As directed by the Legislature, the Commission is preparing a nonsubstantive recodification of the California Public Records Act (“CPRA”). For purposes of a tentative recommendation, the Commission has decided to recodify the CPRA in a new division (Division 10) in Title 1 of the Government Code. That division would be split into six parts (Parts 1-6), as detailed in the Commission’s tentative outline. This memorandum presents a staff draft of Chapter 5 of Part 5, which would be entitled “Health Care.”

The attached draft incorporates legislation enacted in 2018, as detailed within the draft. Most of the new legislation will not officially become law until January 1, 2019. That is immaterial for the Commission’s purposes, because the Commission’s proposed recodification will not be ready for introduction in the Legislature until 2020.

Staff Notes in the attached draft provide some background information and raise a few issues for consideration. Commissioners and other interested persons should review the attached draft and determine whether any revisions are needed. Comments on any aspect of the draft would be helpful.

Respectfully submitted,
Barbara Gaal
Chief Deputy Counsel

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.


3. The current version of the tentative outline is attached to Memorandum 2018-23. For the most recent cumulative draft of material tentatively approved by the Commission, see Memorandum 2018-53.

4. Written comments can be in any form. They should be directed to bgaal@clrc.ca.gov. Comments may also be made orally at the Commission’s upcoming meeting, which will be open to the public. The agenda is available at http://www.clrc.ca.gov/Menu1_meetings/agenda.html.
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Staff Note. This is a work in progress. The material shown below may be changed. For the current tentative outline of proposed Division 10 of Title 1 of the Government Code, see Memorandum 2018-23.

A draft of an official Commission “Comment” follows each proposed code section in the proposed recodification. Such Comments will be included in any final recommendation. The Comments indicate the source of each recodified code section (or provision within the code section) and describe how the recodified code section (or provision) compares with prior law. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation.

There is a “disposition table” at the end of the proposed recodification. It summarizes, in tabular form, the disposition of every provision of the existing code that has been included in this proposed recodification.

There is also a “derivation table” at the end of the proposed recodification. It summarizes, in tabular form, the statutory derivation of every new code provision in this proposed recodification.

Some provisions in this draft are followed by a “Staff Note.” Most of the Staff Notes are intended to be temporary and will not be part of the Commission’s final recommendation. In general, the Staff Notes serve to flag issues requiring special attention or treatment.

Some provisions in this draft contain a bracketed reference to one or more existing code sections. As new Division 10 is drafted, these references will be conformed to the new numbering scheme.

In some places, it is necessary to refer to a section that has not yet been drafted. That is done by referring to “Section 79xx.xxx.” The Commission will fill in these references as it drafts the proposed recodification.

All of the proposed provisions would be located in the Government Code. All references are to the Government Code unless otherwise indicated.

The Commission welcomes public comment on any issue relating to the content of this draft or any other aspect of its ongoing CPRA Clean-Up study. Comments should be directed to Barbara Gaal (bgaal@crc.ca.gov).

Gov’t Code §§ 7920.000-79xx.xxx (added). California Public Records Act
SEC. ___. Division 10 (commencing with Section 7920.000) is added to Title 1 of the Government Code, to read:

DIVISION 10. ACCESS TO PUBLIC RECORDS

....
PART 5. SPECIFIC TYPES OF PUBLIC RECORDS

CHAPETER 5. HEALTH CARE

Article 1. Accreditation

§ 7926.000. Final accreditation report of Joint Commission on Accreditation of Hospitals
7926.000. Except as provided in Sections [6254.13], 7924.510, and 7924.700, this division does not require the disclosure of a final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

Comment. Section 7926.000 continues former Section 6254(s) without substantive change.

Article 2. Advance Health Care Directive and Related Matters

§ 7926.100. Information provided for purpose of registration in Advance Health Care Directive Registry
7926.100. (a) Except as provided in subdivision (b) and Sections [6254.13], 7924.510, and 7924.700, this division does not require the disclosure of any information that a person provides to the Secretary of State for the purpose of registration in the Advance Health Care Directive Registry.
(b) The information described in subdivision (a) shall be released at the request of a health care provider, a public guardian, or the registrant’s legal representative.

Comment. Section 7926.100 continues former Section 6254(ac) without substantive change. See Section 7920.515 (“person”).

Article 3. Contracts and Negotiations

§ 7926.200. Health facility disclosing relevant financing information to certified bargaining agent
7926.200. The provisions listed in Section 7920.500 do not prevent any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

Comment. Section 7926.200 continues the unlabeled last paragraph of former Section 6254 without substantive change.
§ 7926.205. Specified records of health plan licensed under Knox-Keene Act and governed by board of supervisors

7926.205. (a) Nothing in this division or any other provision of law requires disclosure of records of a health plan that is licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and that is governed by a county board of supervisors, whether paper records, records maintained in the management information system, or records in any other form, that relate to provider rate or payment determinations, allocation or distribution methodologies for provider payments, formulae or calculations for these payments, and contract negotiations with providers of health care for alternative rates for a period of three years after the contract is fully executed.

(b) Transmission of the records described in subdivision (a), or the information contained therein in an alternative form, to the board of supervisors is not a waiver of exemption from disclosure. The records and information once transmitted to the board of supervisors remain subject to the exemption described in subdivision (a).

(c) (1) This section does not prevent the Joint Legislative Audit Committee from accessing any records in the exercise of its powers pursuant to Article 1 (commencing with Section 10500) of Chapter 4 of Part 2 of Division 2 of Title 2.

(2) This section does not prevent the Department of Managed Health Care from accessing any records in the exercise of its powers pursuant to Article 1 (commencing with Section 1340) of Chapter 2.2 of Division 2 of the Health and Safety Code.

Comment. Subdivision (a) of Section 7926.205 continues the first sentence of former Section 6254.22 without substantive change.

Subdivision (b) continues the second sentence of former Section 6254.22 without substantive change.

Subdivision (c) continues the third and fourth sentences of former Section 6254.22 without substantive change.

§ 7926.210. Records of municipal hospital or local hospital district that relate to contract with insurer or nonprofit hospital service plan for alternative rates

7926.210. (a) Except as provided in subdivision (b) or Sections [6254.13], 7924.510, and 7924.700, this division does not require disclosure of any records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4, that relate to a contract with an insurer or a nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code.

(b) A record described in subdivision (a) shall be open to inspection within one year after the contract is fully executed.

Comment. Section 7926.210 continues former Section 6254(t) without substantive change.
§ 7926.215. Records relating to contracts for health care services for Department of Corrections and Rehabilitation

7926.215. (a) Except as provided in Sections [6254.13], 7924.510, and 7924.700, this division does not require disclosure of records of the Department of Corrections and Rehabilitation that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.

(b)(1) Except for the portion that contains the rates of payment, a contract for health services entered into by the Department of Corrections and Rehabilitation or the California Medical Assistance Commission on or after July 1, 1993, shall be open to inspection one year after it is fully executed.

(2) If a contract for health services was entered into before July 1, 1993, and amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it is fully executed.

(c) Three years after a contract or amendment is open to inspection under this section, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(d)(1) Notwithstanding any other provision of law, including, but not limited to, Section 1060 of the Evidence Code, the entire contract or amendment shall be open to inspection by the California State Auditor’s Office, the Joint Legislative Audit Committee, and the Legislative Analyst’s Office.

(2) The California State Auditor’s Office, the Joint Legislative Audit Committee, and the Legislative Analyst’s Office shall maintain the confidentiality of each contract or amendment until the contract or amendment is fully open to inspection by the public.

(e) It is the intent of the Legislature that the confidentiality of health care provider contracts, and of the contracting process as provided in this section, shall protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.

Comment. Subdivision (a) of Section 7926.215 continues former Section 6254.14(a)(1) without substantive change.

Subdivision (b) continues former Section 6254.14(a)(2) without substantive change.

Subdivision (c) continues former Section 6254.14(a)(3) without substantive change.

Subdivision (d) continues former Section 6254.14(a)(4) without substantive change.

Subdivision (e) continues former Section 6254.14(a)(5) without substantive change.

§ 7926.220. Specified records of state agency relating to selective provider contracts, county health systems, or Geographic Managed Care Pilot Project

7926.220. (a) Except as provided in Sections [6254.13], 7924.510, and 7924.700, this division does not require disclosure of records of a state agency related to
activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), or Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator’s deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(b)(1) Except for the portion containing the rates of payment, a contract for inpatient services entered into pursuant to one of these articles, on or after April 1, 1984, shall be open to inspection one year after it is fully executed.

(2) If a contract for inpatient services was entered into before April 1, 1984, and amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed.

(3) If the California Medical Assistance Commission enters into a contract with a health care provider for other than inpatient hospital services, the contract shall be open to inspection one year after it is fully executed.

(c) Three years after a contract or amendment is open to inspection under this section, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(d)(1) Notwithstanding any other law, the entire contract or amendment shall be open to inspection by the California State Auditor’s Office, the Joint Legislative Audit Committee, and the Legislative Analyst’s Office.

(2) The California State Auditor’s Office, the Joint Legislative Audit Committee, and the Legislative Analyst’s Office the shall maintain the confidentiality of each contract or amendment until the contract or amendment is fully open to inspection by the public.

Comment. Subdivision (a) of Section 7926.220 continues former Section 6254(q)(1) without substantive change.

Subdivision (b) continues former Section 6254(q)(2) without substantive change.

Subdivision (c) continues former Section 6254(q)(3) without substantive change.

Subdivision (d) continues former Section 6254(q)(4) without substantive change. Subdivision (d) also continues former Section 6254.14(b) to the extent it applied to former Section 6254(q).

See Section 7920.535 (“state agency”).

Staff Note. Existing Section 6254(a)(1) refers to “[r]ecords of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code ....” (Emphasis added.) The specified articles are entitled “Selective Provider Contracts” (Article 2.6), “County Health Systems” (Article 2.8), and “Geographic Managed Care Pilot Project” (Article 2.91).

The wording of Section 6254(q)(1) is potentially confusing; it could create the impression that a record must relate to activities governed by all three of the specified articles to fall within the scope of the exemption. Such a requirement seems illogical; it cannot be what the Legislature intended. To prevent such confusion, proposed Section 7926.220 would refer to “records of a state agency related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8
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(commencing with Section 14087.5), or Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code …” (Emphasis added.)

Comments on this approach would be helpful.

§ 7926.225. Specified records of Managed Risk Medical Insurance Board and State Department of Health Care Services

7926.225. (a) Except as provided in Sections [6254.13], 7924.510, and 7924.700, this division does not require disclosure of records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services that relate to activities governed by former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, and that reveal any of the following:

(1) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or the department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or the department provides, receives, or arranges services or reimbursement.

(2) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff or the department or its staff, or records that provide instructions, advice, or training to their employees.

(b)(1) Except for the portion that contains the rates of payment, a contract entered into pursuant to former Part 6.3 (commencing with Section 12695), former Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, or Chapter 2 (commencing with Section 15810) or Chapter 4 (commencing with Section 15870) of Part 3.3 of Division 9 of the Welfare and Institutions Code, on or after July 1, 1991, shall be open to inspection one year after its effective date.

(2) If a contract was entered into before July 1, 1991, and amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(c) Three years after a contract or amendment is open to inspection pursuant to this section, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(d)(1) Notwithstanding any other law, the entire contract or amendment to a contract shall be open to inspection by the California State Auditor’s Office, the Joint Legislative Audit Committee, and the Legislative Analyst’s Office.

(2) The California State Auditor’s Office, the Joint Legislative Audit Committee, and the Legislative Analyst’s Office shall maintain the confidentiality of each
contract or amendment until the contract or amendment is open to inspection pursuant to subdivision (c).

Comment. Subdivision (a) of Section 7926.225 continues former Section 6254(v)(1) without substantive change.
Subdivision (b) continues former Section 6254(v)(2) without substantive change.
Subdivision (c) continues former Section 6254(v)(3) without substantive change.
Subdivision (d) continues former Section 6254(v)(4) without substantive change. Subdivision (d) also continues former Section 6254.14(b) to the extent it applied to former Section 6254(v).

Staff Note. The text shown above incorporates revisions to Section 6254(v) made by 2018 Cal. Stat. ch. 960, § 1 (AB 748 (Ting)). Those revisions corrected the cross-references to Parts 6.3 and 6.5 of Division 2 of the Insurance Code, which have been repealed.
The staff had previously pointed out that such corrections were needed, and the Commission had decided to include them in its proposed recodification. See Memorandum 2017-50, pp. 4-7; Minutes (Dec. 2017), p. 7. Because the corrections were made by AB 748 (Ting), it will not be necessary for the Commission to mention them in the list of corrected cross-references at the end of its proposed recodification.

§ 7926.230. Additional records of Managed Risk Medical Insurance Board and State Department of Health Care Services

7926.230. (a) Except as provided in Sections 6254.13, 7924.510, and 7924.700, this division does not require disclosure of records of the Managed Risk Medical Insurance Board and the State Department of Health Care Services related to activities governed by Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code, if the records reveal any of the following:
(1) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board or the department, entities with which the board or department is considering a contract, or entities with which the board or department is considering or enters into any other arrangement under which the board or department provides, receives, or arranges services or reimbursement.
(2) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or the department or its staff, or records that provide instructions, advice, or training to employees.
(b)(1) Except for the portion that contains the rates of payment, a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code shall be open to inspection one year after its effective date.
(2) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or former Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code or Sections 14005.26 and 14005.27 of, or Chapter 3 (commencing
with Section 15850) of Part 3.3 of Division 9 of, the Welfare and Institutions Code,
is amended, the amendment shall be open to inspection one year after the effective
date of the amendment.
(c) Three years after a contract or amendment is open to inspection pursuant to
this section, the portion of the contract or amendment containing the rates of
payment shall be open to inspection.
(d)(1) Notwithstanding any other law, the entire contract or amendments to a
contract shall be open to inspection by the California State Auditor’s Office, the
Joint Legislative Audit Committee, and the Legislative Analyst’s Office.
(2) The California State Auditor’s Office, the Joint Legislative Audit Committee,
and the Legislative Analyst’s Office shall maintain the confidentiality of each
contract or amendment until the contract or amendment is open to inspection
pursuant to subdivision (b) or (c).
(e) The exemption from disclosure provided pursuant to this section for the
contracts, deliberative processes, discussions, communications, negotiations,
impressions, opinions, recommendations, meeting minutes, research, work product,
thories, or strategy of the board or its staff, or the department or its staff, shall also
apply to the contracts, deliberative processes, discussions, communications,
negotiations, impressions, opinions, recommendations, meeting minutes, research,
work product, theories, or strategy of applicants pursuant to former Part 6.4
(commencing with Section 12699.50) of Division 2 of the Insurance Code or
Chapter 3 (commencing with Section 15850) of Part 3.3 of Division 9 of the Welfare
and Institutions Code.

Comment. Subdivision (a) of Section 7926.230 continues former Section 6254(y)(1) without
substantive change.
Subdivision (b) continues former Section 6254(y)(2) without substantive change.
Subdivision (c) continues former Section 6254(y)(3) without substantive change.
Subdivision (d) continues former Section 6254(y)(4) without substantive change. Subdivision
(d) also continues former Section 6254.14(b) to the extent it applied to former Section 6254(y).
Subdivision (e) continues former Section 6254(y)(5) without substantive change. The cross-
reference to “Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code”
has been updated to reflect the repeal of Part 6.4. See 2014 Cal. Stat. ch. 31, § 37 (former Ins. Code
§ 12699.64), a sunset provision that operated on Jan. 1, 2016.

Staff Notes.
(1) The text shown above incorporates revisions to Section 6254(y)(1)-(2) made by 2018 Cal.
Stat. ch. 960, § 1 (AB 748 (Ting)). Those revisions corrected cross-references to Part 6.4 of
Division 2 of the Insurance Code, which has been repealed.
The staff had previously pointed out that such corrections were needed, and the Commission had
decided to include them in its proposed recodification. See Memorandum 2017-50, pp. 4-7;
Minutes (Dec. 2017), p. 7. Because the corrections were made by AB 748 (Ting), it will not be
necessary for the Commission to mention them in the list of corrected cross-references at the end
of its proposed recodification.

(2) Existing Section 6254(y)(5) also cross-refers to Part 6.4 of Division 2 of the Insurance Code,
but AB 748 (Ting) did not correct that cross-reference. As the Commission previously directed, the
staff made the correction in the provision that would continue existing Section 6254(y)(5)
(proposed Section 7926.230(e)). The accompanying Comment explains this revision. The staff will
also add it to the list of corrected cross-references at the end of the Commission’s proposed recodification.

§ 7926.235. Records of Managed Risk Medical Insurance Board relating to Small Employer Health Insurance

7926.235. (a) Except as provided in Sections [6254.13], 7924.510, and 7924.700, this division does not require disclosure of records of the Managed Risk Medical Insurance Board that relate to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(b) Except for the portion that contains the rates of payment, a contract for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after it has been fully executed.

(c)(1) Notwithstanding any other law, the entire contract or amendment to a contract shall be open to inspection by the Joint Legislative Audit Committee.

(2) The committee shall maintain the confidentiality of each contract or amendment until the contract or amendment is open to inspection pursuant to subdivision (b).

Comment. Subdivision (a) of Section 7926.235 continues former Section 6254(w)(1) without substantive change.

Subdivision (b) continues former Section 6254(w)(2) without substantive change.

Subdivision (c) continues former Section 6254(w)(3) without substantive change.

Article 4. In-Home Supportive Services and Personal Care Services

§ 7926.300. Information regarding persons paid by state to provide in-home supportive services or personal care services

7926.300. (a) Notwithstanding any other provision of this division, information regarding persons paid by the state to provide in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code or personal care services pursuant to Section 14132.95, 14132.952, 14132.956, or 14132.97 of the Welfare and Institutions Code, is not subject to public disclosure pursuant to this division, except as provided in subdivision (b).

(b) Copies of names, addresses, home telephone numbers, personal cellular telephone numbers, and personal email addresses of persons described in subdivision (a) shall be made available, upon request, to an exclusive bargaining agent and to any labor organization seeking representation rights pursuant to subdivision (c) of Section 12301.6, or Section 12302.5, of the Welfare and Institutions Code or Chapter 10 (commencing with Section 3500) of Division 4 of
Title 1. This information shall not be used by the receiving entity for any purpose other than the employee organizing, representation, and assistance activities of the labor organization.

(c) This section applies solely to individuals who provide services under the In-Home Supportive Services Program (Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code) or the Personal Care Services Program pursuant to Section 14132.95 of the Welfare and Institutions Code, the In-Home Supportive Services Plus Option Program pursuant to Section 14132.952 of the Welfare and Institutions Code, the Community First Choice Option Program pursuant to Section 14132.956 of the Welfare and Institutions Code, or the Waiver Personal Care Services Program pursuant to Section 14132.97 of the Welfare and Institutions Code.

(d) This section does not alter the rights of parties under the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4) or any other labor relations law.

Comment. Section 7926.300 continues former Section 6253.2 without substantive change. An erroneous cross-reference to Section 12302.25 (instead of Section 12302.5) of the Welfare and Institutions Code has been corrected.

See Section 7920.515 (“person”).

Staff Note. Proposed Section 7926.300 incorporates revisions to subdivisions (a), (c), and (d) of existing Section 6253.2 that were made by 2018 Cal. Stat. ch. 35, § 4 (AB 1811 (Committee on Budget)), an urgency measure.

Proposed Section 7926.300 also incorporates a cross-reference correction (replacement of “12302.25” with “12302.5”) that was made by 2018 Cal. Stat. ch. 92, § 87 (SB 1289 (Committee on Judiciary) (maintenance of the codes)). That cross-reference correction will not go into effect because it is subordinate to the revisions made by AB 1811. See 2018 Cal. Stat. ch. 92, § 246 (subordination clause); Gov’t Code § 9605 (bill conflict rules).

Although SB 1289’s cross-reference correction will not become law, the correction should still be made. Proposed Section 7926.300 would accomplish as much.

Unless the Commission otherwise directs, the staff will add this correction to the list of corrected cross-references at the end of the Commission’s proposed recodification. If the correction is successfully made by another bill before the Commission’s proposal is introduced, we will adjust the Commission’s proposal accordingly.

Article 5. Reproductive Health Services Facility

§ 7926.400. Definitions

7926.400. For purposes of this article, the following terms have the following meanings:

(a) “Contractor” means an individual or entity that contracts with a reproductive health services facility for services related to patient care.

(b) “Personal information” means any of the following information related to an individual that is maintained by a public agency:

(1) Social security number.

(2) Physical description.
(3) Home address.
(4) Home telephone number.
(5) Statements of personal worth or personal financial data filed pursuant to Section 7925.005.
(6) Personal medical history.
(7) Employment history.
(8) Electronic mail address.
(9) Information that reveals any electronic network location or identity.
(c) “Public agency” means all of the following:
(1) The Department of Consumer Affairs.
(2) The Department of Managed Health Care.
(3) The State Department of Health Care Services.
(4) The State Department of Public Health.
(d) “Reproductive health services facility” means the office of a licensed physician and surgeon whose specialty is family practice, obstetrics, or gynecology, or a licensed clinic, where at least 50 percent of the patients of the physician or the clinic are provided with family planning or abortion services.

Comment. Subdivision (a) of Section 7926.400 continues former Section 6254.18(b)(1) without substantive change.
Subdivision (b) continues former Section 6254.18(b)(2) without substantive change.
Subdivision (c) continues former Section 6254.18(b)(3) without substantive change. For another definition of “public agency,” see Section 7920.520(a).
Subdivision (d) continues former Section 6254.18(b)(4) without substantive change.

Staff Notes.

(1) The definitions of “contractor,” “personal information,” “public agency,” and “reproductive health services facility” in existing Section 6254.18 apply only for purposes of that section. In recodifying those definitions, the Commission needs to decide whether to keep them in close proximity to the substantive material to which they pertain, or place them in “Chapter 2. Definitions.”

Three of the four definitions — “contractor,” “public agency,” and “reproductive health services facility” — are geared specifically to the context of reproductive health services. It seems unlikely that they would be used elsewhere in the CPRA in the future. There may not be much to gain from placing them in “Chapter 2. Definitions.” It is probably better to keep them in close proximity to the pertinent substantive material, where they are readily accessible to readers. Proposed Section 7926.400 follows that approach.

Section 6254.18’s definition of “personal information” is more generic than the other three definitions. It is conceivable that the Legislature might want to use the same definition elsewhere in the CPRA in the future. Nonetheless, proposed Section 7926.400 includes that definition. In the staff’s estimation, the potential benefits of keeping the definition in close proximity to the pertinent substantive material still outweigh the potential benefits of placing it in “Chapter 2. Definitions.”

Is the Commission comfortable with the proposed treatment of the four definitions in existing Section 6254.18? Would it be helpful to include a “signpost” provision in “Chapter 2. Definitions,” alerting readers to the definition of “personal information” in proposed Section 7926.400? Comments on these drafting issues would be helpful.

(2) In addition to Section 6254.18’s special definition of “public agency,” the CPRA includes another definition of “public agency,” which applies to the entire CPRA. See existing Section 6252(d).
That broadly applicable definition of “public agency” would be recodified in subdivision (a) of proposed Section 7920.520. As previously directed by the Commission, subdivision (b) of that section would be a “signpost” provision, alerting readers to the special definition of “public agency” in proposed Section 7926.400. See page 8 of the cumulative draft attached to Memorandum 2018-53.

Is the Commission still satisfied with that approach, now that we have drafted a provision that would continue Section 6254.18’s special definition of “public agency”? The staff thinks the signpost provision might be useful, given the two different definitions of “public agency” in the CPRA.

§ 7926.405. Personal information regarding employees or specified other persons associated with reproductive health services facility

7926.405. Nothing in this division requires disclosure of any personal information received, collected, or compiled by a public agency regarding the employees, volunteers, board members, owners, partners, officers, or contractors of a reproductive health services facility who have notified the public agency pursuant to Section 7926.415 if the personal information is contained in a document that relates to the facility.

Comment. Section 7926.405 continues former Section 6254.18(a) without substantive change. See Section 7926.400 (defining “contractor,” “personal information,” “public agency,” and “reproductive health services facility”). See also Sections 7926.410 (proceeding for access to employment history information), 7926.415 (notification requirement for individual), 7926.420 (duration of privacy protections), 7926.425 (notice of separation), and 7926.430 (disclosure of data regarding age, race, ethnicity, national origin, or gender, without individually identifiable information).

§ 7926.410. Proceeding for access to employment history information

7926.410. (a) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to obtain access to employment history information pursuant to Part 4 (commencing with Section 7923.000).

(b) If the court finds, based on the facts of a particular case, that the public interest served by disclosure of employment history information clearly outweighs the public interest served by not disclosing the information, the court shall order the officer or person charged with withholding the information to disclose employment history information or show cause why that officer or person should not do so pursuant to Chapter 2 (commencing with Section 7923.100) of Part 4.

Comment. Section 7926.410 continues former Section 6254.18(c) without substantive change. See Section 7920.515 (“person”).

§ 7926.415. Notification requirement for individual

7926.415. (a) In order for this article to apply to an individual who is an employee, volunteer, board member, officer, or contractor of a reproductive health services facility, the individual shall notify the public agency to which the individual’s personal information is being submitted or has been submitted that the individual falls within the application of this article.
(b) Notification pursuant to subdivision (a) is valid if it complies with all of the following:
   (1) It is on the official letterhead of the facility.
   (2) It is clearly separate from any other language present on the same page and is executed by a signature that serves no other purpose than to execute the notification.
   (3) It is signed and dated by both of the following:
      (A) The individual whose information is being submitted.
      (B) The executive officer of the reproductive health services facility or designee of the executive officer.

(c) A reproductive health services facility shall retain a copy of all notifications submitted pursuant to this article.

Comment. Subdivision (a) of Section 7926.415 continues the first sentence of former Section 6254.18(d) without substantive change.
Subdivision (b) continues the third sentence of former Section 6254.18(d) without substantive change.
Subdivision (c) continues the second sentence of former Section 6254.18(d) without substantive change.
See Section 7926.400 (defining “contractor,” “personal information,” “public agency,” and “reproductive health services facility”). See also Sections 7926.420 (duration of privacy protections) and 7926.425 (notice of separation).

§ 7926.420. Duration of privacy protections
7926.420. The privacy protections for personal information authorized pursuant to this article are effective from the time of notification pursuant to Section 7926.415 until either one of the following occurs:
(a) Six months after the date of separation from a reproductive health services facility for an individual who has served for not more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.
(b) One year after the date of separation from a reproductive health services facility for an individual who has served for more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.

Comment. Section 7926.420 continues former Section 6254.18(e) without substantive change.
See Section 7926.400 (defining “contractor,” “personal information,” and “reproductive health services facility”). See also Sections 7926.405 (personal information regarding employees or specified other persons associated with reproductive health services facility), 7926.410 (proceeding for access to employment history information), 7926.425 (notice of separation), and 7926.430 (disclosure of data regarding age, race, ethnicity, national origin, or gender, without individually identifiable information).

§ 7926.425. Notice of separation
7926.425. Within 90 days of separation of an employee, contractor, volunteer, board member, or officer of the reproductive health services facility who has provided notice to a public agency pursuant to Section 7926.415, the facility shall provide notice of the separation to the relevant agency or agencies.
**Comment.** Section 7926.425 continues former Section 6254.18(f) without substantive change. An erroneous cross-reference to former Section 6254.18(c) (instead of former Section 6254.18(d)) has been corrected.

See Section 7926.400 (defining “contractor,” “public agency,” and “reproductive health services facility”). See also Section 7926.420 (duration of privacy protections).

**Staff Note.** Existing Section 6254.18(f) says: “Within 90 days of separation of an employee, contractor, volunteer, board member, or officer of the reproductive health services facility who has provided notice to a public agency pursuant to subdivision (c), the facility shall provide notice of the separation to the relevant agency or agencies.” (Emphasis added.) The notification requirement is currently located in subdivision (d), not in subdivision (c).

As noted in the Comment, proposed Section 7926.425 would correct this erroneous cross-reference. Unless the Commission otherwise directs, the staff will add this correction to the list of corrected cross-references at the end of the Commission’s proposed recodification.

§ 7926.430. Disclosure of data regarding age, race, ethnicity, national origin, or gender, without individually identifiable information

7926.430. Nothing in this article prevents a government agency from disclosing data regarding the age, race, ethnicity, national origin, or gender of individuals whose personal information is protected pursuant to this article, so long as the data contains no individually identifiable information.

**Comment.** Section 7926.430 continues former Section 6254.18(g) without substantive change. See Section 7926.400 (defining “personal information”).

Article 6. Web Sites and Related Matters

§ 7926.500. Implementation of CPRA by health care district

7926.500. In implementing this division, each health care district shall maintain an Internet Web site in accordance with subdivision (b) of Section 32139 of the Health and Safety Code.

**Comment.** Section 7926.500 continues former Section 6270.7 without substantive change.

**Staff Note.** Section 6270.7 was just added to the codes by 2018 Cal. Stat. ch. 257, § 1 (AB 2019 (Aguiar-Curry)). Because it is new, it is not included in the Commission’s tentative outline (see Memorandum 2018-23).

The substance of Section 6270.7 seems to fit best in this chapter entitled “Health Care.” If anyone thinks it should go elsewhere, please notify the Commission.
### DISPOSITION OF FORMER LAW

**Note.** This table shows the proposed disposition of the following provisions of the California Public Records Act (Gov’t Code §§ 6250-6276.48). Unless otherwise indicated, all statutory references are to the Government Code.

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# Derivation of New Law

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