OHCA

Office of Health Care Affordability

Department of Health Care Access and Information

Health Care Affordability Board Meeting

August 26, 2025

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Welcome, Call to Order, and Roll Call

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Agenda

Item #1 **Welcome, Call to Order, and Roll Call**
Secretary Kim Johnson, Chair

Item #2 **Executive Updates**
Elizabeth Landsberg, Director; Vishaal Pegany, Deputy Director

Item #3 **Action Consent Item**
Vote to Approve July 22, 2025 Meeting Minutes
Vishaal Pegany

Item #4 **Informational Items**
a) Discussion of Data Submission Enforcement, Continued
Vishaal Pegany; CJ Howard, Assistant Deputy Director

b) Discussion of Spending Target Enforcement – Assessing Performance
Vishaal Pegany; CJ Howard

Item #5 **General Public Comment**

Item #6 **Adjournment**

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Executive Updates

Elizabeth Landsberg, Director
Vishaal Pegany, Deputy Director

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What is the Rural Health Transformation Program?

As part of HR 1, the Rural Health Transformation Program (RHTP) invests $50 billion to improve health care in rural areas where access, workforce, and infrastructure gaps create unique challenges.

This program was designed to:

Improve rural health care access and sustainability	Improve health outcomes

Rural Health Transformation Goals

States must address the following goals in their proposals:

- Improving Access to Care
- Improving Health Care Outcomes
- Promoting Consumer Facing Technology Driven Solutions
- Strengthening Local Partnerships and Networks
- Expanding the Rural Health Workforce
- Advancing Data & Technological Innovation
- Support System Sustainability
- Identifying Specific Causes for Rural Hospital Closures

Rural Health Transformation Activities

States must identify at least 3 of the following activities within their proposals:

- Promoting evidence-based interventions to improve prevention/chronic disease management
- Providing payments to providers
- Promoting technology-driven solutions for prevention and management
- Providing training/TA for developing and adopting technology-enabled solutions that improve care delivery in rural hospitals
- Recruiting and retaining clinical staff to rural areas with a 5-year service obligation
- Providing TA, software, hardware for significant tech advances to improve efficiency, cybersecurity, patient outcomes
- Rightsizing health care delivery by identifying needed services, facilities, etc.
- Supporting access to opioid use/substance use disorder treatment
- Developing projects that support value-based care
- Additional uses “designed to promote sustainable access to high quality rural health care services” as determined by CMS

Stakeholder Engagement

The State Office of Rural Health will begin stakeholder outreach, including a webinar on September 4th and follow-up survey, and additional webinars/listening sessions at the end of September. We welcome your thoughts, ideas, and proposals.

Sign Up for our Rural Health Mailing List:
https://hcai.ca.gov/mailing-list/

Contact: State Office of Rural Health
CalSORH@hcai.ca.gov

Effects of Mergers on Prices and Quality

A July 2025 National Bureau of Economic Research Working Paper examined the effects of mergers between hospitals and physician practices on prices and quality for labor and delivery services. Using claims data from 2011-2016 for labor and delivery admissions, the authors found mergers of hospitals and obstetricians increase both hospital and physician prices. Specifically, two years post-integration, on average, hospital prices for labor and delivery increased by 3.3% and physician prices increased by 15.1%, with no evidence of quality improvements.

Figure 5: Event Study: Hospital Prices Around Hospital Integration Event

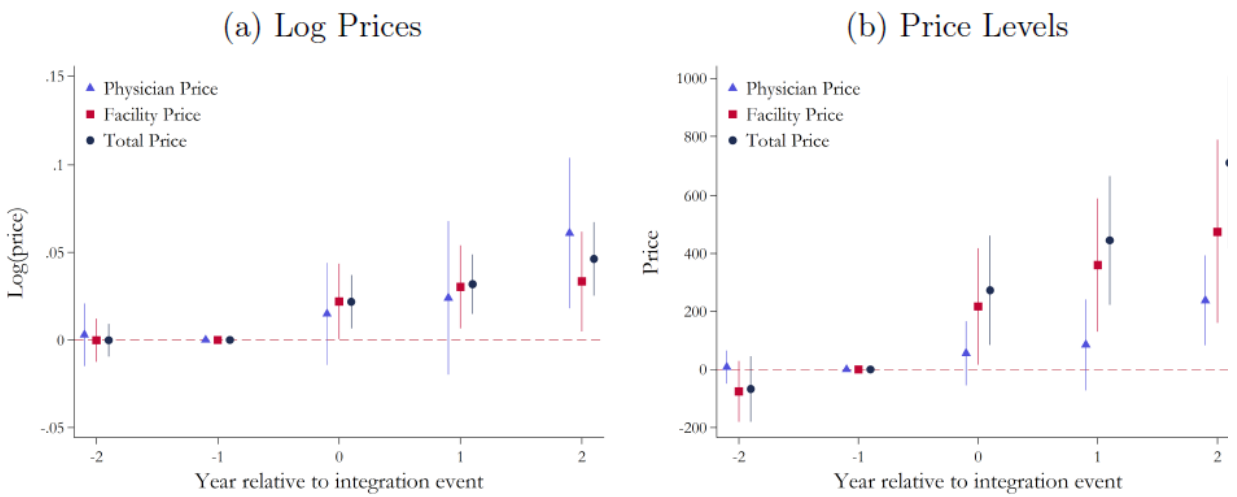
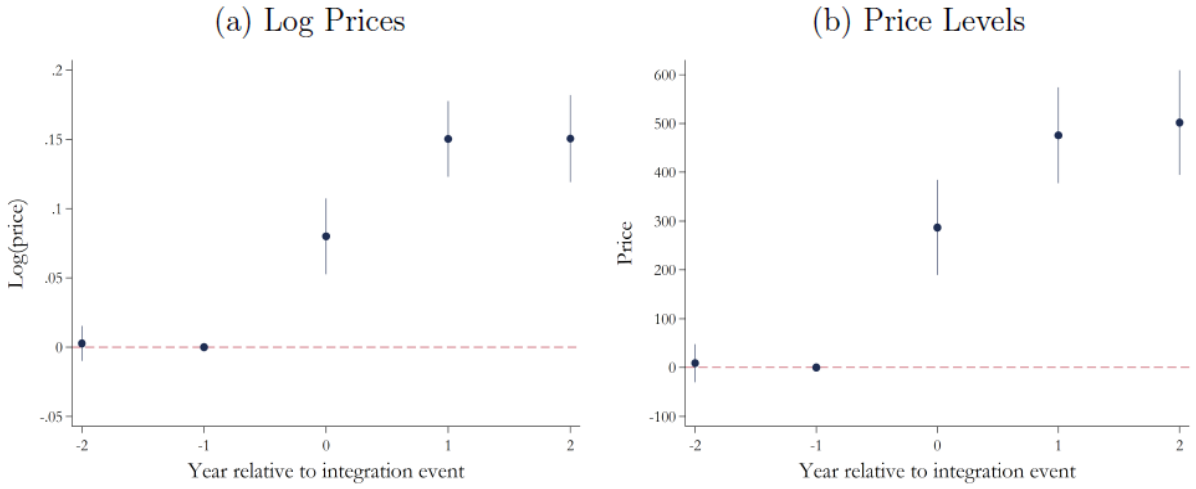


Figure 6: Event Study: Physician Prices Around Physician Integration Event



Source: Cooper, Z. et al. 2025. Are Hospital Acquisitions of Physician Practices Anticompetitive? Working Paper 34039. https://www.nber.org/papers/w34039

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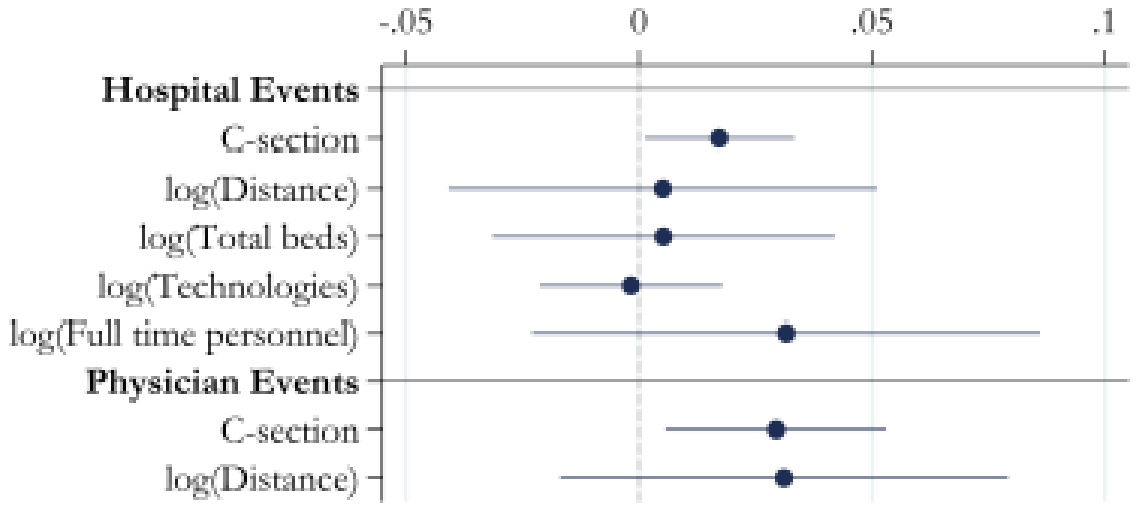
Effects of Mergers on Prices and Quality

To examine if the price increases are driven by quality improvements, the authors examine a range of quality outcomes and do not find any detectable improvement in quality measures post-integration. On the contrary, there is suggestive evidence that quality declines with post-integration C-section rates statistically significantly increasing.

Figure 8: Event Studies: Quality Following Integration Event

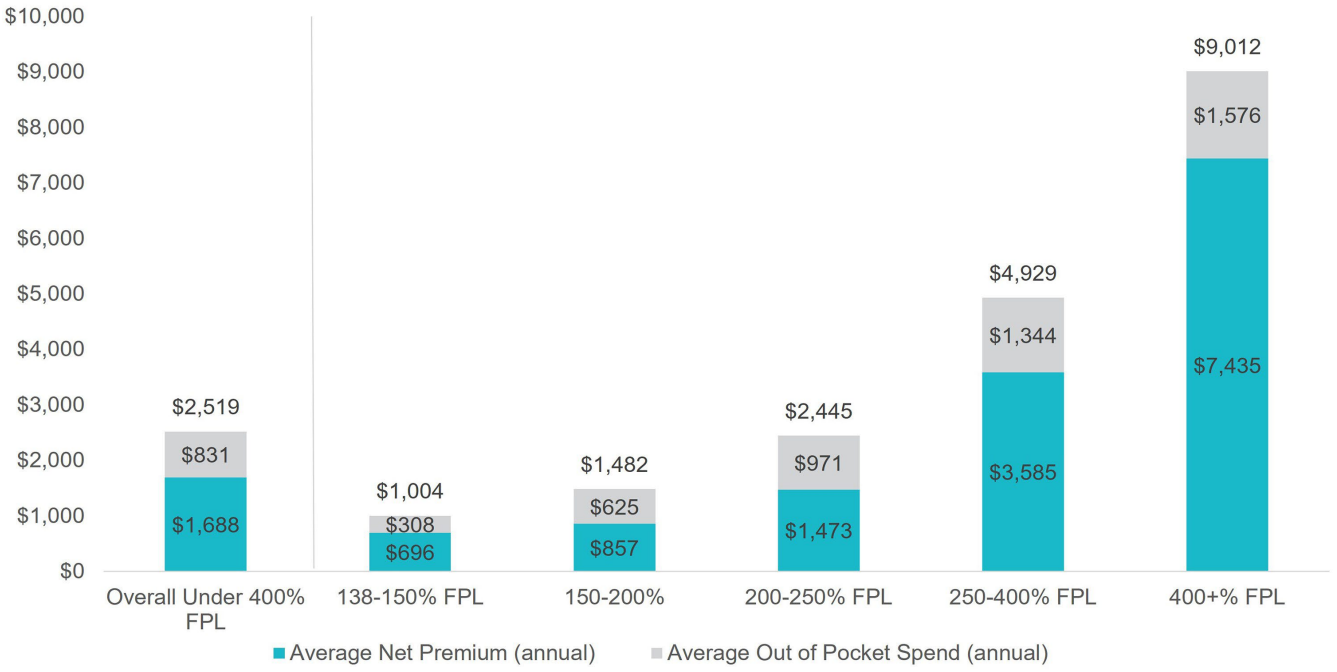


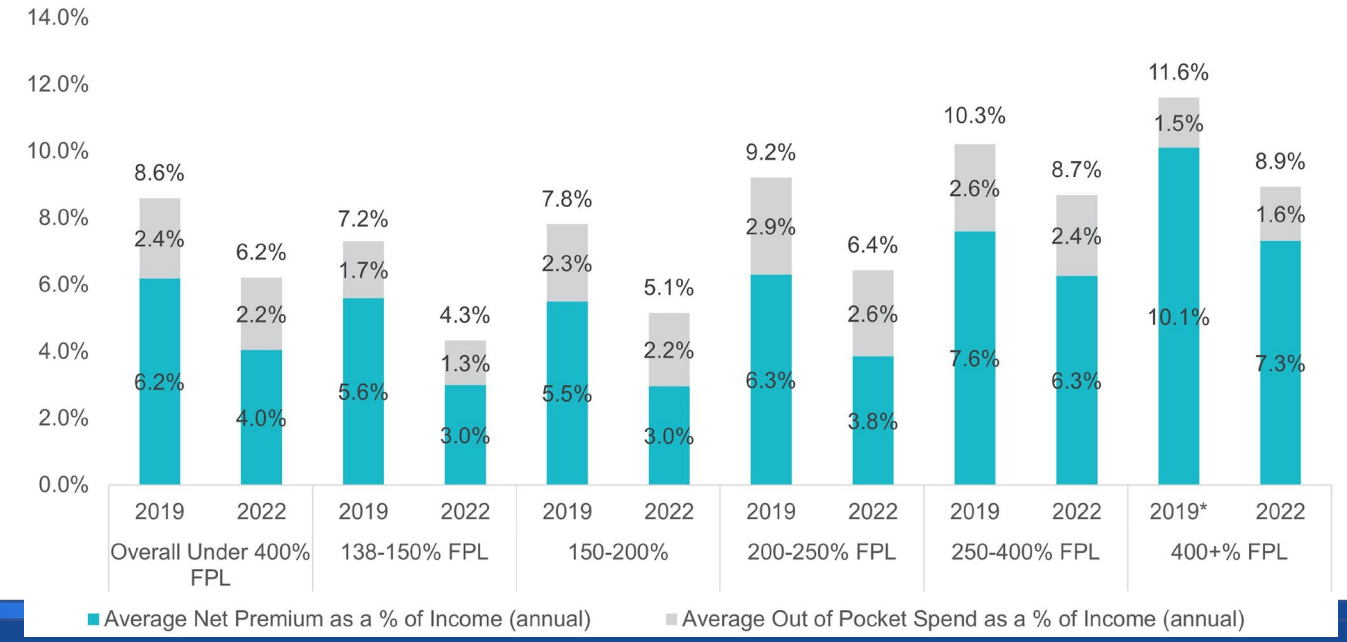
Source: Cooper, Z. et al. 2025. Are Hospital Acquisitions of Physician Practices Anticompetitive? Working Paper 34039. https://www.nber.org/papers/w34039

Total Cost of Coverage for Covered California Households

Using a combination of administrative enrollment and claims data to examine the total cost of coverage for Covered California households, Covered California researchers found the following:

- In 2022, households with incomes under 400% FPL spent an average of $2,519 on coverage, while households with incomes over 400% FPL spent an average of $9,012.
- Examining changes over time, in 2019 – prior to the American Rescue Plan Act's enhanced subsidies – the average cost of coverage for households below 400% FPL was 8.6% of household income. In 2022, the average cost of coverage fell to 6.6% of household income driven primarily by lower net-of-subsidy premiums.





Source: Kohn, E. et al. 2025. Total cost of coverage for members in California's marketplace. Health Affairs Scholar. 3(8) https://doi.org/10.1093/haschl/qxaf135

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Quarterly Work Plan*

		Total Health Care Expenditures & Spending Targets	Cost and Market Impact Review (CMIR)	Promotng High Value
AUG	Board	• Discussion of Data Submission Enforcement, Continued • Discussion of Spending Target Enforcement – Assessing Performance		
	AC	**No Meeting**		
SEPT	Board	**No Meeting**		
	AC	• Timeline of Changes under Federal Budget Reconciliation (H.R. 1) • Discussion of Data Submission Enforcement • Introduction to Spending Target Enforcement and Timeline	• CMIR Update	• Update on Behavioral Health Spending Definition and Measurement Methodology
OCT	Board	• Board Vote – Data Submission Scope and Range of Penalties (tentative) • Discussion of Spending Target Enforcement – Assessing Performance, Continued • Update -- Monterey Hospital Market Competition Study (tentative)	• CMIR Update	
	AC	**No Meeting**		
NOV	Board	• Board Vote – Data Submission Scope and Range of Penalties (tentative) • Discussion of Spending Target Enforcement – Technical Assistance and Public Testimony • Data Submission Guide 3.0 Regulations		• Update on Behavioral Health Spending Definition and Summary of Public and Advisory Committee Comments
DEC	Board	• Board Vote – Data Submission Scope and Range of Penalties (tentative) • Discussion of Spending Target Enforcement – Technical Assistance and Public Testimony, Continued • Update on Hospital Spending Measurement		
	AC	**No Meeting**		

* Work plan is subject to change.

Future Topics Beyond December 2025

THCE & Spending Target

- Data Submission Enforcement – Discuss Regulations (April Effective Date)
- Spending Target Enforcement – Discuss Public Testimony, Performance Improvement Plans, and Penalties
- Follow-up on High-Cost Hospitals and Factors Considered in Identification

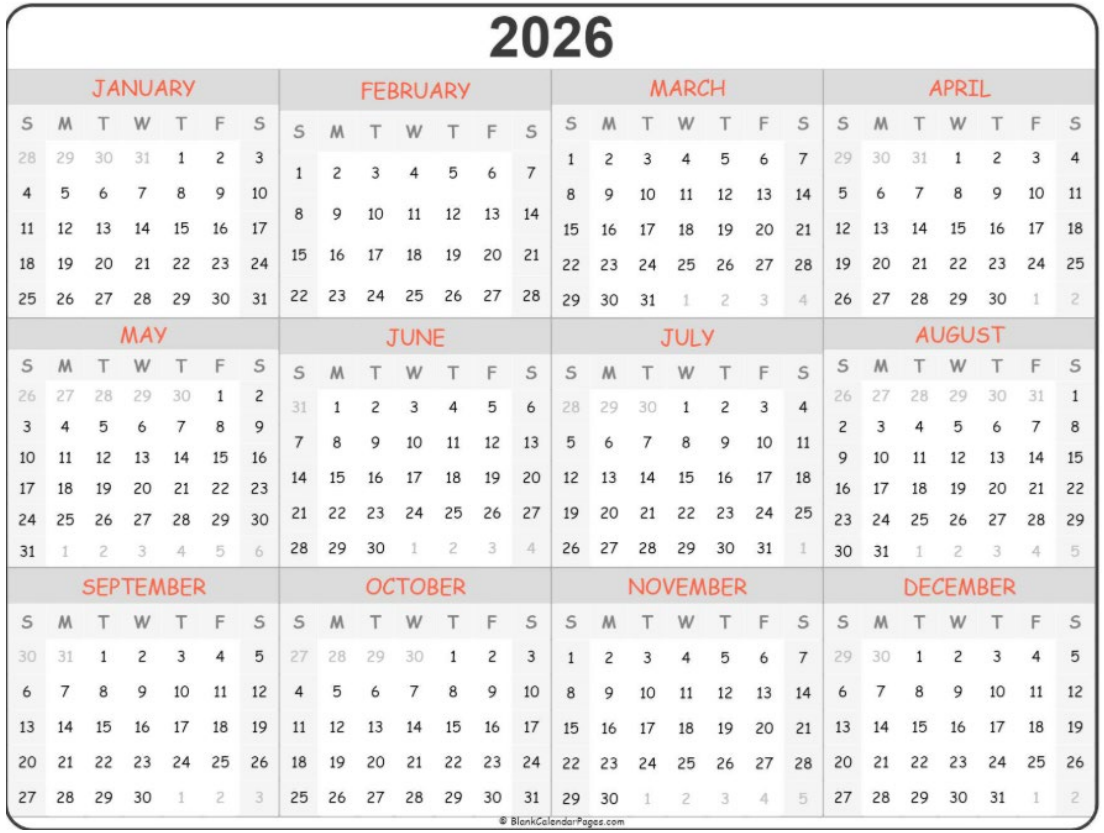
Promoting High Value

- Behavioral Health Investment Benchmark

Assessing Market Consolidation

- Update on Material Change Notices Received, Transactions Receiving Waiver or Warranting a CMIR, and Timing of Reviews for Notices and CMIRs

2026 Public Meeting Calendar



Health Care Affordability Board Meetings

Wednesday, January 28
Wednesday, February 25
Wednesday, March 25
Wednesday, April 22
Wednesday, May 27
Wednesday, June 24
Tuesday, July 21
Wednesday, August 26
Wednesday, September 23
Wednesday, October 28
Wednesday, November 18
Wednesday, December 16

Health Care Affordability Advisory Committee Meetings

Wednesday, January 14
Wednesday, April 15
Wednesday, June 17
Wednesday, September 16

Slide Formatting

Indicates informational items for the Board and decision items for OHCA

Indicates current or future action items for the Board

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Public Comment

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Action Consent Item: Vote to Approve July 22, 2025 Meeting Minutes

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Informational Items

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Update: Data Submission Enforcement

Vishaal Pegany, Deputy Director
CJ Howard, Assistant Deputy Director

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Statute

Board

Approve:
(b) The board shall approve all of the following:
(2) The scope and range of administrative penalties and the penalty justification factors for assessing penalties.

(c) The director shall present to the board for discussion all of the following:
(5) Review and input on administrative penalties to inform any adjustments to the scope and range of administrative penalties and the penalty justification for assessing penalties.

Office

(d) (6) The director shall consider all of the following to determine the penalty:
(A) The nature, number, and gravity of offenses.
(B) The fiscal condition of the health care entity, including revenues, reserves, profits, and assets of the entity, as well as any affiliates, subsidiaries, or other entities that control, govern, or are financially responsible for the entity or are subject to the control, governance, or financial control of the entity.
(C) The market impact of the entity.
(h) (1) The director may directly assess administrative penalties when a health care entity has failed to comply with this chapter by doing any of the following:
(A) Willfully failing to report complete and accurate data.
(E) Knowingly failing to provide information required by this section to the office.
(F) Knowingly falsifying information required by this section.

Board Follow-Up Items

What percentage is the proposed penalty amount of a plan's annual revenue?

- The amount varies by plan (ranging from .01% to .14%), on average $5 per member equates to approximately 0.07% of a plan's annual revenue.[1]
- $5 per member is also approximately 0.06% of the 2023 commercial market per member per year spend.

How does the Office determine when submitted data are acceptable and complete? How would the Office impose penalties when submitters are asked to correct their data?

- The Data Submission Guide defines standards for data completeness and defines data as acceptable when it has passed automated and manual data validation checks to ensure that data are in a valid file format and layout, free of illogical or missing/incomplete data values, and free of other technical deficiencies related to file submission, storage, or processing.
- The Data Submission Guide provides a 5-day period for entities to correct any issues identified by the Office after they are noticed. During this period, the Office could delay the assessment of a penalty.

[1]This was calculated using 2024 revenue data from DHMC's Health Plan Dashboard and 2023 enrollment data from CHCF's Enrollment Almanac

Board Follow-Up Items

In addition to financial penalties, what other actions can OHCA take if an entity fails to submit data?

- The Office could take administrative action and request an administrative law judge to compel entities to comply with data submission requirements. It could also notify licensing agencies of the entity's failure to comply with California law (disciplinary action at the licensing agency's discretion).

What will happen if an entity fails to submit data year after year?

- The Office proposes that the Failure to Submit Data Penalty would double each year for repeated noncompliance.

What other penalty structures would promote timely data submission?

- The Office proposes a second flat untimely data submission penalty that the Office would assess if data are not submitted by November 1.

Proposed Data Submission & Enforcement Process – Updated Based on Board Input

Data Due Date and Optional Extensions	
1.	Data due to the Office September 1.
2.	Optional extensions per request by the data submitter.
	Extension 1: A fifteen-day extension requested by the entity by the submission deadline that requires email status updates every 3 days including: • any issues or barriers the entity is experiencing • current projected submission date • progress toward completion • any need for technical assistance from the Office.
	Extension 2: An additional fifteen-day extension can be requested by the entity prior to the first extension ending, contingent upon the entity complying with the requirements of the first extension period. OHCA will require regular check-ins with the Office during this period with the same requirements as the first extension.

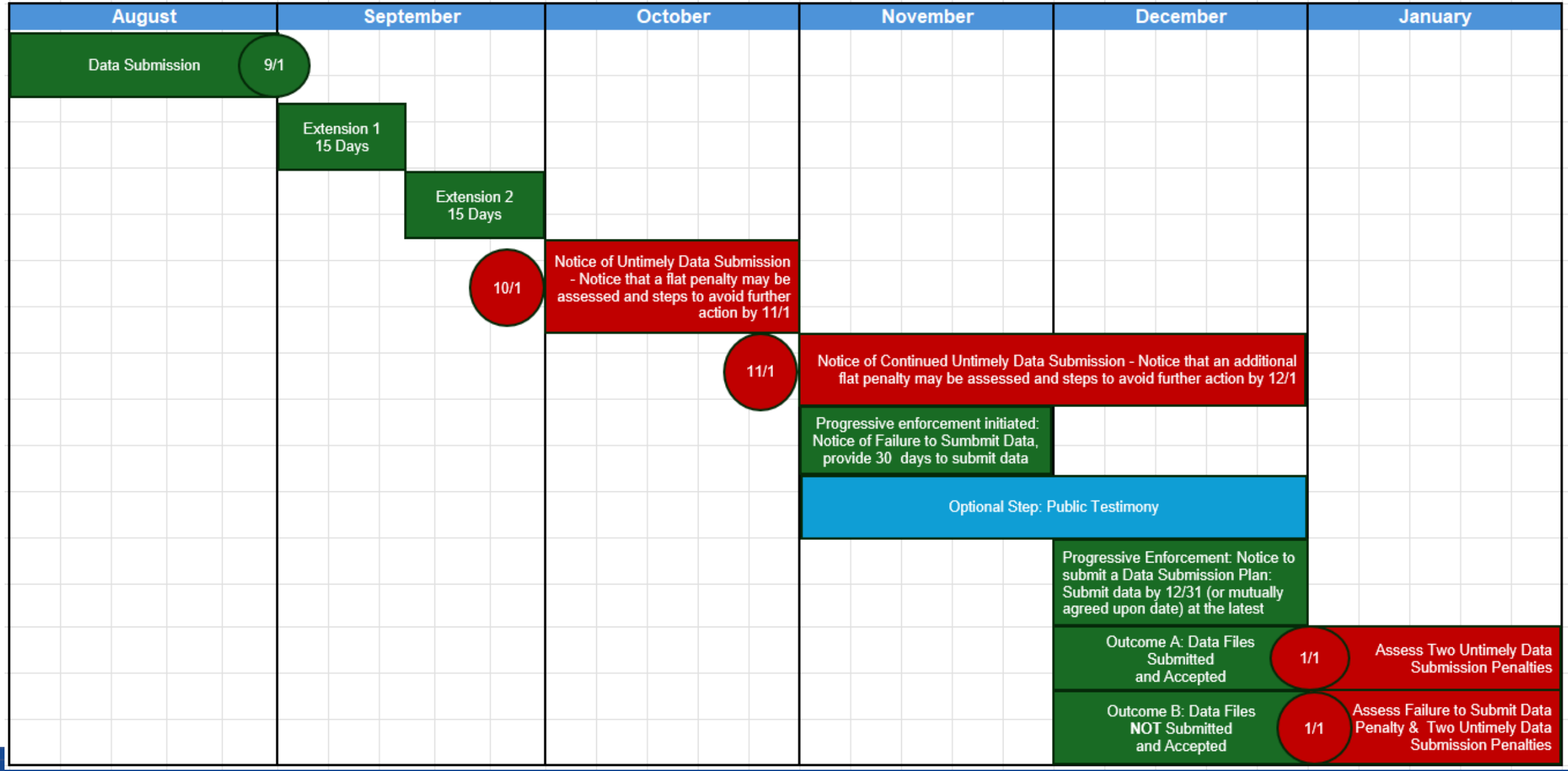
Proposed Data Submission & Enforcement Process – Updated Based on Board Input

Untimely Data Submission Penalties	
3.	If data has not been submitted by the submission deadline or end of one or both extension periods, submitters would be subject to an initial flat untimely data submission penalty of $10,000.
4.	If data are then not submitted by November 1, the submitter would be subject to an additional flat untimely data submission penalty of $10,000, and a progressive enforcement process which may result in a Failure to Submit Data Penalty.
Progressive Enforcement Process	
5.	If data is not submitted by November 1, progressive enforcement would begin on November 1 with a notice that the submitter has failed to submit data. The Office would provide technical assistance and allow up to 30 days for the submitter to submit data.
6.	Optional Step: The Office may compel public testimony.
7.	If data is not submitted at the end of the 30 days, the submitter would provide a data submission plan to the Office indicating the actions they will take to submit their data no later than December 31st or by a date agreed upon by the Office.

Proposed Data Submission & Enforcement Process – Updated Based on Board Input

Failure to Submit Data Penalty	
8.	If data is not submitted by December 31st or the agreed upon date, the entity would be subject to a per member failure to submit data penalty, in addition to the untimely data submission penalty.
9.	For data submitters that repeatedly fail to submit data, each year the failure to submit data penalty amount would double.($5/member year 1, $10/member year 2, $20/member year 3, etc.)
10.	OHCA will make public all penalties once formally assessed.
11.	OHCA could adjust the penalty amounts based on changes to an economic indicator, such as the California Consumer Price Index (CCPI).
Other Legal Remedies for failure to submit data	
12.	OHCA could continue to pursue other legal remedies in addition to penalties to acquire the submitter's data. The Office could take administrative action and could notify the licensing or regulatory agency of the entity's failure to comply with California law.

Scenario: Both Extensions



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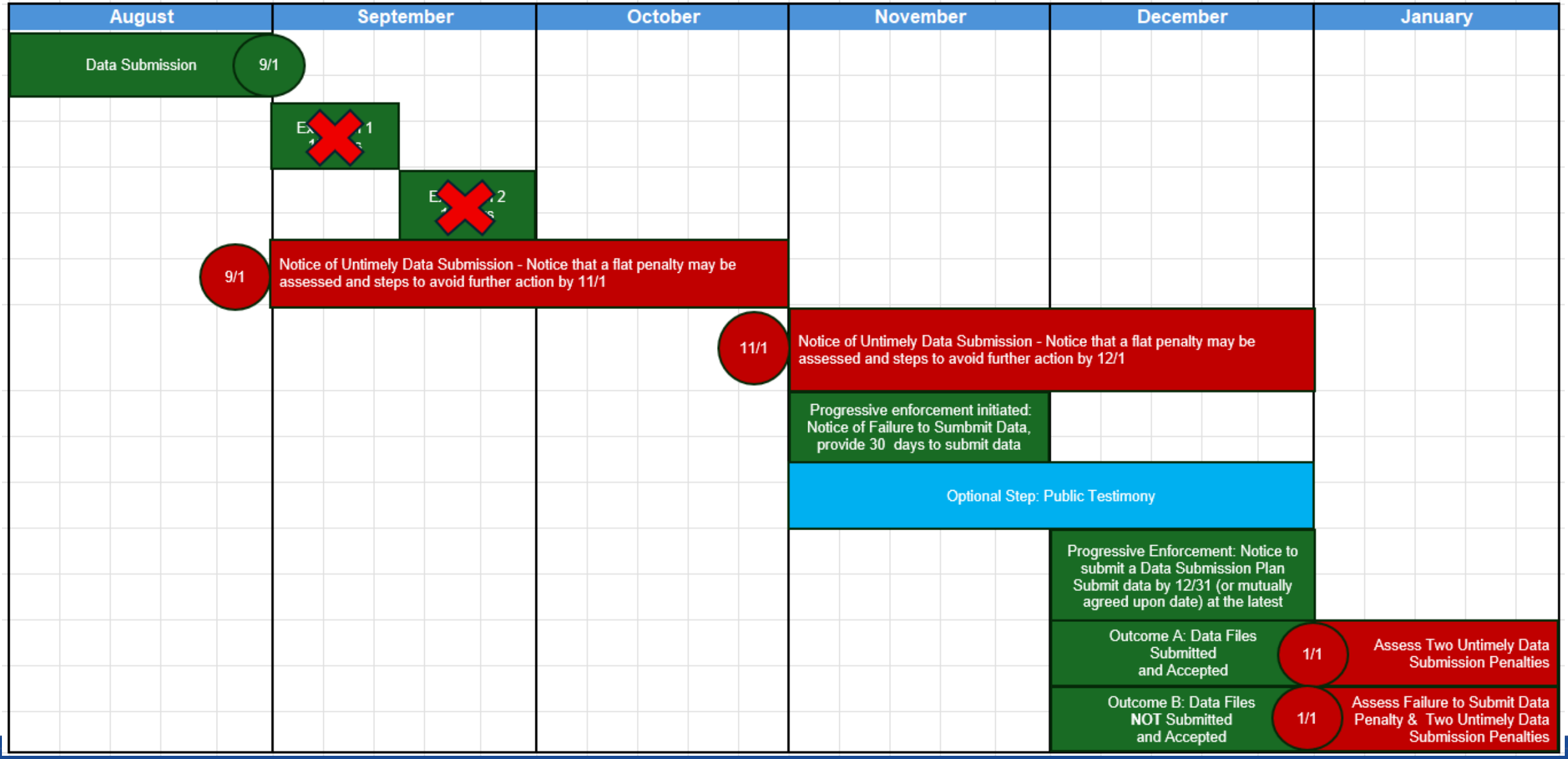
Scenario: No Extensions



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Examples of Penalty Amounts

Plan Info		Outcome A: Untimely Data Submission Penalties	Outcome B: Additional Untimely Data Submission Penalties	Outcome C: Failure to Submit Data Penalty			
Data Submitter	**Covered Lives (Includes all lines of business)**	**$10,000**	**$10,000 + $10,000**	**$0.50/member + $20,000**	**$2/member + $20,000**	**$5/member + $20,000**	**$10/member + $20,000**
Small	80,000	$10,000	$20,000	$40,000 + $20,000 = **$60,000**	$160,000 + $20,000 = **$180,000**	$410,00 + $20,000 = **$420,000**	$800,000 + $20,000 = **$820,000**
Medium	200,000	$10,000	$20,000	$100,000 + $20,000 = **$120,000**	$400,000 + $20,000 = **$420,000**	$1,000,000 + $20,000 = **$1,020,000**	$2,000,000 + $20,000 = **$2,020,000**
Large	2,500,000	$10,000	$20,000	$1,250,000 + $20,000 = **$1,270,000**	$5,000,000 + $20,000 = **$5,020,000**	$12,500,000 + $20,000 = **$12,520,000**	$25,000,000 + $20,000 = **$25,020,000**
Very Large	8,000,000	$10,000	$20,000	$4,000,000 + $20,000 = **$4,020,000**	$16,000,000 + $20,000 = **$16,020,000**	$40,000,000 + $20,000 = **$40,020,000**	$80,000,000 + $20,000 = **$80,020,000**

Note: This is an illustrative example meant to guide discussion and not a recommendation.

Discussion: Options for Penalty Structure and Amounts

Does the Board have feedback on the Office's current proposal to:

- Establish two flat untimely data submission penalties ($10,000 each).
- Establish a $5 per member penalty for failure to submit data.
- Double the per member failure to submit data penalty in each subsequent non-compliant year.
- Adjust the penalty amounts based on changes to an economic indicator, such as the California Consumer Price Index (CCPI).

Discussion: Data Enforcement Steps and Process

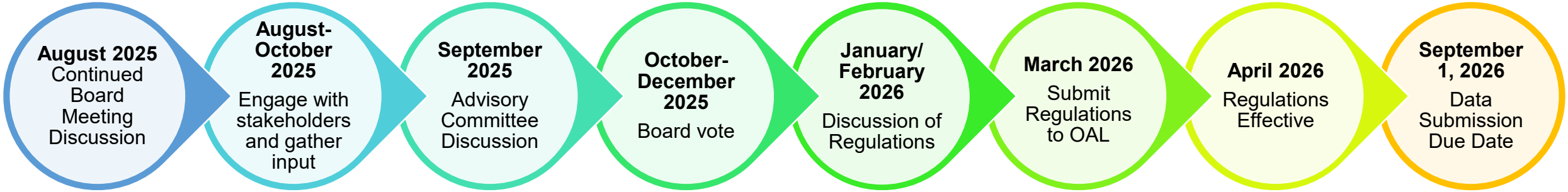
Does the Board have feedback on the enforcement process? Specifically:

- The timing and duration of extensions
- The progressive enforcement steps (notice and technical assistance, optional public testimony, data submission plan, failure to submit data penalty)

Board Vote and Regulations Process

- The Board will vote on the scope and range of penalties (i.e., the penalty structure and amounts) October - December 2025.
- OHCA will draft regulations and begin the regulations process.
- If feedback received requires reconsideration on the scope and range of penalties, OHCA will return for more discussion and a potential vote.

Next Steps



Note: This timeline aligns with planned regulations for Data Submission Guide updates and other data submission regulations updates.

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Spending Target Enforcement

Vishaal Pegany, Deputy Director
CJ Howard, Assistant Deputy Director

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Enforcement Considerations

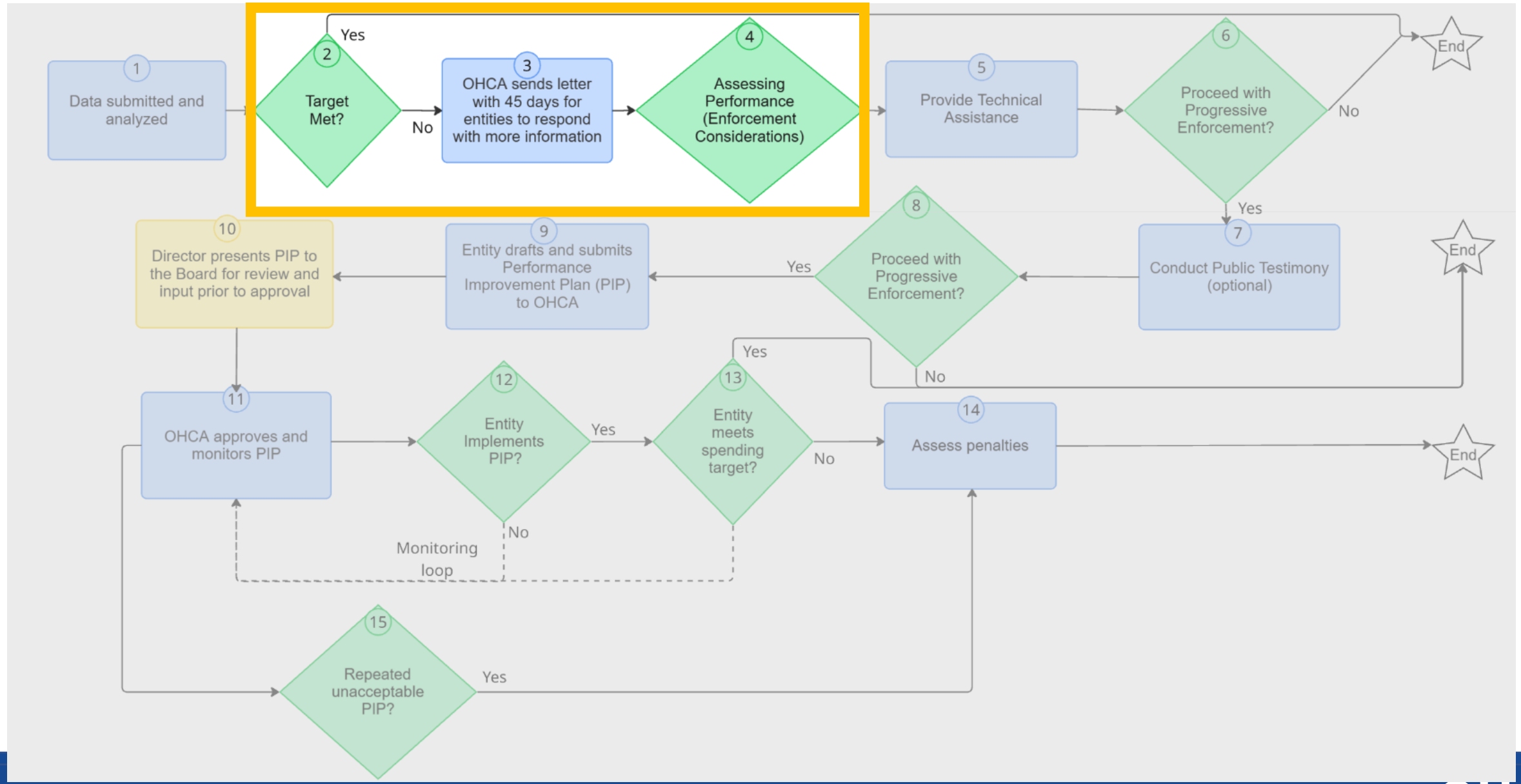
Statute

Office

Enforcement Considerations

(a)… the Director shall consider…factors that contribute to spending in excess of the applicable target…

Enforcement Process Flow



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Overview: Enforcement Considerations

- OHCA will report entity-level spending growth to determine which entities exceeded the spending target.
- Per statute, if an entity exceeds a spending target, the Office will provide technical assistance to the entity.
- Enforcement Considerations are factors, characteristics, spending attributes, or other circumstances that OHCA could consider **when determining which entities would proceed beyond technical assistance** to public testimony, performance improvement plans, and/or financial penalties for a given year.
- These considerations will **NOT** change or modify an entity's reported performance or directly exempt or waive an entity from enforcement each year.
- These considerations will be explored for their validity with in-depth conversations with entities and supporting evidence provided by entities and evaluated by the Office.
- These considerations will likely not impact all entities uniformly, and in many cases cannot be forecasted and incorporated into the process and methodology to set spending targets.
- If the Office notices consistent effects across entities, the Office would present to the Board to inform prospective adjustments to spending targets.

Potential Enforcement Considerations

Population Characteristics
High-Cost Patient Outliers
Historical Spending Growth
Impact on Consumer Access and Affordability
Investments in Primary and Preventive Care
Entity Baseline Costs
High-Cost Drugs
Changes in State and Federal Law
Acts of God or Catastrophic Events

Potential Enforcement Considerations

Population Characteristics

- OHCA collects age/sex demographic data that allow it to factor the degree to which changes in spending may be driven by underlying changes in the age/sex composition of an entity's population.
- OHCA could consider the extent to which an entity's population age/sex distribution has changed year to year and contributed to changes in spending.
- Adjusting for changes in the age/sex composition may not always show a lower percentage change in an entity's spending growth.
- OHCA would still determine if an entity met the spending target using unadjusted data, but could use age/sex adjusted spending change to determine to what degree spending growth is the result of age/sex demographic changes.

Commercial Market Age/Sex Adjusted Data for Spending Growth From 2022-2023

Submitter Name	Aetna	Anthem Blue Cross	Blue Shield of CA	Centene / Health Net	Cigna	Kaiser	LA Care	Molina	Sharp	Sutter	UnitedHealthcare	Valley Health Plan	Western Health Advantage
Unadjusted Growth Rate	5.1%	5.5%	5.2%	3.9%	4.4%	4.3%	-0.2%	19.8%	4.1%	7.3%	6.5%	13.4%	5.5%
Age-sex Adjusted Growth Rate	5.1%	5.5%	5.5%	4.0%	4.2%	4.2%	0.0%	19.6%	4.0%	7.2%	6.3%	13.6%	5.5%

Potential Enforcement Considerations

High-Cost Patient Outliers

- The emergence of high-cost outliers has the potential to drive fluctuations in an entity's spending growth.
- After determining that an entity exceeded the spending target OHCA could work with the entity to determine the extent to which emergence of high-cost outliers caused the entity to exceed the spending target.
- In some cases, emergence of high-cost outliers may be outside the entity's control. Including this factor would enable OHCA to consider random or unexpected events that drove volatility in an entity's spending in a particular year.

Historical Spending Growth

- OHCA could evaluate an entity's longer term historical growth (e.g., OHCA could evaluate the average growth over several years, and/or could evaluate the number of years an entity has or has not met the spending target).
- Evaluating historical growth could focus OHCA's enforcement capacity on entities that have a consistent pattern of overspending.

Potential Enforcement Considerations

Impact on Consumer Access and Affordability

- The degree to which spending has adversely impacted consumer access to affordable care. This can include statewide and regional market share and impact.

Investments in Primary and Preventive Care

- OHCA could evaluate the degree to which increased spending or investments in primary and preventive care caused an entity to exceed the spending target.

Entity Baseline Costs

- Not all entities will begin operating under the spending target from comparable baseline costs.
- In addition to measuring and comparing the entity's percentage growth, OHCA could prioritize enforcement actions with entities that have inexplicably high costs and absolute high growth.

High-Cost Drugs

- New therapies and new uses of existing drugs may lead to unusually high spending growth due to increases in demand, cost, or availability. OHCA would need to evaluate the extent of control and any excessive mark-up behavior by entities when evaluating high-cost drugs as an enforcement consideration.

Potential Enforcement Considerations

Changes in State and Federal Law

- Entities may be affected by changes in state or federal law.
- State benefit changes or mandates, mandated wage increases, or federal tariffs may increase an entity's spending significantly.
- OHCA could consider the extent to which these changes impacted an entity’s spending growth.
- Sudden and unexpected changes in federal trade and fiscal policy could also impact the cost care.
- If the office sees a systematic effect that applies uniformly across the health care system or to sectors of the health care system, that information would be presented and considered for future spending target setting.

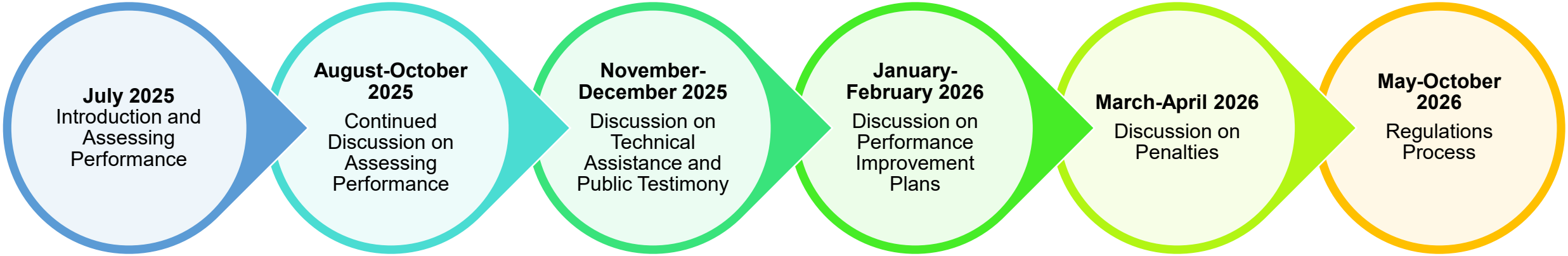
Acts of God or Catastrophic Events

- Acts of God and catastrophic events are unforeseeable, often caused by forces of nature and beyond human control.
- OHCA could assess the extent to which the event was foreseeable, or if the entity failed to take reasonable precautions to mitigate damage.
- OHCA could take into account acts of God and catastrophic events as contributing factors to an entity’s excess spending.

Discussion: Enforcement Considerations

Are there other considerations the Office should evaluate when assessing an entity's performance and determining whether further enforcement actions are warranted?

Timeline for Future Discussion



**Timeline subject to change.*

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Public Comment

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General Public Comment

Written public comment can be emailed to:
ohca@hcai.ca.gov
To ensure that written public comment is included in the posted board materials, e-mail your comments at least 3 business days prior to the meeting.

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Next Board Meeting:
October 28, 2025
10am

Location:
2020 West El Camino Ave, Conference Room 900, Sacramento, CA 95833

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Adjournment

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Appendix

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Additional Spending Target Enforcement Statutory Provisions

Statute

Office

Enforcement Considerations and Progressive Enforcement Processes:
(a) The director shall enforce the cost targets established by this chapter against health care entities in a manner that ensures compliance with targets, allows each health care entity opportunities for remediation, and ensures health care entities do not implement performance improvement plans in ways that are likely to erode access, quality, equity, or workforce stability. The director shall consider each entity's contribution to cost growth in excess of the applicable target and any actions by the entity that have eroded, or are likely to erode, access, quality, equity, or workforce stability, factors that contribute to spending in excess of the applicable target, and the extent to which each entity has control over the applicable components of its cost target. The director shall review information and other relevant data from additional sources, as appropriate, including data from the Health Care Payments Data Program, to determine the appropriate health care entity that may be subject to enforcement actions under this section. Commensurate with the health care entity's offense or violation, the director may take the following progressive enforcement actions:

(1) Provide technical assistance to the entity to assist it to come into compliance.

(2) Require or compel public testimony by the health care entity regarding its failure to comply with the target.

(3) Require submission and implementation of performance improvement plans, including input from the board.

(4) Assess administrative penalties in amounts initially commensurate with the failure to meet the targets, and in escalating amounts for repeated or continuing failure to meet the targets.

Statute

Office

Notification and Communication:
(b) Prior to taking any enforcement action, the office shall do all of the following:

(1) Notify the health care entity that it has exceeded the health care cost target.

(2) Give the health care entity not less than 45 days to respond and provide additional data, including information in support of a waiver described in subdivision (i).

(3) If the office determines that the additional data and information meets the burden established by the office to explain all or a portion of the entity's cost growth in excess of the applicable target, the office may modify its findings, as appropriate.

(4) The director shall consult with the Director of Managed Health Care, the Director of Health Care Services, or the Insurance Commissioner, as applicable, prior to taking any of the enforcement actions specified in this section with respect to a payer regulated by the respective department to ensure any technical assistance, performance improvement plans, or other measures authorized by this section are consistent with laws applicable to regulating health care service plans, health insurers, or a Medi-Cal managed care plan contracted with the State Department of Health Care Services.

Statute

Office

Technical Assistance and Performance Improvement Plans:
(c) (1) If a health care entity exceeds an applicable cost target, the office shall notify the health care entity of their status and provide technical assistance. The office shall make public the extent to which the health care entity exceeded the target. The office may require a health care entity to submit and implement a performance improvement plan that identifies the causes for spending growth and shall include, but not be limited to, specific strategies, adjustments, and action steps the health care entity proposes to implement to improve spending performance during a specified time period. The office shall request further information, as needed, in order to approve a proposed performance improvement plan. The director may approve a performance improvement plan consistent with those areas requiring specific performance or correction for up to three years. The director shall not approve a performance improvement plan that proposes to meet cost targets in ways that are likely to erode access, quality, equity, or workforce stability. The standards developed under Article 7 (commencing with Section 127506) may be considered in the approval of a performance improvement plan.

(2) The office shall monitor the health care entity for compliance with the performance improvement plan. The office shall publicly post the identity of a health care entity implementing a performance improvement plan and, at a minimum, a detailed summary of the entity's compliance with the requirements of the performance improvement plan while the plan remains in effect and shall transmit an approved performance improvement plan to appropriate state regulators for the entity.

(3) A health care entity shall work to implement the performance improvement plan as submitted to, and approved by, the office. The office shall monitor the health care entity for compliance with the performance improvement plan.

Statute

Office

Confidential Information:

(c)(4) The board, the members of the board, the office, the department, and employees, contractors, and advisors of the office and the department shall keep confidential all nonpublic information and documents obtained under this subdivision, and shall not disclose the confidential information or documents to any person, other than the Attorney General, without the consent of the source of the information or documents, except in an administrative penalty action, or a public meeting under this section if the office believes that disclosure should be made in the public interest after taking into account any privacy, trade secret, or anticompetitive considerations. Prior to disclosure in a public meeting, the office shall notify the relevant party and provide the source of nonpublic information an opportunity to specify facts documenting why release of the information is damaging or prejudicial to the source of the information and why the public interest is served in withholding the information. Information that is otherwise publicly available, or that has not been confidentially maintained by the source, shall not be considered nonpublic information. This paragraph does not limit the board's discussion of nonpublic information during closed sessions of board meetings.

(5) Notwithstanding any other law, all nonpublic information and documents obtained under this subdivision shall not be required to be disclosed pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code), or any similar local law requiring the disclosure of public records.

Statute

Office

Administrative Penalties:
(d) (1) If the director determines that a health care entity is not compliant with an approved performance improvement plan and does not meet the cost target, the director may assess administrative penalties commensurate with the failure of the health care entity to meet the target. An entity that has fully complied with an approved performance improvement plan by the deadline established by the office shall not be assessed administrative penalties. However, the director may require a modification to the performance improvement plan until the cost target is met.

(2) The administrative penalty shall be deposited into the Health Care Affordability Fund.

(3) Prior to assessing an administrative penalty against a health care entity, the director may consider related provision of nonfederal share, determined to be appropriate by the Director of Health Care Services, associated with Medi-Cal payments, such as expenditures by providers or provider-affiliated entities that serve as the nonfederal share associated with Medi-Cal reimbursement.

(4) To the extent that an administrative penalty is related to a Medi-Cal expenditure, including federal financial participation, the office shall coordinate with the State Department of Health Care Services to ensure appropriate treatment and return of any federal funds pursuant to Subpart F commencing with Section 433.300 of Part 433 of Title 42 of the Code of Federal Regulations.

(5) If, after the implementation of one or more performance improvement plans, the health care entity is repeatedly noncompliant with the performance improvement plan, the director may assess escalating administrative penalties that exceed the penalties imposed under paragraphs (1) and (2) of this subdivision and paragraph (4) of subdivision (a).

Statute

Office

Administrative Penalies:
(d)(6) The director shall consider all of the following to determine the penalty:

(A) The nature, number, and gravity of the offenses.

(B) The fiscal condition of the health care entity, including revenues, reserves, profits, and assets of the entity, as well as any affiliates, subsidiaries, or other entities that control, govern, or are financially responsible for the entity or are subject to the control, governance, or financial control of the entity.

(C) The market impact of the entity.

(e) Administrative penalties shall not constitute expenditures for the purpose of meeting cost targets. The imposition of administrative penalties shall not alter or otherwise relieve the health care entity of the obligation to meet a previously established cost target or a cost target for subsequent years.

Statute

Office

Payers, Fully Integrated Delivery Systems, and Adverse Impacts:
(f) (1) For payers and fully integrated delivery systems, the director also shall enforce cost targets established by Section 127502 against the cost growth for administrative costs and profits.

(2) If a payer exceeds the target for per capita growth in total health care expenditures, but has met its target for administrative costs and profits, the payer shall submit relevant documentation or supporting evidence for the drivers of excess cost growth.

(3) This subdivision does not relieve a payer of its obligation to meet targets for per capita growth in total health care expenditures established by Section 127502, and does not limit enforcement actions for payers under this section.

(g) If data indicate adverse impacts on cost, access, quality, equity, or workforce stability from consolidation, market power, or other market failures, the director may, at any point, require that a cost and market impact review be performed on a health care entity, consistent with Section 127507.2.

Statute

Office

Directly Assessing Administrative Penalties:
(h) (1) The director may directly assess administrative penalties when a health care entity has failed to comply with this chapter by doing any of the following:

(A) Willfully failing to report complete and accurate data.

(B) Repeatedly neglecting to file a performance improvement plan with the office.

(C) Repeatedly failing to file an acceptable performance improvement plan with the office.

(D) Repeatedly failing to implement the performance improvement plan.

(E) Knowingly failing to provide information required by this section to the office.

(F) Knowingly falsifying information required by this section.

(2) The director may call a public meeting to notify the public about the health care entity's violation and declare the entity as imperiling the state's ability to monitor and control health care cost growth.

Statute

Office

Optional Waiver of Enforcement:
(i) The office may establish requirements for health care entities to file for a waiver of enforcement actions due to reasonable factors outside the entity's control, such as changes in state or federal law or anticipated costs for investments and initiatives to minimize future costly care, such as increasing access to primary and preventive services, or under extraordinary circumstances, such as an act of God or catastrophic event. The entity shall submit documentation or supporting evidence of the reasonable factors, anticipated costs, or extraordinary circumstances. The office shall request further information, as needed, in order to approve or deny an application for a waiver.

Statute

Office

Remedies and Rights:
(j) As applied to the administrative penalties for acts in violation of this chapter, the remedies provided by this section and by any other law are not exclusive and may be sought and employed in any combination to enforce this chapter.

(k) Following an administrative hearing, a health care entity adversely affected by a final order imposing an administrative penalty authorized by this chapter may seek independent judicial review by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure.

(l) After an order imposing an administrative penalty becomes final, and if a petition for a writ of mandate has not been filed within the time limits prescribed in Section 11523 of the Government Code, the office may apply to the clerk of the appropriate court for a judgment in the amount of the administrative penalty. The application, which shall include a certified copy of the final order of the administrative hearing officer, shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

Statute - Health Care Affordability Fund

127501.8. (a) There is hereby established in the State Treasury the Health Care Affordability Fund for the purpose of receiving and expending revenues collected pursuant to this chapter. This fund is subject to appropriation by the Legislature.

(b) All moneys in the fund shall be expended in a manner that prioritizes the return of the moneys to consumers and purchasers.

(c) The office may identify any opportunities to leverage existing public and private financial resources to provide technical assistance to health care entities and support to the office. Any private or public moneys obtained may be placed in the Health Care Affordability Fund, for use by the office upon appropriation by the Legislature.

Statute

127502.5. (k) Following an administrative hearing, a health care entity adversely affected by a final order imposing an administrative penalty authorized by this chapter may seek independent judicial review by filing a petition for a writ of mandate in accordance with Section 1094.5 of the Code of Civil Procedure.

(l) After an order imposing an administrative penalty becomes final, and if a petition for a writ of mandate has not been filed within the time limits prescribed in Section 11523 of the Government Code, the office may apply to the clerk of the appropriate court for a judgment in the amount of the administrative penalty. The application, which shall include a certified copy of the final order of the administrative hearing officer, shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

Enforcement Considerations in Other States

Massachusetts (Regulatory Factors)	Oregon (Reasonableness Factors)
• Baseline spending and spending trends over time, including by service category • Pricing patterns and trends over time • Utilization patterns and trends over time • Population(s) served, payer mix, product lines, and services provided • Size and market share • Financial condition, including administrative spending and cost structure • Ongoing strategies or investments to improve efficiency or reduce spending growth over time • Factors leading to increased costs that are outside the CHIA-identified Entity's control • Any other factors the Commission considers relevant.	• Changes in federal or state law • Changes in mandated benefits • New pharmaceuticals or treatments • Changes in taxes (or other admin) • "Acts of God" • Investments to improve health/ health equity • High-cost outliers • Increased behavioral health spending after state raised Medicaid rates • Longer inpatient stays because hospitals were unable to discharge patients to other facilities • Patients with more than $1 million in annual costs, especially for pediatric practices • Increased Medicaid non-claims spending, likely quality payments and COVID-related payments • Increased frontline workforce costs • Service expansions to meet community needs