

**State of California
Office of Administrative Law**

In re:
Department of Health Care Access and
Information

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections: 97046, 97046.1, 97046.2,
97046.3, 97046.4, 97046.5,
97046.6

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

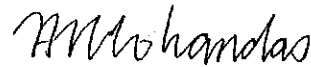
OAL Matter Number: 2024-0123-02

OAL Matter Type: Regular (S)

This action establishes the policies and procedures to implement Health and Safety Code section 128734.1 (Senate Bill 650, Chapter 493, Statutes of 2021) which requires organizations that operate, conduct, own, manage, or maintain a skilled nursing facility or facilities to prepare and file with the Department of Health Care and Access and Information, an annual consolidated financial report and documentation of the corporate structure.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 3/6/2024.

Date: March 6, 2024



Ashita Mohandas
Attorney

For: Kenneth J. Pogue
Director

Original: Elizabeth Landsberg, Director
Copy: Adrienne Wahleithner

NOTICE PUBLICATION/REGULATION SUBMISSION

REGULAR

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2023-0707-03	REGULATORY ACTION NUMBER 2024-0123-08S	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED - FILED in the office of the Secretary of State of the State of California

MAR 06 2024 2:02 PM

OFFICE OF ADMIN. LAW 2024 JAN 23 AM 10:38

AGENCY WITH RULEMAKING AUTHORITY Department of Health Care Access and Information

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) SNF Financial and Ownership Transparency	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 97046, 97046.1, 97046.2, 97046.3, 97046.4, 97046.5, and 97046.6
TITLE(S) 22	AMEND REPEAL

3. TYPE OF FILING
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
October 19, 2023 - November 3, 2023

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)	PER AGENCY REQUEST AM
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____	

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____

7. CONTACT PERSON Adrienne Wahleithner	TELEPHONE NUMBER 916-326-3848	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Adrienne.Wahleithner@hcai.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Scott Christman <small>Digitally signed by Scott Christman Date: 2024.01.22 15:48:55 -0800</small>	DATE January 22, 2024
TYPED NAME AND TITLE OF SIGNATORY J Scott Christman, Chief Deputy Director	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAR 06 2024

Office of Administrative Law

HCAi Department of Health Care
Access and Information

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



PROPOSED REGULATORY TEXT

California Code of Regulations, Title 22, Division 7, Chapter 10

Article 3.5 (97046-97046.6) – Skilled Nursing Facility Consolidated Reporting Requirements

97046 - DEFINITIONS:

As used in this Article:

- (a) “Annual Consolidated Financial Report” is defined as the financial statements of a consolidated group of entities that include a parent and all its subsidiaries presented as those of a single economic entity, in accordance with the Consolidation Topic of the Financial Accounting Standards Board Accounting Standards Codification.
- (b) “Combined Financial Statement” is defined as the consolidating information for each entity reported in the annual consolidated financial report. This consolidating information shall be provided for the financial statements required in Section 97046.1 subsections (c)(1) and (c)(3).
- (c) “Duly Authorized Official” is defined as an official/employee authorized by the health facility to act on its behalf and includes, but is not limited to, Administrator, President, Chief Executive Officer, Chief Financial Officer, Vice President, Controller, Finance Officer.
- (d) “Department” means the Department of Health Care Access and Information.
- (e) “GAAP” is defined as generally accepted accounting principles as established by the Financial Accounting Standards Board.
- (f) “GAAS” is defined as the generally accepted auditing standards promulgated by the Accounting Standards Board of the American Institute of Certified Public Accountants.
- (g) “Related Party” is defined pursuant to Health and Safety Code Section 128734.1 subdivision (e).

(h) "Skilled Nursing Facility" means any facility that is required to be licensed under subdivision (c) of Health and Safety Code section 1250; excluding any facility operated by a health care district organized and governed pursuant to the Local Healthcare District Law (Division 23 (commencing with Section 32000)) and any government-licensed entity.

(i) "SSARS" is defined as the Statements on Standards for Accounting and Review Services as promulgated by the Accounting and Review Services Committee of the American Institute of Certified Public Accountants.

(j) "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.

(k) "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.

[Authority: Section 128810, Health and Safety Code. Reference: Section 128734.1, Health and Safety Code.]

97046.1 - REQUIRED REPORTS:

(a) An organization that operates, conducts, owns, manages, or maintains a skilled nursing facility or facilities licensed pursuant to subdivision (c) of Section 1250 of the Health and Safety Code shall prepare and file an annual consolidated financial report to the Department.

(b) The annual consolidated financial report, as defined in Section 97046 subsection (a), shall be reviewed by a certified public accountant. If the annual consolidated report is audited by a certified public accountant, the audit report shall be submitted. If the audit report does not include all of the required statements, those statements shall be reviewed by a certified public accountant.

(1) The audit or review for compliance with GAAP for items (1) through (5) in subsection (c) shall be in accordance with GAAS and SSARS.

(2) Items (6) and (7) in subsection (c) shall be reviewed for compliance with the Accounting and Reporting Manual for California Long-Term Care Facilities, incorporated by reference in Section 97019.

(c) The annual consolidated financial report shall include, but not be limited to, the following statements:

(1) A balance sheet detailing the assets, liabilities, and net worth at the end of the fiscal year.

- (2) A statement of changes in equity, also referred to as a statement of retained earnings, for the fiscal year.
- (3) A statement of income, expense, and operating surplus or deficit for the fiscal year.
- (4) A statement of cash flows, including ongoing and new capital expenditures and depreciation.
- (5) A combined financial statement that includes all entities reported in the consolidated financial report, unless the organization is prohibited from including a combined financial statement in a consolidated financial report pursuant to a state or federal law or regulation or a national accounting standard. When applicable, the organization must disclose to the office the applicable state or federal law or regulation or national accounting standard.
- (6) A Statement of Patient Census by payer.
- (7) A Statement of Patient Revenue by payer and by routine and ancillary revenue center.
- (d) The organization as specified in subsection (a) shall submit to the Department the individual financial information required by subsection (c) from each operating entity, licenseholder, and related party in which the organization has an ownership or control interest of 5% or more and that provides any service, facility, or supply to the skilled nursing facility.
- (e) The organization as specified in subsection (a) shall submit to the Department a document outlining a visual representation of the organization's structure that includes:

 - (1) All related parties in which the organization has an ownership or control interest of 5 percent or more and that provide any service, facility, or supply to the skilled nursing facility.
 - (2) Unrelated parties that provide services, facilities, or supplies to the skilled nursing facility or facilities that are operated, conducted, owned, managed, or maintained by the organization, including, but not limited to, management companies and property companies, and that are paid more than two hundred thousand dollars (\$200,000) by the skilled nursing facility.
- (f) If any component in subsections (c), (d), or (e) is not included an explanation must be given.
- (g) The Department shall assess documents to determine compliance with this Article.

[Authority: Section 128810, Health and Safety Code. Reference: Section 128734.1, Health and Safety Code.]

97046.2 - METHOD OF SUBMISSION

- (a) Each document specified in Section 97046.1 shall be submitted in a Portable Document Format (PDF) file.
- (b) Documents submitted should not be scanned versions or images of paper documents. Documents submitted shall be in a text-based, machine-readable format.
- (c) The documents shall be submitted through the Department's website using SIERA, as defined in Section 97005.

[Authority: Section 128810, Health and Safety Code. Reference: Section 128734.1, Health and Safety Code.]

97046.3 - FORM OF AUTHENTICATION:

- (a) Each annual consolidated financial report as specified by Section 128734.1 of the Health and Safety Code shall be accompanied by a report certification signed by a duly authorized official that certifies under penalty of perjury that, as applicable, to the best of the official's knowledge and information, each statement and amount in the accompanying report is believed to be true and correct.
- (b) Organizations shall submit report certifications through the Department's website using SIERA.
- (c) Report certifications signed by health facility consultants are not acceptable.

[Authority: Section 128810, Health and Safety Code. Reference: Section 128734.1(h), Health and Safety Code.]

97046.4 - DUE DATE:

- (a) The annual consolidated financial report is due within four months after the skilled nursing facility's fiscal year-end.

[Authority: Section 128810, Health and Safety Code. Reference: Section 128734.1, Health and Safety Code.]

97046.5 - EXTENSION:

- (a) An organization may request, and the Department may grant, a 90-day extension to file the report if needed due to unintended or unforeseen delays.
- (b) A request for extension shall be filed on or before the required due date, prescribed in Section 97046.4, using SIERA. Notices regarding the use of extension days, new due dates, and notices of approval and rejection, will be e-mailed.
- (c) If the Department determines that SIERA was unavailable for report submission for one or more periods of four or more continuous supported hours during the four

State working days before an established due date, the Department shall extend the due date by seven days.

[Authority: Section 128810, Health and Safety Code. Reference: Section 128734.1, Health and Safety Code.]

97046.6 - FAILURE TO FILE REQUIRED REPORTS:

(a) A skilled nursing facility that fails to file a required report by the due date established by this Article is liable for a civil penalty of one hundred dollars (\$100) for each day after the due date that the required report is not filed.

(b) If the report is delinquent at the time the next report is due, the Department, on an annual basis, shall determine a maximum civil penalty of no more than thirty-six thousand, five hundred dollars (\$36,500) for failure to file a required report.

(c) Assessed penalties may be appealed pursuant to Section 97052 of Title 22 of the California Code of Regulations.

[Authority: Section 128810, Health and Safety Code. Reference: Section 128770, Health and Safety Code.]