions for the same or related health care services occurring over the past ten years involving the same health care entities or affiliates

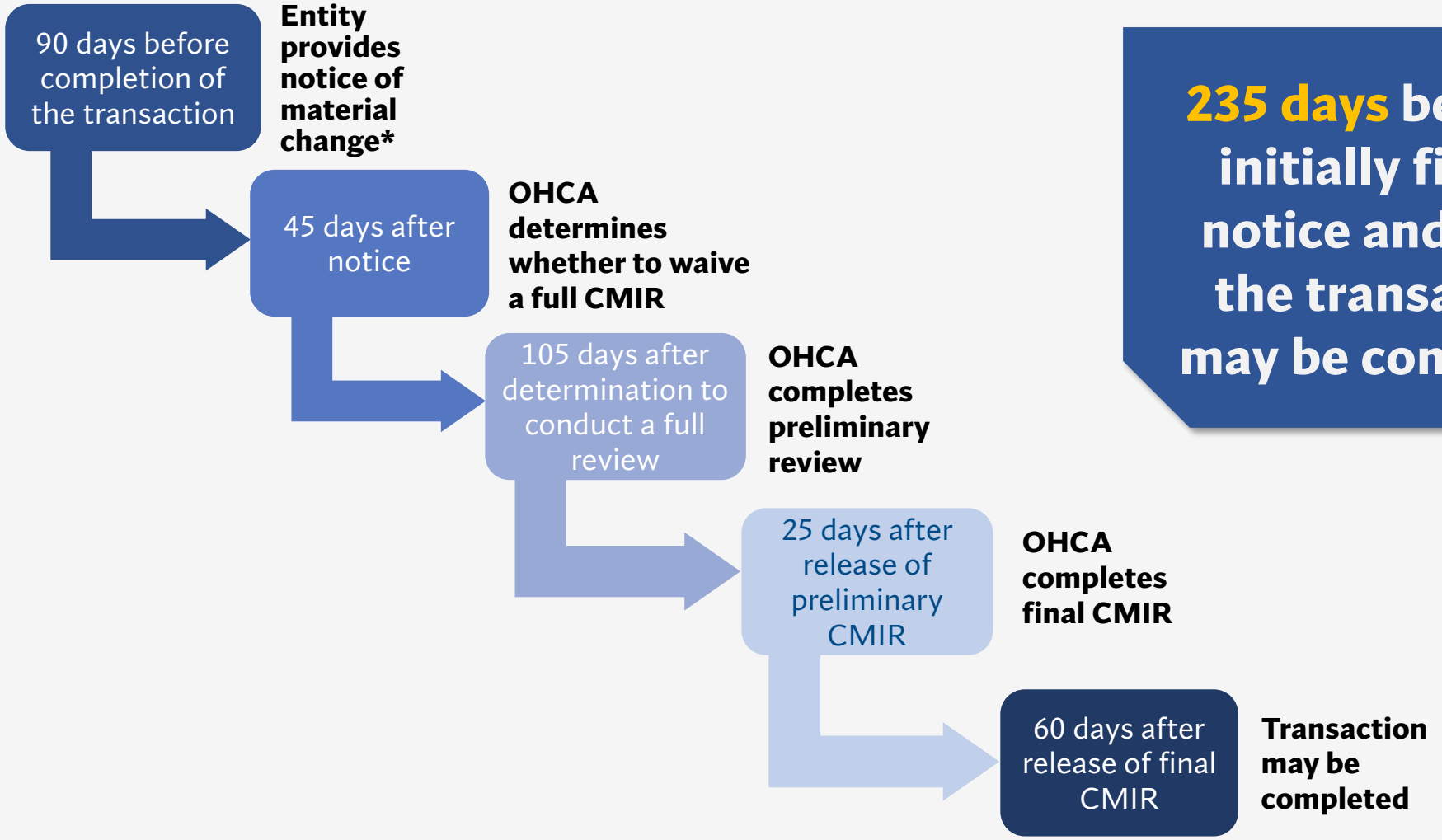
8. When an acquiring entity has consummated similar transaction(s) in the last ten years with a health care entity that provides the same or related health care services

Information That Must Be Provided in Notice

- Organization background (ownership type, governance structure, provider type, service lines)
- Background on other entities involved in the transaction
- Prior transactions between the health care entities completed in the 10 previous years
- Summary and goals of transaction
- Expected impacts of the transaction, including competitive effects
- Potential post-operations changes to governance and organizational structure, employee staffing levels and wages and benefits
- Copies of agreements and term sheets
- Summary of patients served by various characteristics, including place of residence, age, race, language spoken, and others
- 3 years' financial statements

Note: Existing regulations allow filers to request confidentiality for any nonpublic information provided. OHCA has proposed changes to allow filers to withdraw any information OHCA does not grant confidentiality

Cost and Market Impact Review Process



235 days between initially filing a notice and when the transaction may be completed

* Filers may request an expedited review, which OHCA will grant if the entity is determined to be in severe financial distress or there is a substantial likelihood of a significant reduction in critical health care services

Factors Considered in OHCA's Review

California Hospital Association

Considered both in determination to conduct a full review and in the full review:

- Impact on the availability or accessibility of health care services
- Potential to lessen competition or create a monopoly
- Effect on competition for workers and impact on the labor market
- Impact the quality of health care services
- Part of a series of similar transactions by the health care entity that furthers a trend toward consolidation
- Potential to entrench or extend a dominant market position of any health care entity in the transaction

Factors Considered in OHCA's Review

California Hospital Association

Considered in determination to conduct a full review

- Impact on costs for payers, purchasers, or consumers
- Impact on hospital care
- Involves an out-of-state entity and may impact affordability, quality, or access in California, or undermine the financial stability or competitive effectiveness of a health care entity in California

Considered in full review

- Consumer concerns related to the transaction

Implementation Update

Transaction: Businesses Involved	**Santa Monica Rehabilitation Center**	**Labcorp Purchase of Invitae**	**Labcorp Purchase of BioReference**
Summary of Transaction	Skilled nursing facility changing operators after lease expiration	Labcorp acquisition of Invitae's genetic testing / clinical laboratory (Invitae in bankruptcy). *Expedited Review Requested*	Labcorp acquisition of BioReference's laboratory testing businesses focused on clinical diagnostics and reproductive and women's health.
Submission Status	Deemed complete: April 12, 2024	Deemed complete: June 5, 2024	Awaiting additional party information before notice can be deemed complete.
Review Status	**Review completed** (CMIR Waived): May 16, 2024 (24 working days)	**Review completed** (CMIR Waived): June 20, 2024 (11 working days)	

More information can be found at: https://hcai.ca.gov/affordability/ohca/assess-market-consolidation/

Hospital Spending and Measurement

Data Collection Purposes and Uses

California Hospital Association

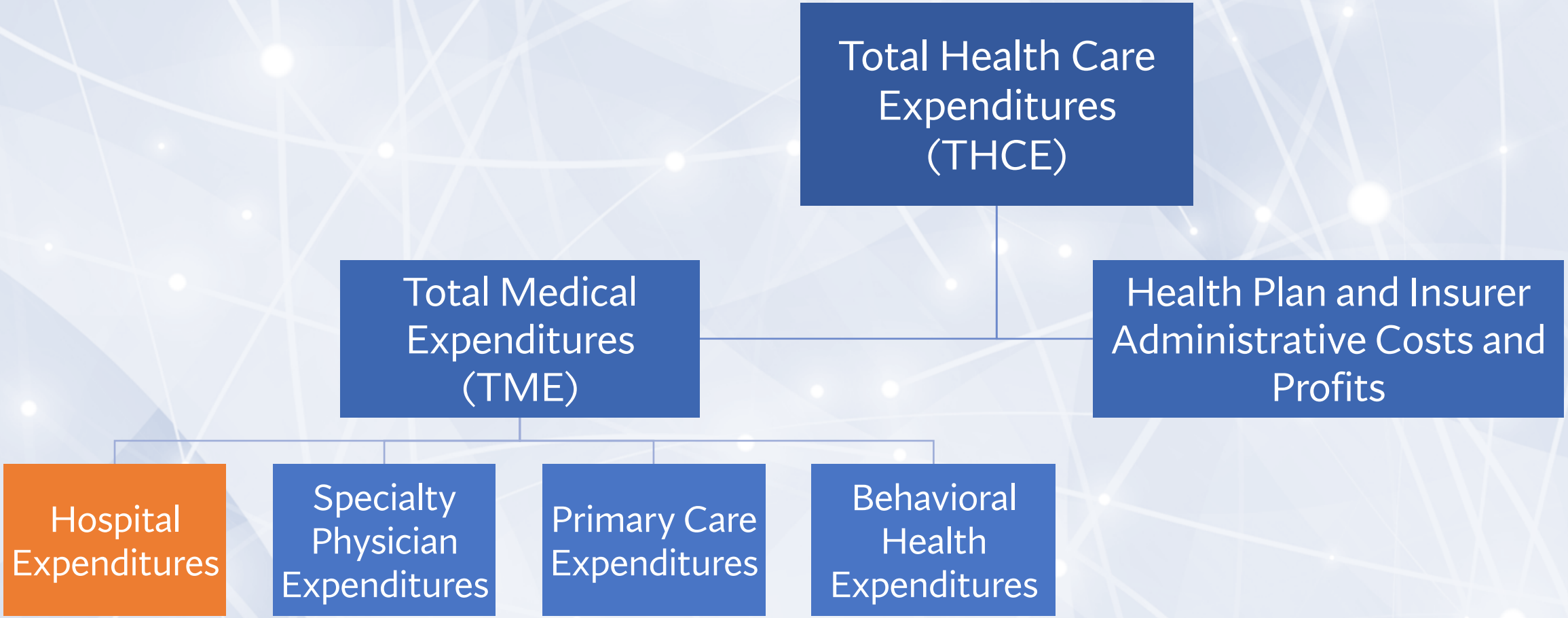
Measure health care spending growth

Report spending growth statewide and by health care entity

Assess performance against the spending target(s)

Identify drivers of spending growth

Health Care Spending Categories



OHCA Will Collect and Regulate Total Health Care Expenditures

California Hospital Association

Total Health Care Expenditures (THCE)

- Collected annually from payers starting in September 2024
- Reflects payers' expenditures, providers revenues
- Captures allowed amounts + estimated patient cost share for covered benefits
- Expenditures = payment × utilization
- Includes:
  - Claims-based payments
  - Non-claims-based payments like supplementals and capitation
  - Estimated patient cost sharing
  - Net pharmacy spending
  - Health plans and insurers' administrative costs and profits
- Per capita expenditures defined on a per enrolled- or insured-member and per-month basis

Provider Revenues Will Be Measured as Total Medical Expenditures

California Hospital Association

Total Medical Expenditures (TME)

- TME = THCE – health plan and insurer administrative costs and profits
- Per capita expenditures defined on a per-attributed patient basis
- TME to be allocated to providers through physician organizations with at least 1,000 attributable members
- Attribution to providers based on a 3-step methodology:
  - Capitated/delegated members
  - Total cost of care Accountable Care Organizations
  - Payer-developed methodology

Unanswered Question: *How will this apply to hospitals?*

Methodology Being Developed to Measure Hospital Spending

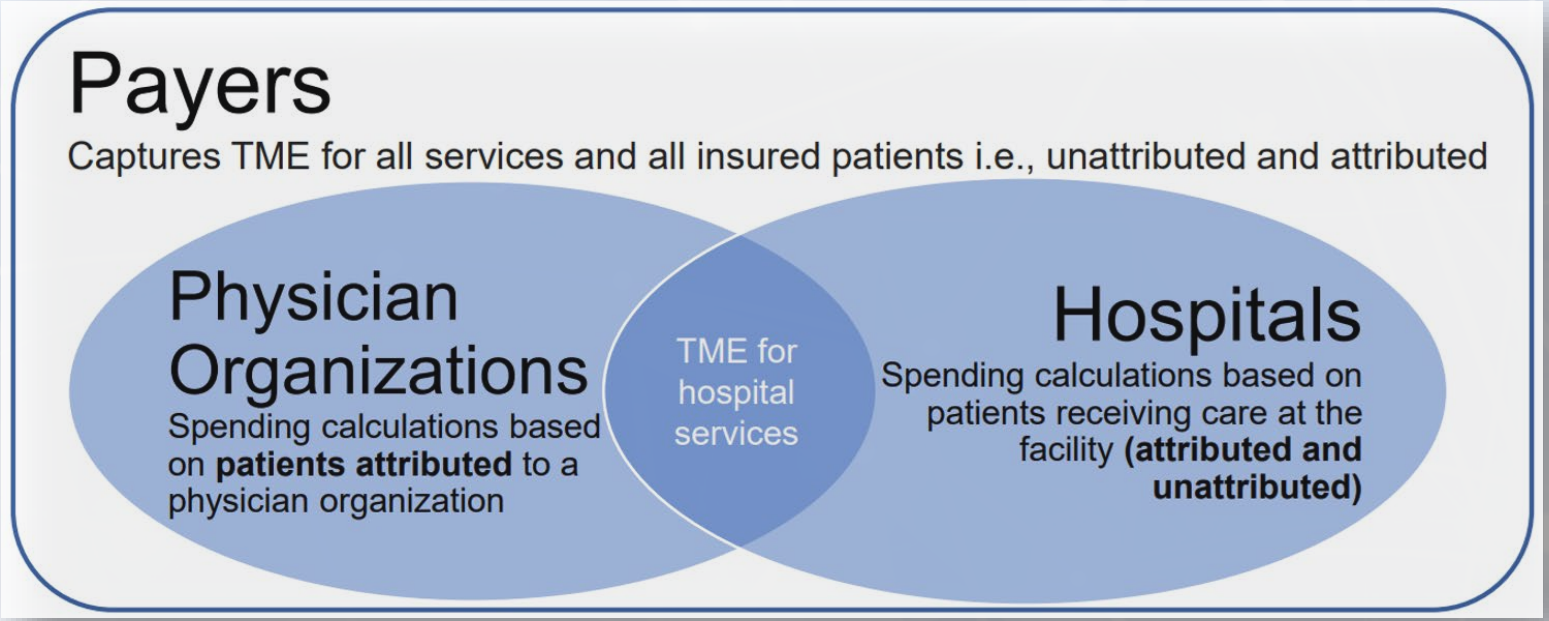
Why track hospital spending?

"Calculations of total medical expense (TME) by provider organization only reflect hospital spending by patients attributed to that organization. To better understand drivers of TME in statewide spending targets, it is important to understand spending by hospitals for all patients." -OHCA

What is the goal?

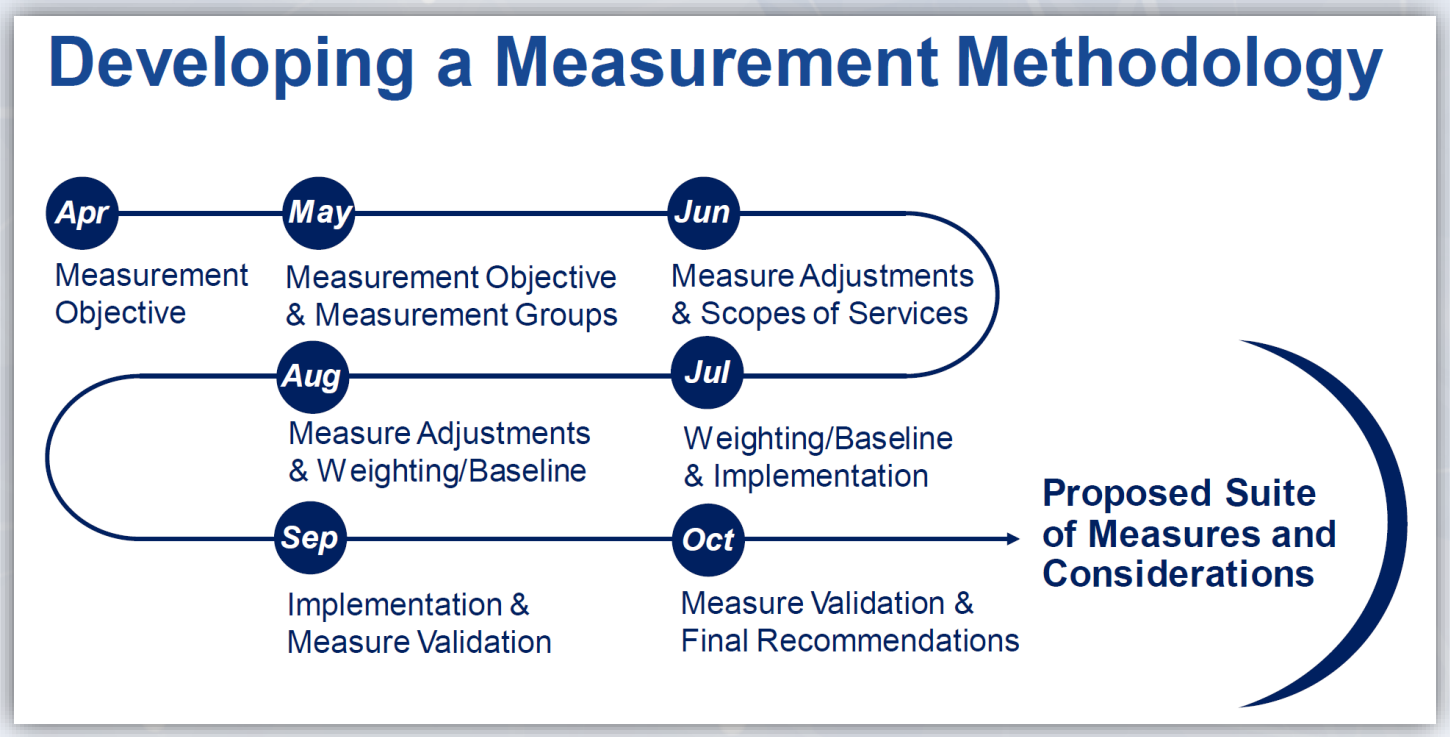
"*Accountability*"

-OHCA



Hospital Spending and Measurement Workgroup

- Help OHCA develop recommendations
- Membership selected by OHCA and includes:
  - Hospital finance experts
  - Health plan representatives
  - Purchaser representatives
  - Consumer advocate



Key Issues

California Hospital Association

- Data source
- What counts as "spending"
- How is "per capita" spending defined
- How are service and patient-acuity mix accounted for
- How is year-to-year volatility addressed
- How will hospitals be grouped and why

Data Source(s)

HCAI Annual Financial Disclosure Reports

- Primary source for financial information

HCAI Patient Discharge Data Files

- Trends in utilization and service/acuity mix

Census Geographic Reference Tables

- Supplemental demographic and geographic information

HCAI: Department of Health Care Access and Information

What Counts as Spending

Net Patient Revenue

- Most closely corresponds to "spending" as measured for other providers
- Includes claims and non-claims payments
  - Medi-Cal supplemental payments
  - Cost settlements
  - Quality-incentive payments
  - Capitation
- Excludes many revenue streams not tied to patient care
  - Investment performance
  - Research and education funding
  - Non-health care sales
- Intent is to separate inpatient and outpatient spending

Major Potential Downside

Net patient revenues are highly volatile year over year

How Is “Per Capita” Defined

Payers	Non-Hospital Providers	Hospital Inpatient	Hospital Outpatient
			
Per enrollee or insuree	Per patient attributed to a medical group	Per discharge	Unknown

Accounting for Service and Patient-Acuity Mix

California Hospital Association

Case Mix Index

- Constructed based on Medicare Severity Diagnosis Related Groups (MS-DRG)
- Simultaneously accounts for service and patient-acuity mix, protecting hospitals in case of year-to-year swings

Potential Downsides

- Does not fully control for highest cost services (e.g., transplants, trauma) and patients (e.g., lengthy stays)
- Only looks at inpatient care, ignoring service and acuity changes in the outpatient setting

Year-to-Year Volatility

Changes in year-over-year revenue growth of +/- 25% is the norm, not the exception

- Volatility exposes hospitals to significantly greater risk of violating the spending target
- OHCA currently **opposes** the use of multiyear averaging and has not proposed an adequate alternative solution

Hospital Groups

OHCA proposes to place hospitals into mutually exclusive groups

- Children's
- Rural
- Teaching
- Large (270+ beds)
- Medium (95-269 beds)
- Small (<95 beds)
- Psychiatric
- Specialty
- Kaiser

Stated Purpose	Potential Use
Report and compare performance by group	Basis for differentiating spending targets by group

Comparing the Hospital Groups

California Hospital Association

Hospital Characteristics by OHCA Group

All data represent summary statistics (medians by group) encompassing 2010-2019

	Children	Rural	Teaching	Large	Medium	Small	Psych	Specialty	Kaiser	All
Hospital Count	10	60	24	80	99	30	32	31	31	397
Annual Net Patient Revenue Growth	4.6%	0.9%	3.5%	1.5%	1.2%	2.2%	0.2%	-1.9%	N/A	1.5%
Net Patient Revenue Per Adjusted Discharge	$23,036	$16,122	$21,845	$17,161	$15,093	$20,025	$6,911	$14,677	N/A	$16,343
Annual Operating Margin	6.2%	0.8%	5.0%	3.5%	3.5%	5.4%	4.5%	7.6%	N/A	3.6%
Operating Revenues (In Millions)	$501	$53	$770	$400	$148	$49	$31	$41	N/A	$140

Note: Net patient revenue growth and net patient revenue per adjusted discharge are adjusted by the case-mix index.

Questions and Feedback?