

# Office of Health Care Affordability

## Market Oversight

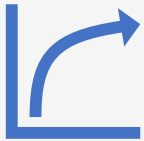
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Vice President, Policy

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**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**

## 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”*

# CMIR Regulatory Development Timeline

**July 27, 2023**

OHCA proposed  
initial draft CMIR  
regulations

**Dec 18, 2023**

CMIR regulations  
finalized

**Jan 1, 2024**

CMIR regulations  
took effect (for  
transactions on or  
after April 1,  
2024)

**June 5, 2024**

OHCA proposed  
revisions to CMIR  
regulations

**Sept 13, 2024**

Expected  
finalization of  
CMIR revisions

## Existing Merger Oversight in California

### Attorney General

- Approval Authority for non-profit health facilities
- Authority to investigate and enforce laws relating to antitrust, unfair competition, and consumer protection

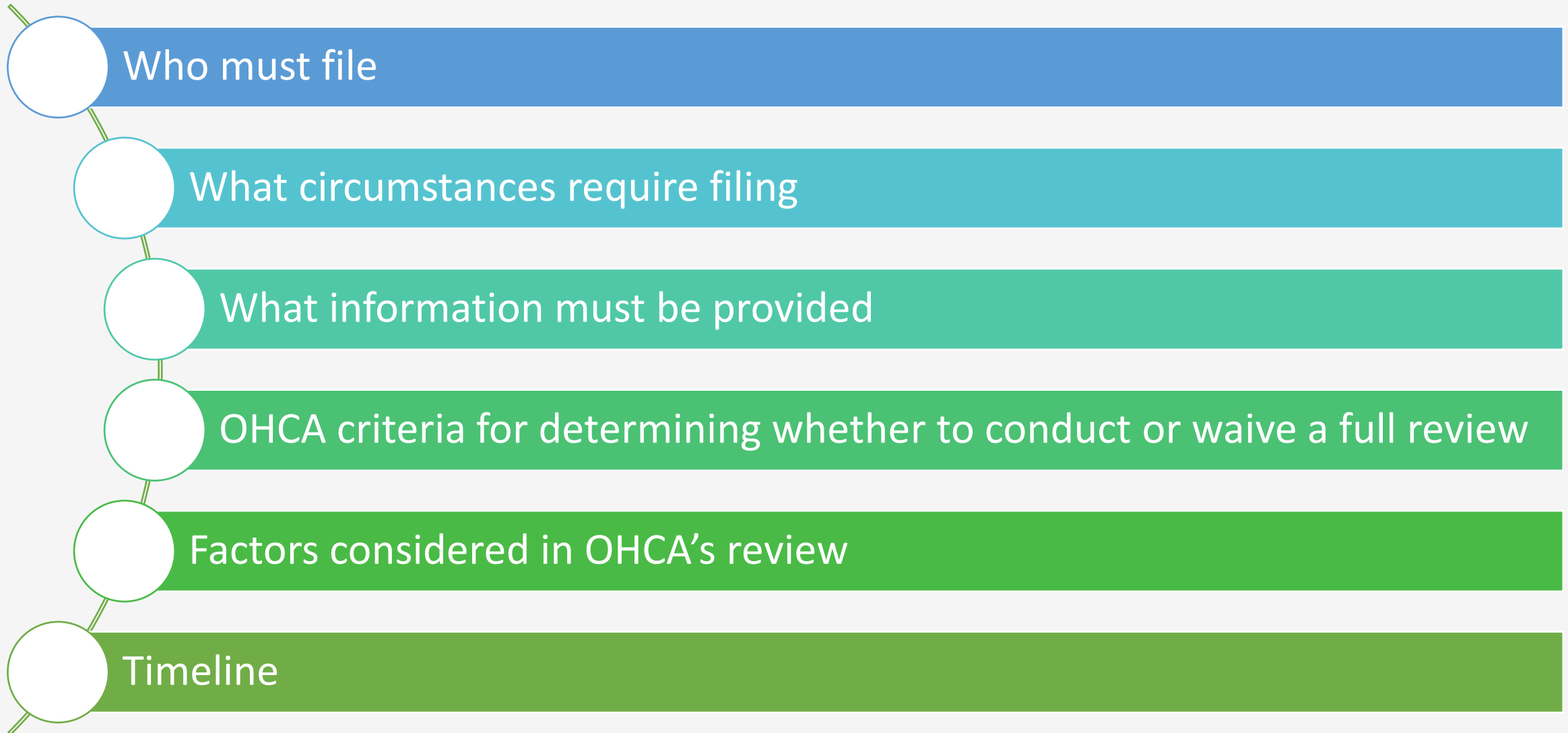
### Department of Managed Health Care

- 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.

### California Department of Insurance

- Approval Authority for mergers of domestic health insurers.
- CDI reviews impact on the marketplace and consumers.

# Key Features of the Regulations



## **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

**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



## **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

**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
- 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.

- 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

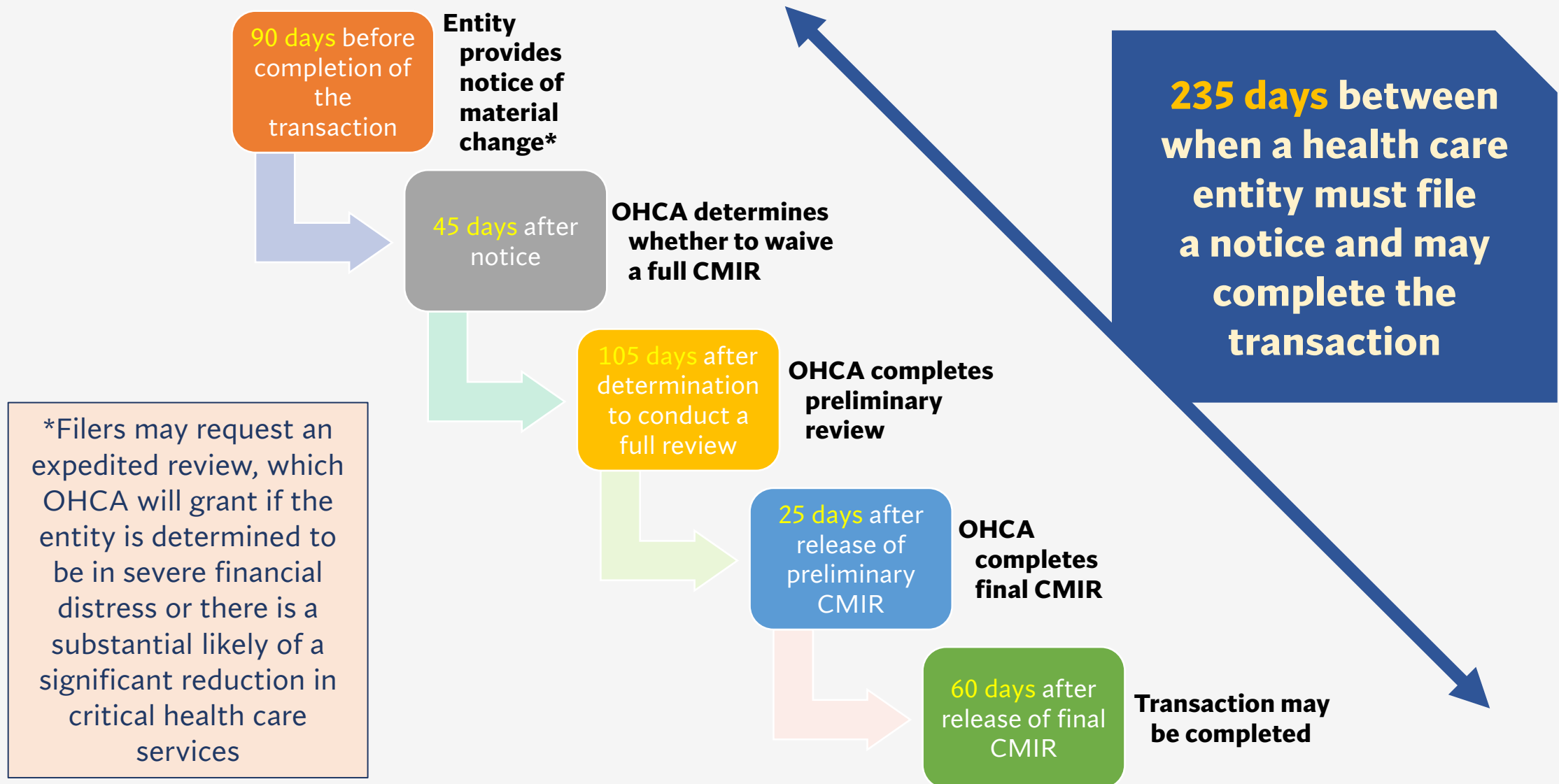
- **Impact on the availability or accessibility of health care services**
- Impact on costs for payers, purchasers, or consumers
- **Potential to lessen competition or create a monopoly**
- **Effect on competition for workers and impact on the labor market**
- Impact on hospital care
- **Impact the quality 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**
- 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
- Consumer concerns related to the transaction

**Bold:** Factors considered both in determination of whether to conduct a full review and in the full review

Black text, not bold: Factors considered in determination of whether to conduct a full review

Blue text: Factor considered in full review

# Cost and Market Impact Review Process



# Implementation Update

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

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

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