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Organizations listed for identification purposes

March 5, 2025

Kim Johnson, Chair  
Health Care Affordability Board

Elizabeth Landsberg, Director  
Health Care Access and Information Department

Vishaal Pegany, Deputy Director  
Office of Health Care Affordability

Re: Hospital Sector Regulations

Dear Ms. Brubaker,

Health Access, the statewide health care consumer advocacy coalition, committed to quality, affordable health care for all Californians, provides comments on the regulation proposed by the Department of Health Care Access and Information to add Section 97446, Title 22, Health Care Sectors, defining all hospitals as a sector.

Health Access supports the proposed regulation as consistent with the statute and the direction of the Health Care Affordability Board and as providing clarity to stakeholders, including hospitals, physician organizations, and health plans as well as consumers and other purchasers of health coverage. Health Access appreciates the inclusion of all hospitals in the definition of health care sector. We particularly appreciate the inclusion of Kaiser hospitals consistent with relatively recent legislation, SB343 (Pan) of 2019, which requires Kaiser hospitals to provide data to HCAI in the same manner as all other hospitals, whether independent or part of another health system.

Health Access also appreciates the opportunity for public comment on these regulations provided at a workshop on Monday, March 3, 2025, and the separate opportunity for written comment provided by HCAI.

Sincerely,

Beth Capell, Ph.D.  
Policy consultant

Katrina Walters-White  
Regulatory Advocate

CC: Health Care Affordability Board members  
Elizabeth Landsberg, Director, Department of Health Care Access and Information  
Vishaal Pegany, Deputy Director, Office of Health Care Affordability.



March 6, 2025

Megan Brubaker  
Chair, Health Care Affordability Board  
2020 W El Camino Ave.  
Sacramento, CA 95833

**Subject: Hospitals Oppose Premature Creation of a Hospital Sector**  
*(Submitted via Email to Megan Brubaker)*

OHCA seeks to promulgate a rule creating a new hospital sector, defined as all California licensed hospitals, with the purpose of imposing reduced spending targets on certain hospitals. **The California Hospital Association, on behalf of more than 400 hospitals and health systems, opposes the establishment of a hospital sector.** OHCA's proposal comes years ahead of statutory deadlines, before the office has done any cross-sector analysis or evaluated the impacts of either the statewide or a reduced target on equitable access to high-quality care.

**OHCA Is Adopting a Hospital Sector Before Meeting Basic Responsibilities.** OHCA's enabling statute requires the adoption of the first statewide spending target by June 2024, with an effective date of January 2025. It further provides the office until October 2027 to establish initial sector definitions, a deadline that allows OHCA to analyze three years of spending growth — by segment of the health care industry — before making initial decisions on sectors. Statute then gives OHCA until June 2028 to set its first sector-specific spending targets, affording the office yet another year to analyze the data and other relevant factors prior to deciding on sector spending targets.

The intent behind this statutory schedule is clear: First, implement core functions of the office, encourage cross-sector collaboration, and learn what works and how different segments of the industry are performing. Then, judiciously subdivide health care into sectors and explore differentiated targets based on measured performance against the statewide target. Instead, OHCA is poised to take these steps backward by singling out one sector, seeking to impose strict spending targets on a handful of hospitals, and circle back later to the prerequisite steps described above. This is the opposite of a sound process and ultimately will undermine OHCA's ability to fulfill its important mission.

Below are several examples of the prerequisite steps OHCA has not completed prior to moving forward on a hospital sector.

- **OHCA Has Not Analyzed a Single Year of Comprehensive Spending Data.** OHCA is relying on new reporting from payers on total health care expenditures to comprehensively measure trends in health care spending. While the first two years' data have been collected, they have not been publicly analyzed or reported. As a result, OHCA currently only has preexisting datasets (designed for alternative purposes) available to inform its decisions. Unlike many other segments of the health care industry, hospitals have reported financial information to the state for decades. Now, OHCA is taking advantage of the fact that hospital financial data happens to be available to set special targets on hospitals, disregarding the opportunity to base its initial sector decisions on even a single reporting period's total health care expenditure data.
- **OHCA Has Not Looked at Available Data for Any Other Potential Sector.** Other regulated health care entities report similar information to the state. For example, health plans — a nearly \$300 billion industry in California — have publicly reported financial information for years, including on their earnings, assets, and premium growth. Long-term care facilities and clinics also report their financials to the state. OHCA could have evaluated at least certain other health care entities' financial information prior to proposing and making initial decisions on sector targets. It could have evaluated the 10% to 15% recent annual growth in health plan premiums, as just one example. And yet, OHCA has disregarded this information — as well as forthcoming total health care expenditure data — as irrelevant to its decision making, betraying a worrying partiality and indifference to making data-informed decisions.
- **OHCA Has Not Determined How Hospital Spending Growth Will Be Measured.** OHCA has not finalized a methodology for measuring hospital spending growth over time, meaning it is creating a hospital sector — and proposing associated targets — prior to determining or informing hospitals on what hospital spending is subject to their sector target. Most notably, there is currently no clarity around how OHCA will measure hospital outpatient spending — one of just two major categories of hospital spending that reflects 40% of statewide hospital revenues.
- **OHCA Has Not Assessed the Reasonableness of the Statewide Spending Target.** State law gave OHCA time to evaluate performance against the statewide spending target — and the statewide target's own reasonableness and attainability — prior to defining sectors and establishing sector targets. OHCA is ignoring a critical opportunity to learn from its own statewide efforts before establishing sector targets.

**Singling Out a Single Sector Strains OHCA's Impartiality and Credibility.** Hospitals' doors are open 24/7 to care for California's sickest and most vulnerable patients, including those without the ability to pay. Today, more than 50% of hospitals are operating in the red, a situation that must be turned around to ensure their continued viability. And yet, OHCA is poised to adopt a hospital sector after giving no consideration to other potential sectors. Ultimately, this action prejudicially targets a single set of providers for which data just happen to be available. This will destabilize equitable access to high-quality hospital care and undermine collaboration toward a shared vision of improved health care affordability for all Californians.

California's hospitals appreciate the opportunity to comment and look forward to continued engagement toward our shared goal of promoting affordability, access, quality, and equity in California's health care system.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Johnson", with a stylized flourish at the end.

Ben Johnson  
Group Vice President, Financial Policy



California Association of  
**Health Plans**

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March 6, 2025

Megan Brubaker  
Office of Health Care Affordability  
2020 West El Camino Avenue, Suite 1200  
Sacramento, CA 95834

Sent via email:  
[OHCA@hcai.ca.gov](mailto:OHCA@hcai.ca.gov)

**Re: OHCA Health Care Sector Definition: Hospital Sector**

Dear Ms. Brubaker and OHCA Staff:

The California Association of Health Plans (CAHP) represents 41 public and private health care service plans (plans) that collectively provide coverage to over 28 million Californians. We write to submit comments in response to the Office of Health Care Affordability's (OHCA) proposed Hospital Sector Definition regulation.

CAHP is pleased to see OHCA's commitment to addressing high-cost hospitals in the greater context of the Office's mission: keeping health care affordable and accessible. Hospitals are a key driver of increases in health care spending, and in order for the health care ecosystem to function effectively, the state should examine all factors contributing to high health care costs.

We support OHCA's proposed Hospital Sector Definition, because it takes a comprehensive approach to include all hospitals licensed as health care facilities in California, with the flexibility to adjust for select facilities in the future. Additionally, this approach creates flexibility in implementation, because including all hospitals in the proposed definition does not necessarily mean that all hospitals will be subject to a spending target separate from the statewide target that is already in effect.

Finding exceptions to a separate sector target can be addressed in a subsequent regulation, as OHCA staff have proposed, and any justifiable reasons for not meeting the target can be teased out in further discussions with stakeholders around enforcement. CAHP looks forward to further discussions around OHCA's detailed sector methodology.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Anete Millers".

Anete Millers  
Director of Regulatory Affairs