



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



NOTICE OF PROPOSED RULEMAKING

CALIFORNIA CODE OF REGULATIONS

TITLE 22, DIVISION 7, CHAPTER 9.2

Sections: 96051-96051.42

The Department of Health Care Access and Information (Department) proposes to adopt, amend, and repeal the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN PUBLIC COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action to the Department. The Department must receive all comments by November 3, 2025.

Commenters are strongly encouraged to submit their written comments electronically via email to HFBP@hcai.ca.gov. Written comments may also be hand delivered or mailed:

Department of Health Care Access and Information
Hospital Fair Billing Program
Attn: Melissa Ferkovich
2020 West El Camino Avenue, Suite 1101
Sacramento, CA 95833

CONTACT PERSONS

Inquiries concerning the proposed rulemaking action should be directed to Melissa Ferkovich, Assistant Chief Counsel, by mail to Department of Health Care Access and Information, Hospital Fair Billing Program, 2020 West El Camino Avenue, Suite 1101, Sacramento, CA 95833; by phone at (279) 220-2079; or email to HFBP@hcai.ca.gov.

The designated backup contact for these inquiries is Lindsay Yoshitomi at (916) 326-3601.

AUTHORITY AND REFERENCE

Health and Safety Code sections 127010, 127435, and 127436, authorize the Department to adopt, amend, and repeal these proposed regulations. These proposed regulations implement, interpret, and make specific sections 127400, 127401, 127405, 127410, 127420, 127425, 127426, 127430, 127435, 127436, and 127440 of the Health and Safety Code.

INFORMATIVE DIGEST

Summary of Existing Laws and Effect of the Proposed Regulations

Existing law requires a hospital to maintain an understandable written charity care policy and a discount payment policy for uninsured patients or patients with high medical costs who are at or below 400 percent of the federal poverty level. Existing law requires a hospital to provide financial assistance to those financially qualified patients.

Existing law requires a hospital to provide the Department with a copy of its discount payment policy, charity care policy, financial assistance application, and debt collection policy and requires the Department to make the information public.

Existing law requires a hospital to provide patients with a written notice about the availability of financial assistance and to post notice of its policy for financially qualified and self-pay patients in designated locations that are visible to the public.

Existing law requires the Department to review hospital policies for compliance with the Hospital Fair Pricing Act (Health and Safety Code §§ 127400-127446) and investigate patient complaints about a hospital's failure to follow the Hospital Fair Pricing Act.

Existing law requires the Department to assess administrative penalties for violations of the Hospital Fair Pricing Act.

The amendments proposed in this rulemaking action would clean up existing regulations and update for recently enacted legislation. The amendments would add specificity and greater detail about the document accessibility standards and clarify procedural requirements for policy submissions. The amendments would clarify existing procedures for hospitals to follow in the policy review and patient complaint investigation processes. The amendments would clarify requirements for hospitals with consolidated licenses or distinct parts and add a process for hospitals to request modifications to the regulatory requirements. The amendments would modify the extension request process and hospital response time frames. The amendments would narrow the posting and website requirements to improve clarity and effectiveness. The amendments would clarify and expand existing requirements about policy effective dates, medical necessity, patient documentation, financial assistance applications, and hospital appeals. The

amendments would identify and clarify base penalty adjustment factors for penalty assessments. The amendments would improve readability and plain language and would also include stylistic, grammatical, and minor, non-substantive changes to existing regulation text.

Therefore, the Department proposes to adopt sections 96051.2, 96051.3, 96051.7, 96051.8, 96051.9, 96051.10, 96051.12, 96051.18, 96051.20, 96051.29, 96051.31, 96051.36, 96051.37; amend sections 96051, 96051.1, 96051.2 [renumbered to 96051.17], 96051.3 [renumbered to 96051.19], 96051.5, 96051.6, 96051.7 [renumbered to 96051.11], 96051.8 [renumbered to 96051.13], 96051.9 [renumbered to 96051.14], 96051.10 [renumbered to 96051.15], 96051.11 [renumbered to 96051.16], 96051.12 [renumbered to 96051.21], 96051.14 [renumbered to 96051.22], 96051.15 [renumbered to 96051.23], 96051.16 [renumbered to 96051.24], 96051.17 [renumbered to 96051.25], 96051.18 [renumbered to 96051.26], 96051.21 [renumbered to 96051.27], 96051.23 [renumbered to 96051.28], 96051.26 [renumbered to 96051.30], 96051.27 [renumbered to 96051.33], 96051.29 [renumbered to 96051.34], 96051.31 [renumbered to 96051.32], 96051.32 [renumbered to 96051.35], 96051.33 [renumbered to 96051.38], 96051.34 [renumbered to 96051.39], 96051.35 [renumbered to 96051.40], 96051.36 [renumbered to 96051.41], 96051.37 [renumbered to 96051.42]; and repeal sections 96051.13, 96051.19, 96051.20, 96051.22, 96051.24, 96051.25, 96051.28, 96051.30.

Objectives and Anticipated Benefits of the Proposed Regulations

The broad objective of this regulatory action is to clean up the existing regulations to ensure compliance requirements and the Department's administrative processes are clear and precise. The specific benefits anticipated from the regulatory action are simplified and improved plain language, better readability and organization, alignment with the current configuration and operation of the Hospital Fair Billing Program, and increased clarity and specificity to avoid confusion among the regulated public about compliance requirements and the Department's administrative processes. A hospital's ability to comply with the Hospital Fair Pricing Act, policy review process, and patient complaint investigations is important to the health and welfare of California residents, and it is crucially important that the compliance requirements and administrative penalty assessments are not confusing or ambiguous.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The Department determined the proposed regulations are not inconsistent or incompatible with existing regulations. The only regulation that would relate to or affect this area of law is section 70959 of Title 22, Division 5, Chapter 1 of the California Code of Regulations. However, the Department and the California Department of Public Health (CDPH) both assess administrative penalties for violations of the Hospital Fair Pricing Act but for different time periods. Additionally, CDPH's regulations only address penalties related to complaint investigations, whereas the Department also performs policy compliance reviews, and has more expansive duties related to the Hospital Fair Pricing Act that must be addressed by the regulations. Therefore, the proposed

regulations are not inconsistent or incompatible with existing regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

HCAI has made the following initial determinations:

1. Mandate on local agencies and school districts: None.
2. Cost or savings to any state agency: None.
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500-17630: None.
4. Other nondiscretionary cost or savings imposed on local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Cost impact on a representative person or business: The Department is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. The Department estimates the proposed action would cost each hospital a negligible amount of up to \$0.38 that will be offset by the savings.
7. Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
8. Significant effect on housing costs: None.
9. Effect on small businesses: None. The proposed regulations only impact hospitals and none of the currently licensed hospitals qualify as a small business.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS (EIA)

The Department has determined that the proposed regulation will have no effect on the creation or elimination of jobs within California, no effect on the creation of new businesses or the elimination of existing businesses within California, and no effect on the expansion of businesses currently doing business in California. The Department believes the proposed amendments will benefit the health and welfare of California residents by improving clarity and consistency to make it easier for hospitals to comply with the Hospital Fair Pricing Act. The Department believes there may be minimal benefit to the environment by eliminating the hardcopy notice requirement which may save paper. The Department has determined that the proposed regulation will have no effect on worker safety.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required

because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, 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 the statutory policy or other provision of law.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

AVAILABILITY OF EXPRESS TERMS, INITIAL STATEMENT OF REASONS, AND INFORMATION UPON WHICH PROPOSED RULEMAKING IS BASED

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address given for the contact persons. As of the date this notice is published in the Notice Register, the rulemaking file consists of this Notice, the text of the proposed regulations, the Initial Statement of Reasons, the STD. 399, and all the information upon which this proposal is based.

The text is available on the Department's website at hcai.ca.gov/about/laws-regulations/.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised.

Please send requests for copies of the modified text to the listed contact person. The modified text will also be available on the website at hcai.ca.gov/about/laws-regulations/. If substantive modifications are made, the Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Once prepared, the Final Statement of Reasons will be available through the Department's website at hcai.ca.gov/about/laws-regulations/, or may be obtained from the Department's contact person.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the proposed regulations can be accessed through the Department's website at hcai.ca.gov/about/laws-regulations/.