



2020 West El Camino Avenue, Suite 800
Sacramento, CA 95833
hcai.ca.gov



INITIAL STATEMENT OF REASONS

CALIFORNIA CODE OF REGULATIONS

Title 22, Division 7, Chapter 10

Article 3.5: Skilled Nursing Facility Consolidated Reporting Requirements Sections 97046 – 97046.6

I. BACKGROUND INFORMATION

Senate Bill (SB) 650 (Chapter 493, Statutes of 2021) made changes to California law to address skilled nursing facility (SNF) financial and ownership transparency.

The Legislation adds Section 128734.1 to Chapter 1 of Part 5 of Division 7 of the Health and Safety Code (HSC) and establishes a new mandated reporting program for the Department of Health Care Access and Information (Department).

The program expands financial disclosure reporting for SNFs by requiring an organization that operates, conducts, owns, manages, or maintains a SNF or SNFs to prepare and file with the Department, an annual consolidated financial report and documentation of the corporate structure. The Department is charged with collecting, reviewing, and publishing the annual consolidated financial reports, including required attachments and documentation.

The Department is proposing to adopt regulations to implement the requirements of HSC Section 128734.1; the regulations will become new Article 3.5, Skilled Nursing Facility Consolidated Reporting Requirements, of Chapter 10 of Division 7 of Title 22 of the California Code of Regulations, Sections 97046 – 97046.6.

II. THE PROBLEMS TO BE ADDRESSED

New regulations are required to implement HSC Section 128734.1, which imposes financial and ownership reporting requirements on SNFs. Provisions of Section 128734.1 must be interpreted and made specific in order for the regulated entities to comply with the requirements. Regulations are required to successfully establish this statutorily mandated new program.

III. PURPOSE AND BENEFITS OF REGULATORY ACTION

The purpose of this regulatory action is to comply with the statutory mandate of HSC Section 128734.1. This regulatory action will provide guidance and clarity for SNFs that are required to comply with the mandated new program. The benefit will be to achieve the goal of SB 650 which is to increase the transparency of SNFs' financial data and ownership structure in relation to related parties.

IV. NECESSITY

The addition of Article 3.5 of Chapter 10 of Division 7 of Title 22 of the California Code of Regulations, Sections 97046 – 97049.9, is necessary to implement HSC 128734.1. The regulations are necessary to interpret and provide specificity regarding the various components of the legislation in order to implement the mandated new program.

V. SPECIFIC PURPOSE OF EACH ADOPTION

Section 97046 Definitions

Section 97046 is added to provide definitions of several terms used in the proposed regulations. The definitions are needed to ensure that the following regulations meet the clarity requirement and to provide the specificity necessary for compliance with the regulations and implementation of the new program mandated by HSC 128734.1. This section is necessary to define terms used in subsequent sections of this Article.

The term "Annual Consolidated Financial Report" is defined to have the same meaning as "consolidated financial statements" as defined by the Financial Accounting Standards Board's Accounting Standards Codification Section 810-10-20.

The terms "Ancillary Utilization," "Patient Census," "Patient Revenue," "Payer," and "Revenue Center" are defined consistent with the *Accounting and Reporting Manual for California Long-Term Care Facilities*, incorporated by reference in Section 97019.

The term "Duly Authorized Official" is included to follow the statutory use of the term.

The term "Department" is defined to mean the Department of Health Care Access and Information.

The term "Skilled Nursing Facility" is defined in accordance with HSC Section 1250 and specifies the exclusion of district-operated and government-licensed facilities.

The term "Statement of Patient Census" is defined as the report form "Facility Patient Days by Payer" prescribed by the *Accounting and Reporting Manual for California Long-Term Care Facilities*, incorporated by reference in Section 97019; except the data shall include all activity for the entity or entities, not just that of a single facility.

“Statement of Patient Revenue” is defined as the report form “Facility Revenue Information” prescribed by the *Accounting and Reporting Manual for California Long-Term Care Facilities*, incorporated by reference in Section 97019; except the data shall include all activity for the entity or entities, not just that of a single facility.

Section 97046.1 Required Reports

Section 97046.1 is added to identify who must comply with the statute; to identify the documents that shall be submitted to the Department; to specify that the documents must be reviewed in compliance with the statute; and to specify that the Department will determine if the documents are complete as required by statute. This section is necessary to implement the program for collecting the annual consolidated financial reports and attachments.

Section 97046.2 Method of Submission

Section 97046.2 is added for two purposes: (1) to specify the acceptable electronic file type to submit the documents pursuant to Section 97046.1. Electronic files must be formatted in a text-based Portable Document Format (.pdf). Hardcopy documents are not acceptable.

And (2), to specify the required method to submit the documents pursuant to Section 97046.1. The required documents shall be submitted electronically through the Department website using the System for Integrated Electronic Reporting and Auditing (SIERA). This section is necessary to implement the program for collecting the annual consolidated financial reports and attachments.

Section 97046.3 Form of Authentication

Section 97046.3 is added to identify the requirements for report certification. Certification forms shall be submitted electronically through the Department’s website using SIERA. This section is necessary to implement the program for collecting the annual consolidated financial reports and attachments.

Section 97046.4 Due Date

Section 97046.4 is added to specify the time the documents shall be submitted to the Department. This section is necessary to implement the program for collecting the annual consolidated financial reports and attachments.

Section 97047.5 Extension

Section 97047.5 is added to specify that the Department will grant 90 days of extension to file reports and that extension requests must be filed electronically through the

Department's website using SIERA. This section is necessary to provide guidance on the process of requesting an extension to file reports.

Section 97046.6 Failure to File Required Reports

Section 97046.6 is added to specify that the Department will assess civil penalties when reports are filed late. Such penalties are authorized by HSC Section 128770 which establishes an amount of one hundred dollars (\$100) for each day after the due date that the required report is not filed. This section is necessary to implement the program for collecting the annual consolidated financial reports and attachments.

VI. ECONOMIC IMPACT ANALYSIS

The Department has prepared an Economic and Fiscal Impact Statement (form 399) and determined that the financial impact of the proposed regulations is immaterial.

Therefore, the Department concludes that:

- (1) This regulatory action will not create jobs within the state;
- (2) This regulatory action will not eliminate jobs within the state;
- (3) This regulatory action will not create new businesses;
- (4) This regulatory action will not eliminate existing businesses;
- (5) This regulatory action will not affect the expansion of businesses currently doing business in the state; and
- (6) The benefits of the regulations are to achieve the goals of SB 650, as related to HSC Section 128734.1, by implementing the newly mandated program. It is the intent of SB 650 to provide the public with greater transparency as to SNF ownership and finances.

VII. EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The Department has determined that adopting the proposed regulations would not have an adverse economic impact on any business in the State of California because the proposed regulations are required to implement a new statutorily mandated program under the requirements of HSC Section 128734.1. SNFs may incur up to \$80 to upload the statutorily required documents to the online portal prescribed by these proposed regulations.

VIII. TECHNICAL, THEORETICAL, OR EMPIRICAL STUDY, REPORTS, OR SIMILAR DOCUMENTS RELIED UPON

None.

IX. CONSIDERATION OF ALTERNATIVES

No reasonable alternatives have been identified by the Department or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing that statutory policy or other provision of law.