

**State of California
Office of Administrative Law**

In re:
Department of Health Care Access and
Information

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections: 95100, 95101, 95102,
95103, 95104, 95105,
95106, 95107, 95108,
95109, 95110, 95111,
95112, 95113, 9514, 95115

Amend sections:

Repeal sections:

NOTICE OF WITHDRAWAL

Government Code Section 11349.3(c)

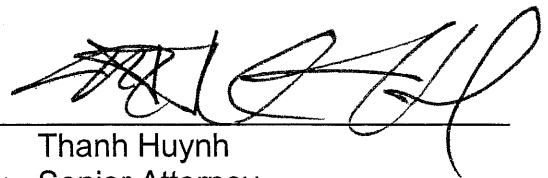
OAL Matter Number: 2024-1101-03

OAL Matter Type: Regular (S)

This notice confirms that your proposed regulatory action regarding Hospital Community Benefits Plan Report was withdrawn from OAL review pursuant to Government Code section 11349.3(c). We will retain the rulemaking record you submitted in the event that you resubmit this regulatory action prior to the expiration of the one-year notice period.

Please contact me at (916) 323-6824 or thanh.huynh@oal.ca.gov, or the OAL Reference Attorney at (916) 323-6815, if you have any questions about the resubmittal process. You may request the return of your rulemaking record by contacting the OAL Front Desk at (916) 323-6225.

Date: December 18, 2024



Thanh Huynh
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Elizabeth Landsberg, Director
Copy:

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2024-1101-03	S

For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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OFFICE OF ADMIN. LAW
2024 NOV 1 PM 4:59

WITHDRAWN

AGENCY WITH RULEMAKING AUTHORITY
Department of Health Care Access and Information

AGENCY FILE NUMBER (If any)

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)
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2024, 16-2	PUBLICATION DATE 4/9/24

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Hospital Community Benefits Plan Report	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2024-0408-03
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 95100, 95101, 95102, 95103, 95104, 95105, 95106, 95107, 95108, 95109, 95110, 95111, cont'd
TITLE(S) 22	AMEND REPEAL

3. TYPE OF FILING					
<input checked="" 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 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)
15-Day Comment Period: August 26 - September 11, 2024

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 checked="" type="checkbox"/> Effective on filing with Secretary of State	<input 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 checked="" 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 Alma Lopez	TELEPHONE NUMBER (916) 326-3908	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) alma.lopez@hcai.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.

For use by Office of Administrative Law (OAL) only

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Elizabeth Landsberg</i>	DATE 10/30/2024
TYPED NAME AND TITLE OF SIGNATORY Elizabeth A Landsberg	

WITHDRAWN

Adopt:

Sections 95112, 95113, 95114, and 95115

PROPOSED REGULATIONS
CALIFORNIA CODE OF REGULATIONS

Title 22, Division 7

Chapter 8.2 Hospital Community Benefits Plan Reports (New Chapter is Added)

Article 1: General

§ 95100. Definitions

For the purpose of this chapter, the following definitions apply:

- (a) "Broader Community" means groups or communities not specifically identified as vulnerable populations. This may include groups or communities where vulnerable populations cannot be identified or the activity is not specifically directed towards vulnerable populations.
- (b) Community benefits activity categories:
 - (1) "Cash contributions" means contributions made by the organization to health care organizations and other community groups restricted, in writing, to one or more of the community benefit activities. "Cash contributions" does not mean any payments that the organization makes in exchange for a service, facility, or product, or that the organization makes primarily to obtain an economic or physical benefit.
 - (2) "Charity Care" as defined in Health and Safety Code section 127345 (a).
 - (3) "Community benefit operations" means activities associated with conducting community health needs assessments, community benefit program administration, and the organization's activities associated with fundraising or grant writing for community benefit programs. "Community benefit operations" does not mean the activities or programs provided primarily for marketing purposes or if they are more beneficial to the organization than to the community.
 - (4) "Community health improvement services" means activities or programs subsidized by the health care organization and carried out or supported for the express purpose of improving community health. Such services don't generate inpatient or outpatient revenue, although there may be a nominal patient fee or sliding scale fee for these services.
 - (5) "Health Professions Education" means educational programs that result in a degree, a certificate, or training necessary to be licensed to practice as a health professional, as required by state law, or continuing education necessary to retain state license or certification by a board in the individual's health profession

specialty. It doesn't include education or training programs available exclusively to the organization's employees and medical staff or scholarships provided to those individuals. It does include education programs if the primary purpose of such programs is to educate health professionals in the broader community. Costs for medical residents and interns can be included, even if they are considered "employees" for purposes of Form W-2, Wage and Tax Statement.

- (6) "In-kind contributions" means contributions made by the organization to health care organizations and other community groups restricted, in writing, to one or more of the community benefit activities. These include the cost of staff hours donated by the organization to the community while on the organization's payroll, indirect cost of space donated to tax-exempt community groups (such as for meetings), and the financial value (generally measured at cost) of donated food, equipment, and supplies. "In-kind contributions" does not include payments that the organization makes in exchange for a service, facility, or product, or that the organization makes primarily to obtain an economic or physical benefit.
 - (7) "Means-tested government program" means a government health program for which eligibility depends on the recipient's income or asset level.
 - (8) "Other Community Benefits" means any activity, program and/or contribution that meets the definition of Community Benefit and is not already reported under Charity Care, Medi-Cal, Medicare, Other Means-Tested, Community Health Improvement, Community Benefit Operations, Health Professions Education, Subsidized Health Services, Research, Cash, and In-kind contributions.
 - (9) "Research" means any study or investigation the goal of which is to generate increased generalizable knowledge made available to the public. "Research" does not mean direct or indirect costs of research funded by an individual or an organization that isn't a tax-exempt or government entity.
 - (10) "Subsidized Health Services" means clinical services provided despite a financial loss to the organization. The financial loss is measured after removing losses associated with bad debt, financial assistance, Medi-Cal, and other means-tested government programs. Losses attributable to these items are not included when determining the value of subsidized health services.
- (c) "Community Benefits Plan" as defined in Health and Safety Code section 127345 (b).
- (d) "Department" means the Department of Health Care Access and Information.
- (e) "Director" means the Director of the Department of Health Care Access and Information, as described in Health and Safety Code section 127005.
- (f) "Hospital" as defined in in Health and Safety Code section 127345 (g).

- (g) "Hospital system" means two or more hospitals licensed under subdivision (a), (b), or (f) of Health and Safety Code section 1250 that are owned, sponsored, or managed by the same organization.
- (h) "Net Community Benefit Expense" means a hospital's total expenses less direct offsetting revenue for the purpose of administering community benefit programs and activities.
- (i) "Private not-for-profit" means health facility licensee type of control as determined by California Department of Public Health to be a nonprofit corporation.
- (j) "Report Period" means the time frame for reporting that begins on the first day of the hospital's fiscal year and ends on the last day of the fiscal year. A reporting period may be less than one year due to changes in the hospital's fiscal year-end or ownership.
- (k) "Vulnerable populations" as defined in Health and Safety Code section 127345 (i).

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127345, 127350 and 127355, Health and Safety Code.

§ 95101. Hospital Contact Information and Registration

- (a) Each hospital must designate a primary contact person for the purpose of receiving compliance and informational communications and to submit the required report.
- (b) A primary contact person must register on the Department's website using the online report submission portal at hdc.hcai.ca.gov. Upon registration, each contact person must provide the following information:
 - (1) The legal name of the hospital(s).
 - (2) The name of a contact person designated to receive notices.
 - (3) The business title of the designated contact person.
 - (4) A business address.
 - (5) A business email address.
 - (6) A business phone number.
- (c) Each hospital shall provide updates through the online submission portal of any changes to the primary contact person described in paragraph (a) and any information in paragraph (b) within 15 days.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127350 and 127355, Health and Safety Code

Article 2: Community Benefits Plan Report Requirements

§ 95102. Community Benefits Plan

- (a) Each hospital shall submit their Community Benefits Plan with the Department. Community Benefits Plan shall comply with the following requirements:
- (1) Each Community Benefits Plan shall be submitted by uploading Portable Document Format (.pdf) file.
 - (2) Documents submitted should not be scanned versions or images of paper documents. Documents shall be submitted in machine-readable format.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127345, 127350 and 127355, Health and Safety Code

§ 95103. Community Benefits Report

- (a) The following information shall be included with each Community Benefits Report submission:
- (1) Hospital name
 - (2) Hospital HCAI ID
 - (3) Report Period Start Date
 - (4) Report Period End Date
 - (5) The web address where the Community Benefits Plan is published on the hospital's website.
 - (6) The hospital's engagement activities and publication with regards to Community Health Needs Assessment (CHNA), including:
 - (A) The year the hospital last conducted a CHNA.
 - (B) What community groups attended or engaged in the most recent CHNA process? Identify the vulnerable populations represented by these community groups.
 - (C) Does the hospital make the CHNA report widely available to the public?
 - (D) How does the hospital make the CHNA report available to the public?
 - (E) The web address where the CHNA is publicly accessible.
 - (7) The hospital's net community benefit expenses for services to vulnerable populations, with each category aggregated separately. For the purpose of this

requirement, reports shall include total dollar amounts for each of the following categories:

- (A) Charity Care
- (B) Medi-Cal
- (C) Other Means-Tested Government Program
- (D) Vulnerable Populations - Community Health Improvement Services
- (E) Vulnerable Populations - Community Benefit Operations
- (F) Vulnerable Populations - Health Professions Education
- (G) Vulnerable Populations - Subsidized Health Services
- (H) Vulnerable Populations - Research
- (I) Vulnerable Populations - Cash and In-Kind Contributions for Community Benefit
- (J) Vulnerable Populations - Other Community Benefits
- (K) Medicare

(8) The hospital's net community benefit expenses for services to the broader community, with each category aggregated separately. For the purpose of this requirement, reports shall include total dollar amounts for each of the following categories:

- (A) Broader Community - Community Health Improvement Services
- (B) Broader Community - Community Benefit Operations
- (C) Broader Community - Health Professions Education
- (D) Broader Community - Subsidized Health Services
- (E) Broader Community - Research
- (F) Broader Community - Cash and In-Kind Contributions for Community Benefit
- (G) Broader Community - Other Community Benefits

(9) Other relevant information to the hospital's community benefit plan not otherwise captured.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127345, 127350 and 127355, Health and Safety Code

§ 95104. Due Dates

(a) For fiscal year-end occurring on or after January 1, 2025, and all subsequent report periods, each hospital shall annually submit its report as described in sections 95102 through 95103 to the Department no later than 150 days after the hospital's fiscal year-end date.

- (b) If the Department determines that the Department's online report submission portal at hdc.hcai.ca.gov was unavailable for data submission for one or more periods of four or more continuous supported hours during the four State working days before a due date established pursuant to this section, the Department shall extend the due date by seven days.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127350, Health and Safety Code

§ 95105. Extension Request

- (a) A hospital may request, and the Department may grant a 60-day extension to file the report.
- (b) A request for extension shall be filed on or before the required due date, specified in section 95104, by using the extension request screen available through the Department's website using the online report submission portal at hdc.hcai.ca.gov. Notices regarding the use of extensions days, and new due dates, as well as notices of approval and rejection, will be emailed to the registered contact person(s) provided.
- (c) The Department shall respond to an extension request with an email to the requestor that their 60-day extension has been approved or denied.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127346, Health and Safety Code

§ 95106 Consolidated License Reporting

- (a) Licensees operating and maintaining more than one physical plant on separate premises under a single consolidated license shall file a single community benefits plan report. A licensee who chooses to file separate community benefits plan reports for each location shall request, in writing, a modification to file separate reports for each physical plant. A licensee granted a modification under this subdivision shall be responsible for all regulatory requirements for each separate report. Modifications will remain valid unless revoked or any further conflicting modifications are approved by the Department.
- (b) Separate extension requests, filed under the provisions of section 95105, shall be required for each report, and fines, assessed pursuant to section 95108, shall be assessed on each delinquent report.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127350, Health and Safety Code

§ 95107 Method of Submission

- (a) A report required under sections 95102 through 95103 shall be submitted to the Department through the Department's website using the online report submission portal at hdc.hcai.ca.gov.
- (b) A hospital shall submit the information as required in section 95103 and upload the hospital's community benefits plan as detailed in section 95102 in Portable Document File (.pdf) format. The document shall be in a machine-readable format in accordance with Government Code section 11546.7.
- (c) The report shall include a certification statement, wherein the registered contact person, under penalty of perjury, is duly authorized to certify this report; and that the data and information contained within the report is true, correct, and complete as required by Health and Safety Code sections 127340-127360 and Article 2 of Chapter 8.2 of Division 7 of Title 22 of the California Code of Regulations.
- (d) A hospital which submits a report as required under section 95102 through 95103 may revise the report after the initial submission. The revision shall be submitted to the Department through the Department's website using the online report submission portal at hdc.hcai.ca.gov. Revisions are permitted for a period not exceeding twenty-four (24) months after the report period end date.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127345, 127350 and 127355, Health and Safety Code

Article 3: Fines and Appeals

§ 95108 Fine for Late Filing of Reports

- (a) A hospital that fails to submit a report as required by sections 95102 through 95103 by the due date established by section 95104, considering an approved extension of due date as provided in section 95105, is liable for a fine of one hundred (\$100) for each day that the required report is not filed.
- (b) If the report is delinquent 120 days after the due date as required by section 95104, the Department, on an annual basis, shall determine the maximum fine of no more than five-thousand dollars (\$5,000) for failure to file a required report.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127346, Health and Safety Code

§ 95109 Fine Assessment

- (a) When a report required by sections 95102 through 95103 is filed after the due date specified in section 95104, the Department will notify the hospital of the accrued fine. The notice shall be provided by email to the authorized individual identified by the hospital under subdivision (b)(2) of section 95101.
- (b) When a hospital receives an extension of the report specified in section 95105 after the due date, the Department will notify the hospital of accrued fine. The notice shall be provided by email to the authorized individual identified by the hospital under subdivision (b)(2) of section 95101.
- (c) The Department will calculate the accrued fine pursuant to section 95108.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127346, Health and Safety Code

§ 95110 Filing an Appeal

- (a) A hospital that has received notice of an accrued fine under section 95109 may appeal the fine assessment by filing a written request for hearing no later than 30 days from the date of the notice in accordance with section 95111. The request shall be filed with the Department's Hearing Officer.
- (b) The request for hearing shall include the following:
 - (1) The name of the hospital.
 - (2) The name of the authorized representative of the hospital and contact information for that representative.
 - (3) The date of the fine assessment notice.
 - (4) A statement of the basis for the appeal.
 - (5) A copy of the fine notice.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127346, Health and Safety Code

§ 95111 Hearing Officer Contact Information

(a) Hearing requests and other communications, including requests for consolidation, questions about the hearing schedule or process, and all documents and proposed exhibits, shall be addressed to the Hearing Officer either by mail or by email as follows:

(1) Mail shall be sent to the Hearing Officer at the Legal Office of the Department of Health Care Access and Information in Sacramento.

(2) Email shall be sent to the following email address: HearingOfficer@hcai.ca.gov.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127346, Health and Safety Code

§ 95112 Prehearing Provisions

- (a) The hospital and the Department will be notified of the hearing date and time at least 30 calendar days in advance.
- (b) The hospital and the Department shall provide copies of all proposed exhibits to the Hearing Officer and to the other party no later than 10 calendar days prior to the hearing date.
- (c) Request to Change Hearing Date. Either party may request a change of hearing date, if necessary. Requests for rescheduling must be submitted to the Hearing Officer at least 10 business days before the scheduled hearing. Requests for rescheduling must be based upon good cause, as determined by the Hearing Officer, and will only be granted if the change would not prejudice the other party.
- (d) Request to Change Hearing Method. All hearings will be held in Sacramento at the business location of the Department; however, the Hearing Officer may schedule a hearing to be conducted by telephone or other electronic means. If so, either party may object; upon receipt of such an objection, the Hearing Officer will schedule an in-person hearing in Sacramento. If the Hearing Officer does not initially plan to conduct a hearing by telephone or other electronic means, either party may so request; if the hospital and the Department consent, the Hearing Officer may, but is not required to, conduct the hearing by telephone or other electronic means. The hospital and the Department will be notified of the Hearing Officer's decision.
- (e) Request for Consolidation. The Hearing Officer may, on their own determination or upon written request of one of the parties, consolidate for hearing or decision any number of appeals when the facts and circumstances are similar and no substantial right of any party will be prejudiced. The Hearing Officer shall notify both the hospital and the Department if consolidation is occurring. Within five days of

receiving the notice of hearing, either party may request consolidation by filing a request with the Hearing Officer containing the following information:

- (1) Identification of the appeals to be consolidated.
 - (2) A statement of the basis for consolidation.
- (f) Request for Interpreter. If a party or a witness of a party does not speak English proficiently, that party may request language assistance and the Department will provide an interpreter. Such a request must be received by the Hearing Officer at least 10 business days before the hearing.
- (g) Request for Court Reporter. Hearings will be recorded electronically; however, either party may provide a court reporter at that party's expense. If a party chooses to provide a court reporter, that party shall notify the Hearing Officer in advance and make all necessary arrangements. The original of the transcript shall be provided directly to the Department. The non-appearance of a court reporter will not be considered adequate grounds for cancelling or rescheduling a hearing.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127346, Health and Safety Code

§ 95113 Conduct of Hearing

- (a) The hearing shall be conducted by an employee of the Department appointed by the Director of the Department to serve as Hearing Officer.
- (b) The hearing shall be conducted in person in Sacramento or by telephone or other electronic means as determined by the Hearing Officer, as specified in Section 95112.
- (c) The hearing shall not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.
- (d) All testimony at the hearing shall be taken under oath or affirmation.
- (e) The hearing shall be recorded by electronic means unless one party has chosen to provide a court reporter at their own expense as specified in Section 95112. A court reporter shall provide the original of the transcript directly to the Hearing Officer.
- (f) The hearing shall be open to the public.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127346, Health and Safety Code

§ 95114 Settlement

- (a) If a settlement is reached between the parties prior to the hearing, the Department shall notify the Hearing Officer and no hearing shall be held.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127346, Health and Safety Code

§ 95115 Decision

- (a) The Department may reduce or waive the fine due to good cause based on a thorough assessment of the evidence and documentation provided by the appellant party.
- (b) The Hearing Officer shall prepare a recommended decision for the Director of the Department; the recommended decision shall be in writing and shall include findings of fact and conclusions of law.
- (c) The Director of the Department may either adopt or reject the proposed decision. If the Director does not adopt the proposed decision as presented, the Director will independently prepare a decision based upon the hearing record; the Director may adopt factual findings of the Hearing Officer.
- (d) The decision of the Director shall be in writing and shall be final.

Note: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127346, Health and Safety Code