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BEFORE THE  
THE DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION  
STATE OF CALIFORNIA

In the Matter of the Penalties Issued to:

HCAI No. 25-008C-LTC

**AGAPE CONGREGATE LIVING,  
LLC; OPTIMUM CARE IE, LLC;  
AND ARF-TBI, LLC;**  
Appellants.

**DECISION**

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This is the decision of the California Department of Health Care Access and Information (HCAI) regarding three related penalties of \$100 which were assessed on or about May 12, 2025. Respondent, HCAI’s penalty program staff, assessed the first penalty against Appellant Agape Congregate Living, LLC regarding its facility, Agape Congregate Living; the second against Appellant Optimum Care IE, LLC regarding its facility, Optimum Care IE; and the third against Appellant ARF-TBI, LLC regarding its facility, Optimum Care.<sup>1</sup> The penalties were all assessed on or about May 12, 2025 because each facility failed to file their Long-Term Care (LTC) Annual Disclosure Reports by the deadline and the day after the deadline, requested extensions to file the required reports.

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After reviewing the record, HCAI determines that good cause was not established to reduce or waive the penalties to Appellants. For this reason, each penalty of \$100 is upheld.

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<sup>1</sup> Facility and Facility Owner information is available from the California Department of Public Health (CDPH), which regulates these facilities, at CDPH’s “Cal Health Find Database,” at <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx>, last accessed on 9/18/2025.

1 **I.**

2 **PENALTY AND APPEAL BACKGROUND**

3 Appellants are the owners of the above named licensed Congregate Living Health Facilities.  
4 It appears that HCAI consolidated the appeals for the three Appellants because although separate  
5 entities and facilities, each Appellant has the same facility administrator and facility representative,  
6 and all three appeals have the same factual basis. (Appellants' Requests for Administrative Hearing,  
7 dated June 9, 2025.)

8 For their respective Congregate Living Health Facilities, Appellants are required to file an  
9 LTC Annual Disclosure Report with HCAI under Health and Safety Code section 128735 and  
10 California Code of Regulations (CCR), title 22, section 97040. Such annual reports must be filed  
11 within four months after the facility's fiscal year under Health and Safety Code section 128755(b).  
12 However, Appellants were eligible to receive up to 90 days of extension from this deadline if they  
13 requested extensions with HCAI under CCR, title 22, section 97051.

14 For Appellants, the deadline to file their 2024 LTC Annual Financial Reports was April 30,  
15 2025 because their fiscal years ended on December 31, 2024. (Respondent's Exhibits 1 to 3,  
16 "SIERA Report Reminders"; and Respondent's Exhibit 5, HCAI Notices of Penalty to Appellants.)  
17 Appellants did not file the reports by this deadline. However, on May 1, 2025, Appellants requested  
18 extensions and Respondent, on the same day, granted 90-day extensions for Appellants.  
19 (Respondent's Exhibits 4, Emails Between Appellant and Respondent on May 1, 2025.)

20 There is a penalty of \$100 a day for each day the annual report is late "considering all  
21 approved extensions". (CCR, title 22, section 97045; *see* Health and Safety Code section 128770(a)  
22 [no penalty if "an extension is granted in accordance" with HCAI's regulations].) Since Appellants  
23 did not file by the deadline and requested and was approved for an extension a day after the  
24 deadline, Respondent assessed penalties of \$100 to each Appellant. (Respondent's Exhibit 5.)

25 Pursuant to Health and Safety Code section 128775 and CCR, title 22, section 97052(a),  
26 Appellants appealed these penalties to HCAI. (Appellants' Requests for Administrative Hearing,  
27 dated June 9, 2025.)

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**II.**

**PROCEDURAL HISTORY**

On July 23, 2025, a hearing was held regarding the penalties. At the hearing, Appellants were represented by Shelly Yamashiro. Respondent was represented by HCAI’s employees, Ty Christensen and Tina Tran.

On August 28, 2025, HCAI Hearing Officer, Michelle Church-Reeves, issued the Proposed Decision in this matter upholding the penalties.

On September 4, 2025, as the HCAI Director’s delegate, I issued a Notice of Rejection of the Proposed Decision, partially rejecting the August 28, 2025 Proposed Decision. I gave the parties until the end of September 17, 2025 to present written arguments about the rejection as required by California Code of Regulations, title 22, section 97054(c)(1). As of the date of this Decision, HCAI has not received any written arguments.

**IV.**

**ISSUES AND ANALYSIS**

There are two main issues in this matter. First, HCAI raised an affirmative defense that Appellants filed their appeals late and thus were precluded from challenging the penalties. Second, whether there was good cause to reduce or waive the penalties. The Proposed Decision concluded that Appellants filed their appeals late and thus, were precluded from challenging the penalties. Alternatively, the Proposed Decision also concluded that Appellants did not establish good cause for requesting extensions after the report filing deadline, and thus, upheld the penalties. In this decision, HCAI determines that Respondent did not establish the affirmative defense, but regardless, Appellants did not establish good cause to reduce or waive the penalties.

**A. Issue No. 1: Late Appeal Affirmative Defense**

HCAI raised the affirmative defense that Appellants filed their penalty appeals late and thus, were precluded from administratively challenging the penalties. (Hearing Recording, at 4:50, Statements from Ty Christensen; *see* HCAI Hearing Office’s Letter to Appellants, dated June 16, 2025 [“Scheduling Notice”], p. 2.)

Under California Code of Regulations, title 22, section 97052(a), an appellant must file their

1 appeal with HCAI “within 15 business days after the date the [penalty notice] is *received* by the  
2 health facility....” (Emphasis added.) If an appellant does not file an appeal within this time period,  
3 Respondent may raise this as an affirmative defense. (*See Pollock v. Tri-Modal Distribution*  
4 *Services, Inc.* (2021) 11 Cal.5th 918, 945 [stating that statute of limitations are affirmative  
5 defenses].) Respondent has the burden of proof to establish this affirmative defense. (*Id.*) Thus,  
6 Respondent must provide evidence establishing when Appellant received the penalty notice—i.e.,  
7 when Appellant came into possession of the penalty notice.

8 Respondent presented evidence that the penalty notices to Appellants were delivered to the  
9 “front door” on May 14, 2025. (Respondent’s Exhibit 6, “GLS Delivery Notification”.) However,  
10 Respondent did not provide evidence establishing when Appellants “received” the penalty notices,  
11 the event that triggers the time to appeal per CCR, title 22, section 97052(a). The Proposed Decision  
12 “presumed” that the penalty notices were received on the same day they were delivered, but there  
13 was no basis to presume this.<sup>2</sup> (Proposed Decision, p. 3, “Factual Findings,” para. 5.)

14 Since it is unknown when Appellants received the penalty notices<sup>3</sup>, Respondent did not  
15 establish that Appellants filed their appeals late and thus, Appellants were not precluded from  
16 administratively challenging the penalties.

17 **B. Issue No. 2: Whether Good Cause Exists to Reduce or Waive the Penalties**

18 Per Health and Safety Code section 128770(c), HCAI may reduce or waive the penalty  
19 against Appellant “for good cause.” “Good cause” is just “a good reason for a party's failure to  
20 perform that specific requirement from which he seeks to be excused.” (*Waters v. Superior Court of*  
21 *Los Angeles County* (1962) 58 Cal.2d 885, 893.) “In determining the meaning of ‘good cause’ in a  
22 particular context, the courts utilize common sense based upon the totality of the circumstances.”  
23 (*Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.)

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25 <sup>2</sup> HCAI could have enacted a regulation stating that the time period to file an appeal started  
26 upon delivery to the physical address or the date of the penalty notice or upon mailing, but instead  
27 stated the time period to file started when the notice was “received”. For instance, for another HCAI  
28 program, the Prescription Drug Cost Transparency Program, the time period to file a penalty appeal  
starts “from the date of the [penalty] notice.” (CCR, title 22, section 96082(a).)

<sup>3</sup> The Proposed Decision concluded the same when it stated, “[T]he substantiated facts do  
prove that a representative for Appellant was in possession of the Notices of Penalty on an  
undetermined date prior to June 4, 2025.” (Proposed Decision, p. 5-6, “Discussion and Legal  
Conclusions”, para. 4.)

1 Appellants' representative, Shelly Yamashiro, testified that she files the annual reports for  
2 the three facilities at issue in this matter and that she generally files extensions for the reports every  
3 year. (Hearing Recording, at 12:26, Testimony of Shelly Yamashiro.) But in 2025, she stated,  
4 "[T]he day just went by so fast that I forgot to put in a request for an extension that week, the last  
5 week of April." (*Id.*)

6 Appellants' representative just forgetting to file extensions for the annual reports is not a  
7 good reason to reduce or waive the penalties. She could easily have filed the extensions earlier and  
8 within the deadlines established by regulation. This is especially the case because Yamashiro was  
9 experienced in filing extensions and because Respondent sent several reminders to her noting that  
10 she could request extensions. On April 5, 2025; April 20, 2025; and April 29, 2025; Respondent  
11 sent email reminders to Yamashiro's email about the deadline to file the annual reports which also  
12 noted that she could request extensions. (Respondent's Exhibits 1 to 3.)

13 For these reasons, Appellants did not establish good cause to reduce or waive the assessed  
14 penalties.

15 **V.**

16 **ORDER**

17 For the reasons discussed above, HCAI orders the following:

- 18 1. For Appellant Agape Congregate Living, LLC regarding its facility, Agape Congregate  
19 Living, HCAI upholds the \$100 penalty assessed on or about May 12, 2025;
- 20 2. For Appellant Optimum Care IE, LLC regarding its facility, Optimum Care IE, HCAI  
21 upholds the \$100 penalty assessed on or about May 12, 2025; and
- 22 3. For Appellant ARF-TBI, LLC regarding its facility, Optimum Care, HCAI upholds the  
23 \$100 penalty assessed on or about May 12, 2025.

24 Dated: September 19, 2025

IT IS SO ORDERED.

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JAMES YI, Attorney IV

FOR ELIZABETH A. LANDSBERG, Director

Department of Health Care Access and Information