

1 Adopt 17 Cal. Code of Regs. section 100310 to read:

2 **§ 100310. March-In Rights.**

3 (a) With regard to CIRM-funded patented inventions, CIRM shall have the right to
4 require the grantee organization, or exclusive licensee of a CIRM-funded invention, to grant a
5 nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible
6 applicant or applicants, upon terms that are reasonable under the circumstances, and if the
7 grantee organization, or exclusive licensee refuses such request, to grant such a license itself, if
8 the CIRM determines that such an action is required:

9 (1) Because the grantee organization or the licensee has not made responsible efforts in a
10 reasonable time to achieve practical application of a CIRM-funded patented invention;

11 (2) Because the licensee has failed to adhere to the agreed-upon plan for access to
12 resultant therapies as described in subdivision (d) of Code of California Regulations, Title 17,
13 section 100306;

14 (3) To meet requirements for public use and the requirements have not been satisfied by
15 the grantee organization or its licensee;

16 (4) To alleviate public health and safety needs which are not reasonably satisfied by the
17 grantee organization or its licensee and which needs constitute a public health emergency.

18 (b) CIRM will give to the grantee or licensee notice of such determination and the basis
19 on which it was made. CIRM will not exercise its rights described above if the grantee or
20 licensee takes diligent action promptly to cure the deficiency and such deficiency is cured sooner
21 than one year from receipt of notice (or longer period by mutual agreement). With respect to a
22 deficiency described in subdivision (a)(4) of this regulation, CIRM may exercise such right at
23 any time in the event of a public health or safety emergency.

- 1 Note: Authority cited: Article XXXV, California Constitution; Section 125290.40(j), Health and
- 2 Safety Code. Reference: Section 125290.30, Health and Safety Code.