CCR, Title 22, Division 7 (Health Planning and Facility Construction):

Chapter 9.2: Hospital Fair Billing Program

Article 1. General Provisions ~~Definitions; Document Accessibility; Eligibility Determination Letters; Hospital Bill Complaint Program Notice; and Hospital Delegation~~

§ 96051. Definitions.

For purposes of this chapter, the following definitions shall apply in addition to those found in Health and Safety Code sections 127400 and 127400.5:

(a) "Accessible Portable Document Format" means a document that is designed and formatted to be useable by all people, including those using assistive technologies.

~~(a)~~(b) "Act" means the Hospital Fair Pricing Act codified in Health and Safety Code sections 127400 through 127446, inclusive.

~~(b)~~(c) "Director" means the Director of the Department of Health Care Access and Information, as described in Health and Safety Code section 127005.

(d) "Document" means any writing, printing, or posting. It does not include webpages.

(e) "Financial harm" means the out-of-pocket medical costs paid by a patient or guarantor exceeds the adjusted discount payment or charity care amount owed, or the medical debt appeared on the patient's or guarantor's credit report.

(f) "Patient complaint portal" means the Department's online portal for submitting and responding to patient complaints at hbcp.hcai.ca.gov.

(g) "Plain language" means language that the intended audience, including individuals with limited English proficiency, can readily understand and use because that language is concise, well-organized, uses simple vocabulary, avoids excessive acronyms and technical language, and follows other best practices of plain language writing.

~~(c)~~(h) "Policy" or "policies" means the hospital's charity care, discount payment, and debt collection policies. ~~document(s) the hospital is required to submit pursuant to Health and Safety Code section 127435(a).~~

(i) "Policy submission" means all documents the hospital is required to submit under Health and Safety Code section 127435(a) through the policy submission portal, including revisions.

(j) "Policy submission portal" means the Department's online portal for submitting hospital policies at hdc.hcai.ca.gov.

(k) “Reporting period” means the four-month period, beginning September 1st and ending January 1st, leading up to the biennial policy submission due date described in Health and Safety Code section 127435(a).

(l) “Significant change” means any change that could affect patient access to or eligibility for discount payment or charity care or any other protections outlined in the Act and this chapter.

(m) “Supervising health care provider” means the primary physician or, if there is no primary physician in the patient's record, the health care provider who had primary responsibility for the patient's health care.

~~(d)~~(n) “Working days” means Monday through Friday, excluding State holidays. ~~but shall not include State Holidays.~~

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127400, 127405, 127410, 127425, 127435 and 127436, Health and Safety Code.

§ 96051.1. Accessibility and Readability Standards. ~~Document Accessibility.~~

(a) All hospital documents provided or made available to a patient under the Act or this chapter ~~shall comply with the following accessibility requirements:~~ must be in plain language and comply with all of the following formatting requirements:

~~(1) Be designed and presented in a way that is easy to read and understand by a patient.~~

~~(2)~~(1) Use a sans serif font in at least a 12-point size for body text and at least 9-point size for headers and footers.~~, with section headings in a larger font size or bold/underlined font style to distinguish different sections of the document.~~

~~(3) Use plain, straightforward language that avoids technical jargon.~~

(2) Justified text alignment cannot be used.

(3) Black text on a white background must be used whenever possible. If color is used to emphasize or convey information, there must be additional distinguishing marks, such as underlining or asterisks, to differentiate areas where color is used.

(4) Lists must use a formatting style such as bullet points, numbering, or an ordered list.

(5) Headings must use heading styles to identify the headings’ correct order of diminishing hierarchy.

(A) Headings must be in a larger font size than the body text, or bold and/or underlined font style.

(B) The first heading in a document must be a Heading 1, and there can only be one Heading 1 per document. More than one Heading 1 is acceptable when multiple documents are merged into a single file.

(6) Hard returns must not be used to break up lines of text.

(7) If columns are used, the columns must be formatted using the word processing software's columns function.

(8) Tables must use a simple table structure without split or merged cells, nested tables, or blank columns or rows. Rows must not be broken across multiple pages. One table header row is allowed per table, which must be repeated at the top of each page if the table spans multiple pages. Tables must not be used to control layout.

(9) Images must include alternative text that describes the image or be marked as decorative.

(10) Correct document structure tags must be used, and the information presented in a logical reading order.

(11) A descriptive title, that is not the same as the file name, must be included in the document properties.

~~(4)~~(b) Hospital's policies, financial assistance application, and the notice required by Health and Safety Code section 127410(a) must be translated into the languages spoken by five percent or more of the limited English proficient population served by the hospital. ~~Meet the language requirements outlined in Health and Safety Code section 127410(a).~~

~~(b)~~(c) The notices required by section 96051.17~~2,~~ and Health and Safety Code sections 127410(a) and~~, and Health and Safety Code section~~ 127425(e) must ~~shall~~ include a tagline sheet with substantially the following statement provided in English and in the top 15 languages spoken by limited-English-proficient (LEP) individuals in California as determined by the State Department of Health Care Services:

ATTENTION: If you need help in your language, please call [phone number where patients may obtain more information] or visit [hospital office where patients may obtain more information]. The office is open [office's hours] and located at [office location information]. Aids and services for people with disabilities, like documents in braille, large print, audio, and other accessible electronic formats are also available. These services are free.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127405, 127410 127425 and 127430, Health and Safety Code.

§ 96051.2. Consolidated Licenses and Distinct Parts.

(a) Each physical plant maintained and operated on separate premises, under a single consolidated license or as a distinct part, is considered a separate hospital for purposes of the Act and this chapter.

(b) Each physical plant must comply with the requirements of the Act and this chapter.

(c) Compliance history for penalty assessments will be specific to the physical plant location, not the license.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127400, 127435 and 127436, Health and Safety Code.

§ 96051.3. Modification Requests.

(a) The Department may, upon written request, grant a modification to the requirements defined in this chapter.

(b) Modification requests must state the specific changes being requested and the reason(s) the changes are needed.

(c) Hospitals must have Department approval prior to implementation of any changes to the applicable requirements.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ 96051.4. Hospital Delegation.

Hospital delegation of any of its obligations under the Act and this chapter does not waive the hospital's requirements to comply with the Act and this chapter.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

Article 2. Hospital Fair Pricing Policies ~~Discount Payment, Charity Care, and Debt Collection Policies and Procedures~~

§ 96051.5. Contact Registration. ~~Hospital Contact and Registration for Policy Submission.~~

(a) Each hospital must ~~shall~~ designate a primary and secondary contact for the purpose of ~~receiving~~ submitting required documents and receiving time-sensitive compliance and informational communications regarding the hospital's policy submission. ~~policies. Each hospital shall also designate a secondary contact that the Department may~~

~~communicate with in the case that the primary contact is not responsive to the Department.~~

(b) The primary and secondary contacts must ~~shall~~ each register on the Department's ~~online~~ policy submission portal ~~at hdc.hcai.ca.gov~~ by providing the following information:

(1) The legal name of the hospital.

(2) ~~The name of the contact person~~ Their name.

(3) ~~The~~ Their business title ~~of the contact person~~.

~~(4) A business address.~~

~~(5)~~(4) A business email address.

~~(6)~~(5) A direct business phone number.

~~(7)~~(6) ~~Whether they are the p~~Primary or secondary contact designation.

(c) Each hospital must ~~shall~~ update any change to the information outlined in subdivision (b) through the ~~online~~ policy submission portal ~~referenced in subdivision (b)~~ within 10 working days after the change.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127435, Health and Safety Code.

§ 96051.6. ~~Hospital Policies.~~ Due Dates.

Hospitals must submit documents required by Health and Safety Code section 127435(a) or report no significant change as follows:

~~(a) Substantive Policy Requirements.~~

~~(1) Each policy submitted shall list an effective date on the policy that reflects the date the policy will go into effect at the hospital.~~

~~(2) Discount payment policies and charity care policies shall include eligibility procedures and the hospital's review processes, in accordance with the requirements outlined in the Act.~~

~~(3) Each debt collection policy shall include the requirements outlined in Health and Safety Code sections 127405(e)(3), 127425, 127426, and 127430, in addition to all other applicable statutory and regulatory requirements.~~

~~(b) Policy Submission Requirements.~~

(a)~~(1) Each hospital's primary or secondary contact, as referenced in 96051.5, shall submit policies through the Department's online policy submission portal at hdc.hcai.ca.gov, b~~By January 1, 2024, and biennially by January 1 thereafter, during the reporting period. ~~If no significant change has been made to a policy since the last submission, the hospital shall report that information through the Department's online policy submission portal. The primary or secondary contact shall submit the policies or report no significant change to the policies through the online policy submission portal at any time during the reporting period.~~

~~(2) "Reporting period," for the purposes of this section, means the four-month period, beginning September 1st and ending January 1st, leading up to the biennial policy submission due date outlined in Health and Safety Code section 127435 (a).~~

~~(3)~~(b) Before treating patients for hospitals ~~Hospitals~~ that are newly licensed or within 10 calendar days for hospitals that are newly acquired under an approved change of ownership. ~~under Health and Safety Code section 1250(a), (b), or (f) on or after January 1, 2024, shall submit the policies required by Health and Safety Code section 127435 prior to treating patients.~~

~~(4)~~(c) Within 10 calendar days of the effective date on the policy when a significant change is made voluntarily by the hospital. ~~Any policies submitted by the hospital due to a significant change, as required by Health and Safety Code section 127435, shall be submitted through the Department's online policy submission portal.~~

(d) Within 30 calendar days from the date a new statutory or regulatory requirement goes into effect that would require a significant change to maintain compliance.

~~(5) "Significant change," as utilized in Health and Safety Code section 127435 and for the purposes of this chapter, means any change that could affect patient access to or eligibility for discount payment and/or charity care or any other protections outlined in the Act and this chapter.~~

~~(6) The following information shall be included with each policy submission:~~

~~(A) The effective date for each submitted policy.~~

~~(B) A list of all facilities under the hospital's license to which the submitted policies apply.~~

~~(C) A statement of certification under penalty of perjury, which includes the following:~~

~~(i) A certification that the submitter is duly authorized to submit the policies.~~

(ii) The submitted policies are true and correct copies of the hospital's policies.

(c) Document Requirements.

(1) Each policy shall be submitted by uploading Portable Document Format (.pdf) files.

(2) Documents submitted should not be scanned versions or images of paper documents. Documents submitted shall be in a machine-readable format.

(3) Each policy should be uploaded as a clean version for posting on the Department's website and a marked-up version which reflects any changes since the policy was last submitted to the Department using underline to identify new content and strikethrough to identify removed content.

(d) Policy Review Process.

(1) Hospitals shall respond to any correspondence from the Department regarding policies within 30 calendar days of the correspondence being sent to the hospital.

(2) Hospital responses shall be complete and include written responses to any Department questions and revised policies, if applicable.

(3) Revisions to submitted policies shall be uploaded through the online policy submission portal in clean and marked-up versions. The marked-up version shall reflect all changes since the policy was last submitted to the Department using underline to identify new content and strikethrough to identify removed content.

(4) If the hospital cannot provide the response required by subdivision (d)(1) within 30 calendar days, the hospital may request an extension of time through the online policy submission portal. The request shall be submitted prior to the due date and describe the actions being taken to obtain the information or records and when receipt is expected.

(5) The Department has discretion to agree to a requested extension of time. The Department will consider the following factors in determining whether to grant the extension request:

(A) Complexity of required response.

(B) Hospital's history of cooperativeness.

(C) Necessity for third party assistance in obtaining records.

(D) Any other factors submitted by the hospital showing good cause.

~~(6) If the Department agrees to an extension of time, no penalty pursuant to section 96051.22 will accrue during the extension period.~~

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127435, Health and Safety Code.

§ 96051.7. Submission Requirements.

(a) Policy submissions or reports of no significant change must be submitted through the Department's policy submission portal.

(b) The following information must be included with each policy submission:

(1) The most recent effective date for each submitted policy.

(2) A statement of certification under penalty of perjury pursuant to Code of Civil Procedure section 2015.5.

(c) Document Requirements.

(1) Documents must be unlocked, searchable, text-based, accessible Portable Document Format (.pdf) files. Documents must not be scanned versions or images of paper documents.

(2) Each policy and application must be provided in a clean version for posting on the Department's website and a marked-up version.

(A) Clean versions must be free of all edit mark-ups and watermarks, and exclude coversheets.

(B) Marked-up versions must reflect only changes since the last policy submission using underline to identify new content and strikethrough to identify removed content.

(3) The file name of any document submitted must comply with the following:

(A) Be in the following format: hospital name acronym (followed by a hyphen) document type (followed by a hyphen) date of submission written as YYYYMMDD, with no spaces in between. For example, "ABC-Charity-Care-20250101."

(B) Document types must be abbreviated to: "Financial-Assistance," "Charity-Care," "Discount-Payment," "FA-Application," and "Debt-Collection."

(C) Marked-up versions must include "-MV" at the end of the file name,

(4) Policy files must include all referenced attachments and/or appendices in one combined file.

(5) Application files may contain application instructions but cannot include a copy of the financial assistance policy.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127435, Health and Safety Code, and Sections 2012-2015.5, Code of Civil Procedure.

§ 96051.8. Policy Review Process.

(a) The Department may request additional information, including copies of documents, from the hospital at any time during the policy review process.

(1) The hospital must provide a complete response to the Department within 14 calendar days of the request.

(2) If an incomplete response is provided, the Department's follow-up request for a complete response is not a new request. The hospital is not entitled to another 14 calendar days to respond, and late penalties will accrue subject to section 96051.27.

(b) After review of all relevant information, the Department will notify the hospital of its compliance determination.

(1) If violations are found, the Department will issue an initial compliance determination detailing the findings.

(2) The hospital will have 30 calendar days after issuance of the initial compliance determination to take corrective action pursuant to section 96051.32 and submit a revised policy submission.

(3) The Department will review the hospital's corrective actions and update its compliance determination accordingly. If additional corrective action is required, the Department will notify the hospital, and the hospital will have 30 calendar days to submit another revised policy submission.

(c) If administrative penalties are being assessed, the Department will issue a final compliance determination and administrative penalty notice.

(d) Within 30 calendar days from the date the Department's final compliance determination and administrative penalty notice was issued, or within 30 calendar days from the date of the Director's final written decision after an appeal, whichever is later, the hospital must do all of the following, if applicable:

(1) Take corrective action as required by the Department.

(2) Pay all assessed penalties to the Department.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127435 and 127436, Health and Safety Code.

§ 96051.9. Extension Requests.

(a) A hospital may request an extension to the due dates described in section 96051.8 by using the extension request screen available from the policy submission portal. The request must be submitted on or before the due date.

(b) For extensions to the due date described in section 96051.8(a)(1), the Department will grant one extension of an additional 14 calendar days.

(c) For extensions to the due dates described in section 96051.8(b)(2) and (3), the Department will grant a maximum of two extensions, not to exceed an accumulated total of 90 calendar days for each policy revision submission. A 60-day extension will be granted on a first request. If a second request is made, 30 calendar days will be granted.

(d) Late penalties will not accrue during the extension period.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127435, Health and Safety Code.

§ 96051.10. Effective Dates.

(a) Policies must state the date the version of the policy submitted went into or will go into effect at the hospital.

(b) Policy revisions with changes other than formatting changes must have an updated effective date.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127435, Health and Safety Code.

~~**§ 96051.7. Discount Payment Program.**~~ **§ 96051.11. Medical Necessity.**

(a) All medically necessary services are eligible for ~~the~~ discount payment ~~program~~.

(1) Hospitals may, but are not required to, provide discount payment for non-emergency services provided to patients with high medical costs for out-of-network care not covered by a third-party payer if the patient declines transfer to an in-network facility.

(b) For purposes of patient complaint investigations, ~~S~~services performed within the hospital are presumed to be medically necessary unless the hospital provides the Department an attestation that the hospital services at issue in the complaint were not medically necessary. An attestation is considered valid if it is signed by the provider who referred the patient for the hospital services at issue in the complaint or the supervising health care provider for the hospital services at issue in the complaint. The hospital must ~~shall~~ obtain the required attestation before it may deny a patient eligibility for ~~the~~ discount payment ~~program~~ on the basis that the services at issue were not medically necessary.

~~(1) For the purposes of this section, "supervising health care provider" means the primary physician or, if there is no primary physician in the patient's record, the health care provider who had primary responsibility for a patient's health care.~~

~~(b) For purposes of determining eligibility for the discount payment program as outlined in Health and Safety Code section 127405(e)(1), recent tax returns are tax returns which document a patient's income for the year in which the patient was first billed or 12 months prior to when the patient was first billed. Recent paystubs are paystubs within a 6-month period before or after the patient is first billed by the hospital, or in the case of preservice, when the application is submitted.~~

~~(c) The 90-day period outlined in Health and Safety Code section 127425 (i) shall start on the first billing statement's due date missed by the patient.~~

~~(d) Notices required by Health and Safety Code section 127425(i) shall be sent at least 60 calendar days after the first missed bill and provide the patient with at least 30 calendar days to make a payment before the extended payment plan becomes inoperative.~~

~~(e) When an extended payment plan is declared inoperative by a hospital pursuant to Health and Safety Code section 127425(i), the patient's financial responsibility shall not exceed the discounted amount previously determined pursuant to Health and Safety Code section 127405(d). In addition, the patient shall receive credit for any payments previously made under the extended payment plan.~~

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127405 and 127425, Health and Safety Code.

§ 96051.12. Documentation of Income and Expenses.

(a) As described in Health and Safety Code section 127405(e)(1), recent tax returns are tax returns which document a patient's family income for the year in which the patient was first billed or 12 months prior to when the patient was first billed. Recent paystubs are paystubs within a 6-month period before or after the patient was first billed, or in the case of preservice, when the application is submitted.

(b) For purposes of determining whether a patient has high medical costs under Health and Safety Code section 127400(g)(2), documentation of the patient's medical expenses is for the 12-month period before the patient was first billed.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127400, 127405 and 127425, Health and Safety Code.

~~§ 96051.8. Applications for Eligibility for Discount Payment Program or Charity Care Program.~~ § 96051.13. Financial Assistance Applications.

~~(a) When a hospital uses a single application form to determine eligibility for both discount payment and charity care programs, the hospital shall make clear on the application form that:~~

~~(1) For patients applying for either charity care or discount payment program eligibility, the hospital may only request recent paystubs or income tax returns for documentation of income. The hospital may accept other forms of documentation of income but shall not require such other forms.~~

~~(2) Patients who only apply for discount payment program eligibility may receive less financial assistance than what may be available to them under the charity care program.~~

(a) Financial assistance applications must not be overly burdensome by requiring a detailed breakdown of income sources if tax returns are also required.

(b) Hospitals must use a single application form for both discount payment and charity care. If the eligibility requirements for discount payment and charity care are different, the application must allow the patient to apply for only discount payment or both programs.

NOTE: Authority cited: Sections 127010 and 127435, Health and Safety Code. Reference: Section 127405, Health and Safety Code.

Article 3. Notice and Posting Requirements

~~§ 96051.9. Discharge Notice.~~ § 96051.14. Financial Assistance Notice.

~~(a) Written notices provided in accordance with Health and Safety Code section 127410(a) and (b) shall comply with the following requirements:~~

~~(1) Be provided to patients in hardcopy format.~~

~~(2) Meet general accessibility standards, pursuant to section 96051.1.~~

~~(3) Include the following content:~~

~~(A) Information on the availability of discount payment and charity care programs and how to apply.~~

~~(B) Information on where the patient may access the hospital's discount payment and charity care policies.~~

~~(C) Eligibility information.~~

~~(D) Contact information for a hospital employee or office where the patient may obtain more information.~~

~~(E) Internet website for the hospital's list of shoppable services.~~

~~(F) Statement on the Hospital Bill Complaint Program, pursuant to section 96051.3.~~

~~(G) Information on Health Consumer Alliance, including the following statement:~~

~~Help Paying Your Bill~~

~~There are free consumer advocacy organizations that will help you understand the billing and payment process. You may call the Health Consumer Alliance at 888-804-3536 or go to healthconsumer.org for more information.~~

~~(b) Hospitals shall maintain a contemporaneous record that~~ When the written notice required under Health and Safety Code section 127410(a) ~~and (b) was provided to the patient~~ is provided in hardcopy format, hospitals must maintain a contemporaneous record that it was provided to the patient. The record must be ~~and~~ retained in accordance with the hospital's record retention requirements outlined in state and federal law.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127410, Health and Safety Code.

§ ~~96051.10.~~ 96051.15. Hospital Postings.

(a) Hospital postings required by ~~in accordance with~~ Health and Safety Code section 127410(c) must ~~shall~~ comply with the following requirements:

~~(1) Use a sans serif font.~~

~~(2) Use a white background and black text.~~

~~(3)~~(1) Use paper that is no smaller than an 11″ x 17″ sheet and be limited to one sheet.

~~(4) Be designed and presented in a way that is easy to read and understand by the patient.~~

~~(5) Use plain, straightforward language that avoids technical jargon.~~

~~(6)~~(2) ~~Meet the language requirements outlined in Health and Safety Code section 127410(a).~~Be in at least English and Spanish. Different languages must be separate postings.

(b) Hospital postings must ~~shall~~ include only the following content:

(1) “Help Paying Your Bill” as ~~a~~ the main title, in a font large enough to span at least half the width of the posting, followed by a short statement ~~information~~ about the availability of discount payment and charity care ~~programs~~, including eligibility criteria.

(2) “How to Apply” as a titled section heading, followed by information on how to apply and the contact information for a hospital employee or office where the patient may obtain information about financial assistance. ~~about discount payment and charity care policies and how a patient may apply.~~

(3) The “Hospital Bill Complaint Program” notice stated in section 96051.19. ~~as a titled section heading, followed by the following language: If you believe you were wrongly denied financial assistance, you may file a complaint with the State of California's Hospital Bill Complaint Program. Go to HospitalBillComplaintProgram.hcai.ca.gov for more information and to file a complaint.~~

(4) The “Health Consumer Alliance” notice stated in section 96051.20. ~~“More Help” as a titled section heading, followed by information that there are organizations that will help the patient understand the billing and payment process, as well as the internet webpage for Health Consumer Alliance at healthconsumer.org.~~

(5) Information on how a patient with a disability may access the notice in an accessible alternative format including, but not limited to, large print, braille, audio, and other accessible electronic formats.

(6) Information on how a patient may access the notice in another language.

(c) Department staff must ~~shall~~ be permitted to enter the hospital during business hours, Monday through Friday, 9 a.m. to 5 p.m., to inspect the hospital's postings. Department staff may enter areas that are visible to the public, including, but not limited to, all the following:

(1) Emergency department.

(2) Billing office.

(3) Admissions office.

(4) Other outpatient settings.

(d) Department staff may, but are not required to, inform the hospital of their findings at the time of inspection.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127410, Health and Safety Code.

§ ~~96051.11.~~ 96051.16. Website Requirements.

(a) Notice ~~requirements~~ on the hospital's internet website as required by ~~pursuant to~~ Health and Safety Code section 127410(c)(5) must ~~shall~~ comply with the following requirements:

(1) Hospitals must ~~shall~~ maintain an internet webpage titled “Help Paying Your Bill,” which includes the following information: ~~including, but not limited to, the following information on discount payment and charity care~~:

(A) Eligibility requirements for discount payment and charity care.

(B) Instructions on how to apply.

(C) Links to the discount payment and charity care policies and application~~(s)~~.

(D) Contact information for the ~~O~~office where the patient may go for more information.

(E) The “Hospital Bill Complaint Program” notice stated in section 96051.19.

(2) The “Help Paying Your Bill” webpage must ~~shall~~ be accessible through a link called “Help Paying Your Bill” that is prominently displayed on the hospital's website in all the following locations:

(A) The ~~Hospital~~ website's footer.

~~(B) On any webpage where the patient may find information about paying a bill.~~

~~(C)~~(B) The ~~In the hospital~~ website's header or within one click in a ~~on the hospital's~~ drop-down menu from the ~~hospital website's~~ header.

(3) Other than ~~W~~within the hospital website's header and footer, the “Help Paying Your Bill” link must ~~shall be consistent with other text sizing, or larger, in the header~~

~~and footer. If the link appears elsewhere on the hospital's website, such as on a webpage where the patient may find information about paying a bill, the "Help Paying Your Bill" link shall~~ be in a sans serif font that is at least 12-point size and distinguished from other text on the webpage (bolded ~~/~~ and/or underlined).

~~(4) All "Help Paying Your Bill" links shall be reasonably designed to be noticeable to average patients using the hospital's website.~~

~~(5) The "Help Paying Your Bill" webpage shall also include information on the Hospital Bill Complaint Program, including the following statement:~~

~~Hospital Bill Complaint Program~~

~~The Hospital Bill Complaint Program is a state program, which reviews hospital decisions about whether you qualify for help paying your hospital bill. If you believe you were wrongly denied financial assistance, you may file a complaint with the Hospital Bill Complaint Program. Go to HospitalBillComplaintProgram.hcai.ca.gov for more information and to file a complaint~~.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127410, Health and Safety Code.

§ ~~96051.2~~. 96051.17. Eligibility Determination Letters.

(a) Hospitals must notify patients in writing of their eligibility or ineligibility for discount payment and/or charity care. The notice must include: ~~Upon determination of a patient's eligibility for the discount payment program and/or charity care program, a hospital shall issue a letter to the patient, which includes all the following information:~~

(1) The approval or denial of financial assistance, and the reason for the determination. ~~A clear statement of the hospital's determination of the patient's eligibility for the discount payment program and/or charity care program.~~

~~(2) If the patient was denied eligibility for discount payment and/or charity care, a clear statement explaining why the patient was denied discount payment, charity care, or both.~~

(2) The amount the patient owes, if any, and the amount the patient will be refunded, if applicable.

(3) ~~If the patient was approved for discount payment or charity care, a clear explanation of the reduced bill and instructions on how the patient may obtain additional information regarding a r~~Reasonable payment plan options, if applicable.

(4) A statement, when appropriate, about the specific information or documentation needed to determine eligibility.

(5)(4) ~~Name of the hospital office, contact name, and c~~Contact information for the hospital office where the patient may appeal the hospital's determination ~~decision~~.

(6)(5) ~~The Information on the~~ "Hospital Bill Complaint Program"~~,~~ notice as stated ~~as outlined~~ in section 96051.~~3~~19.

(7)(6) ~~The Information on~~ "Health Consumer Alliance"~~,~~ notice as stated in section 96051.20. ~~including the following statement:~~

~~**Help Paying Your Bill**~~

~~There are free consumer advocacy organizations that will help you understand the billing and payment process. You may call the Health Consumer Alliance at 888-804-3536 or go to healthconsumer.org for more information.~~

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127405, Health and Safety Code.

§ 96051.18. Inoperative Payment Plan Notice.

Notices required by Health and Safety Code section 127425(i) must be sent at least 60 calendar days after the first missed payment and provide the patient with at least 30 calendar days to make a payment before the extended payment plan becomes inoperative.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127405 and 127425, Health and Safety Code.

§ ~~96051.3~~. 96051.19. Hospital Bill Complaint Program Notice.

All notices provided to a patient under the Act and this chapter, and all billing statements, must ~~shall~~ include substantially the following statement:

Hospital Bill Complaint Program

~~The Hospital Bill Complaint Program is a state program, which reviews hospital decisions about whether you qualify for help paying your hospital bill.~~ If you believe you were wrongly denied financial assistance, you may file a complaint with the State of California's Hospital Bill Complaint Program. Go to ~~HospitalBillComplaintProgram.~~hcai.ca.gov/HospitalBillHelp for more information and to file a complaint.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127405 and 127410, Health and Safety Code.

§ 96051.20. Health Consumer Alliance Notice.

All notices provided to a patient under the Act and this chapter, and all billing statements, must include substantially the following statement:

More Help

There are free consumer advocacy organizations that will help you understand the billing and payment process. You may call the Health Consumer Alliance at 888-804-3536 or go to healthconsumer.org for more information.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127405 and 127410, Health and Safety Code.

Article 4. Hospital Bill Complaint Program

~~§ 96051.12. Hospital Designated Contact and Statement of Certification.~~ § 96051.21. Contact Registration and Certification.

(a) Each hospital must designate ~~shall identify~~ a primary contact ~~who shall register with the Department's online patient complaint portal~~ to review and respond to patient complaints.

(b) The primary contact ~~shall~~ must register on the Department's patient complaint portal by providing ~~provide~~ the following information:

(1) The legal name of the hospital.

(2) Their name ~~of the primary contact designated to receive communications from the Department~~.

(3) Their business title ~~of the primary contact~~.

~~(4) A business address.~~

~~(5)~~(4) A business email address.

~~(6)~~(5) A direct business phone number.

(c) Each hospital must ~~shall~~ update any change to the information outlined in subdivision (b) through the ~~online~~ patient complaint portal within 10 working days after the change.

(d) The hospital's primary contact must ~~shall~~ identify approved users, if any, who may use the Department's ~~online~~ patient complaint portal on behalf of the hospital.

(e) Each hospital must ~~shall~~ register in the Department's ~~online~~ patient complaint portal by January 1, 2024. Hospitals that are newly licensed ~~under Health and Safety Code section 1250(a), (b), or (f)~~ on or after January 1, 2024, must ~~shall~~ register prior to treating patients.

(f) When submitting responses through the Department's ~~online~~ patient complaint portal, the hospital's primary contact ~~and/~~or approved users must ~~shall~~ electronically sign a statement of certification under penalty of perjury pursuant to Code of Civil Procedure section 2015.5.~~, that certifies the following:~~

~~(1) The submitter is duly authorized to submit all documents and information required under section 96051.17(c)(1) through (d)(1).~~

~~(2) The submitted response, including but not limited to the hospital's records, data, documents, and information, are true and correct.~~

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127436, Health and Safety Code, and Sections 2012-2015.5, Code of Civil Procedure.

~~§ 96051.13. Patient Complaint Portal.~~

~~The patient or patient's authorized representative may file a complaint through the Department's Hospital Bill Complaint Program online patient complaint portal by visiting the Department's website at HospitalBillComplaintProgram.hcai.ca.gov, or by mail to the Department of Health Care Access and Information, Hospital Bill Complaint Program, located at 2020 West El Camino Avenue, Suite 1101, Sacramento, CA 95833.~~

~~NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127436, Health and Safety Code.~~

§ ~~96051.14~~. 96051.22. Authorized Representative.

(a) For purposes of this chapter, “authorized representative” means any of the following:

(1) Any individual appointed in writing by the patient to act on behalf of the patient.

(2) Any individual designated by law to act on behalf of the patient. ~~The individual must provide documentation of legal authority to act as the patient's authorized representative.~~

(3) The parent~~,~~ or guardian~~, or conservator~~ of a minor patient.

(b) An authorized representative may file a complaint and act on behalf of the patient in the Department's complaint process. A parent or~~,~~ guardian~~, or conservator~~ of a minor patient is not required to submit the information required under subsection (c).

(c) A specific form is not required for an authorized representative, but the Department will make available an optional authorized assistant form, downloadable from its website, that may be used. The patient or authorized representative must ~~shall~~ submit the following information to the Department with the patient complaint: ~~as specified in section 96051.13:~~

(1) Name of the patient filing a complaint.

(2) Name of the authorized representative.

(3) Relationship of the authorized representative to the patient.

(4) ~~Street address, city, state, and ZIP Code~~ Mailing address of the authorized representative.

(5) ~~Telep~~Phone number of the authorized representative.

(6) Email address of the authorized representative.

(7) Signature of the patient if they are appointing an authorized representative in writing pursuant to subdivision (a)(1).

(8) If the authorized representative is designated by law to act on behalf of the patient, the following must ~~shall~~ be provided:

(A) Documentation of legal authority to act as the patient's authorized representative.

(B) Signature of the authorized representative in place of the patient's signature required under subdivision (c)(7).

(d) An authorization pursuant to this article will ~~shall~~ be effective until any of the following:

(1) The patient cancels or modifies the authorization in writing.

(2) The authorized representative informs the Department in writing that they are no longer acting in that capacity.

(3) Documentation is provided to the Department that the authorized representative no longer has legal authority to act as the patient's authorized representative.

(4) The patient complaint is closed.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.15~~. 96051.23. Release of Information.

The patient must ~~shall~~ sign a release of information authorizing the hospital and the patient's providers, past and present, to release the patient's information related to the complaint to the Department. These records may include financial information, billing, medical, mental health, substance abuse, HIV, diagnostic imaging reports, and other records related to the complaint. A signed release of information is required for each complaint and will be valid until the investigation is closed or the release is revoked by the patient.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.16~~. 96051.24. Filing a Patient Complaint.

(a) The patient or the patient's authorized representative may submit a complaint ~~Complaints to the Department pursuant to Health and Safety Code section 127436 may be made~~ electronically through the Department's patient complaint portal or in writing to the Department of Health Care Access and Information, Hospital Bill Complaint Program, 2020 West El Camino Avenue, Suite 1101, Sacramento, CA 95833. ~~and must be signed by the patient or their authorized representative. The Department will make the information required by subsection (b) available through its online patient complaint portal or by mail upon the patient's request.~~

(b) A patient or the patient's authorized representative is not required to use a specific form to submit a complaint, but the Department will make available an optional patient complaint form, downloadable from its website, that may be used. A complaint ~~submitted by a patient, or their authorized representative,~~ must ~~shall~~ include the following information about the patient:

(1) Patient's full name. ~~Full name of patient.~~

(2) Name of parent or, guardian~~, or conservator,~~ if patient is ~~filing for~~ a minor child.

(3) Date of birth.

(4) Sex.

~~(5) Family size pursuant to Health and Safety Code section 127400 (h).~~

~~(6)~~(5) Mailing address, if available.

~~(7)~~(6) Primary phone number, if available.

~~(8)~~(7) Secondary phone number, if available.

~~(9)~~(8) Email address, if available.

(9) Family size, as defined by Health and Safety Code section 127400(h), at the time the patient was first billed.

(10) Full names, ages, and relationship to each family member identified.

~~(10)~~(11) Preferred language (optional).

~~(11)~~(12) Hospital name and address.

~~(12)~~(13) Date of service(s) being billed by hospital.

~~(13)~~(14) Health plan, insurance plan, and/or government insurance program that patient was enrolled in at the time hospital services were provided, if applicable, and membership numbers, if available.

~~(14)~~(15) Health plan(s) or insurance provider(s) that processed ~~and paid~~ claims for the hospital service(s) in question, including supporting documentation, if applicable and available.

~~(15) Date patient filed grievance(s) with health plan about any denial(s), including health plan's response and date grievance was resolved, if applicable and available.~~

~~(16) Date of injury if hospital services resulted from injury caused by a third party, including, but not limited to, car accident, work injury, or crime.~~

~~(17)~~(16) Date patient submitted a discount payment ~~program~~ and/or charity care ~~program~~ application to hospital, and whether it was approved or denied, if applicable and available.

~~(18)~~(17) Date patient appealed hospital's denial of discount payment and/or charity care application, if applicable and available.

~~(19)~~(18) Copy of hospital notice(s) and billing statement(s) received, if applicable and available.

~~(20)~~(19) Copy of proof of payment for any amount(s) paid to hospital for services in question, including date of last payment, if applicable and available.

~~(21)~~(20) Date hospital sold debt to collections or date patient was notified bill in jeopardy of being sent to debt collections, if applicable and available.

~~(22)~~(21) Documentation that hospital debt was reported to a credit bureau and credit report/score was impacted, if applicable and available.

(22) A short description of what the complaint is about.

(23) A signed authorization for release of information pursuant to section 96051.~~15~~23.

(24) A signed authorized representative designation pursuant to section 96051.~~14~~22, if applicable.

(25) A signed acknowledgement that the Department provided the patient and/or authorized representative with a notice of rights pursuant to the Information Practices Act of 1977.

(26) A signed acknowledgement that the Department may forward complaints to the State Department of Public Health for violations of the Act occurring before January 1, 2024.

~~(26)~~(27) Signature of patient or authorized representative with legal authority to represent the patient.

(c) Except for Authorized Representatives, a complaint cannot be filed on someone else's behalf.

(d) Original documents should not be sent to the Department. Documents will not be returned.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127401 and 127436, Health and Safety Code.

§ ~~96051.17~~. 96051.25. Complaint Review.

(a) For the Department to investigate an eligibility determination dispute ~~by a hospital for its discount payment and/or charity care programs~~, the patient ~~or their authorized representative~~ must have already submitted an application for discount payment and/or charity care to the hospital for the services at issue in the complaint.

(b) Upon receipt of a complaint, the Department may request additional information from the patient or will forward the complaint to the hospital for response.

(1) If a complaint does not have all the information required by section 96051.24(b), the Department will notify the patient, and the patient will have 30 calendar days to provide the missing information before the complaint will be closed. The complaint will be reopened when the missing information is provided.

~~(1)~~(2) Once forwarded to the hospital, the ~~The~~ hospital must ~~shall~~ respond to the Department ~~complaint~~ within 30 calendar days. ~~unless extended pursuant to section 96051.18.~~

(i) If an incomplete response is provided, the Department's follow-up request for a complete response is not a new request. The hospital is not entitled to another 30 calendar days to respond, and late penalties will accrue subject to section 96051.27.

(c) The hospital's response to the Department must ~~shall~~ include the following:

(1) A detailed explanation of ~~the hospital's current position on~~ whether the patient qualifies under the hospital's discount payment and/or charity care policies, including the terms of financial assistance offered, if any.

(2) Copies of all documents and information relevant to the issues raised in the complaint, including, but not limited to, bills, written notices, and notes from communications between the hospital and the patient and/or the patient's authorized representative.

(d) The Department may request additional information or records from ~~the patient and~~ the hospital at any time during the complaint investigation.

(1) The requested additional information or records must ~~shall~~ be provided to the Department within 14~~30~~ calendar days of the request. ~~unless extended pursuant to section 96051.18.~~

(2) If an incomplete response is provided, the Department's follow-up request for a complete response is not a new request. The hospital is not entitled to another 14 calendar days to respond, and late penalties will accrue subject to section 96051.27.

(e) ~~Upon receipt~~ After review of all available ~~and~~ relevant information, the Department will notify the hospital of its compliance determination. ~~make a compliance determination based on the criteria outlined in the Act and this chapter.~~

~~(f)~~(1) If violations are found, ~~the hospital is found to be out of compliance,~~ the Department will issue an initial ~~preliminary out of~~ compliance determination ~~notice to the hospital~~ detailing the findings ~~alleged violation(s)~~.

~~(1)~~(2) The hospital will ~~shall~~ have 30 calendar days after issuance of the initial ~~preliminary out of~~ compliance determination ~~notice~~ to respond to the Department and take corrective action, if required.

~~(2)~~(3) If the hospital does not respond or ~~if~~ the hospital's response does not ~~result in a~~ change ~~in~~ the Department's initial ~~preliminary out of~~ compliance determination, a

final compliance determination and administrative penalty notice ~~letter~~ will be sent to the ~~patient and to the~~ hospital and the patient will be notified of the violation and their right to reimbursement, if applicable.~~, notifying all parties of the Department's final determination that the hospital is out of compliance with the Act and/or associated regulations, and an administrative penalty is being assessed.~~

~~(g)~~(f) ~~If the hospital does not file an appeal w~~Within 30 calendar days from the date the Department's final compliance determination and administrative penalty notice was issued, or within 30 calendar days from the date of the Director's final written decision after an appeal, whichever is later, the hospital must ~~shall~~ do all the following, if applicable:

~~(1) Reimburse the patient any amount owed to the patient, plus interest, pursuant to Health and Safety Code section 127440 within 30 calendar days from the date the final determination notice was issued.~~

~~(2)~~(1) Provide the Department with proof of patient reimbursement plus interest as required by Health and Safety Code section 127440. ~~within 30 calendar days from the date the final determination notice was issued.~~

~~(3)~~(2) Pay all assessed penalties to the Department. ~~within 30 calendar days after the appeal period pursuant to Health and Safety Code section 127436(c) has ended.~~

~~(h) If the hospital files an appeal of the Department's final determination, the hospital shall do all the following within 30 calendar days from the date of the Director's written final decision pursuant to section 96051.37, if applicable:~~

~~(1) Reimburse the patient any amount owed to the patient, plus interest, pursuant to Health and Safety Code section 127440.~~

~~(2) Provide the Department with proof of reimbursement.~~

~~(3) Pay all assessed penalties to the Department.~~

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Sections 127436 and 127440, Health and Safety Code.

§ ~~96051.18~~. 96051.26. Extension Request~~s for Extension~~.

(a) A hospital may request, and the Department will grant, one extension of 14 calendar days to the due dates described in section 96051.25(b)(2) and (d)(1) through the patient complaint portal. ~~If the hospital cannot provide the response required by section 96051.17(b)(1) and (d)(1) within 30 calendar days, the hospital may request a reasonable extension of time through the online patient complaint portal.~~ The request

must be submitted on or before ~~prior to~~ the due date. ~~and describe the actions being taken to obtain the information or records and when receipt is expected.~~

~~(b) The Department has discretion to agree to a requested extension of time. The Department will consider the following factors in determining whether to grant the extension request:~~

~~(1) Complexity of required response.~~

~~(2) Hospital's history of cooperativeness.~~

~~(3) Necessity for third party assistance in obtaining records.~~

~~(4) Any other factors submitted by the hospital showing good cause.~~

~~(c)~~(b) ~~If the Department agrees to an extension of time, no penalty, pursuant to section 96051.21, will be accrued during the period of the extension.~~ Late penalties will not accrue during the extension period.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

~~§ 96051.19. Debt Collection While Complaint Pending.~~

~~After the hospital has been notified that the patient has filed a complaint with the Department, the hospital shall not send the unpaid bill to any collection agency, debt buyer, or other assignee unless that entity has agreed to comply with the Act. This shall apply only to the bill(s) for which the patient has filed a complaint with the Department. Failure to comply with this section is grounds for a penalty under this chapter.~~

~~NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Sections 127425 and 127436, Health and Safety Code.~~

Article 5. Administrative Penalties

~~§ 96051.20. Applicability.~~

~~(a) This article applies to the assessment of administrative penalties to hospitals licensed under Health and Safety Code section 1250(a), (b), and (f), for violations of the Act and this chapter.~~

~~(b) This article applies to incidents occurring on or after January 1, 2024. As to such incidents, the hospital's compliance history with the Act, and related federal statutes and regulations prior to January 1, 2024, shall be considered in assessing administrative penalties as outlined in section 96051.26.~~

~~NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Sections 127400, 127436 and 127401, Health and Safety Code.~~

§ ~~96051.21~~. 96051.27. Late Penalties ~~for Late Filing of Documents and Responses~~.

(a) A hospital that fails to submit ~~file~~ a required policy submission ~~and/~~or response by the due dates established by sections 96051.6, 96051.8, or 96051.25 without an approved extension~~(b)(1), (b)(3), (b)(4), (d)(1), or (d)(4)~~, is liable for a penalty assessment of five hundred dollars ($500) for each calendar day after the due date that the required policy submission or response ~~document~~ is late ~~not filed~~.

(1) If a policy submission or response is discovered to be incomplete due to a mistake (e.g., wrong document was provided), the Department will notify the hospital, and the hospital will have three calendar days after being notified to submit a complete response before late penalties will begin to accrue.

~~(b) A hospital that fails to file a required response to the Department by the due date established by section 96051.17(b)(1), (d)(1), or 96051.18, is liable for a penalty assessment of five hundred dollars ($500) for each calendar day after the due date that the required response is not filed.~~

(b) A hospital that fails to reimburse the patient by the due date established by Health and Safety Code section 127440 as a result of a patient complaint submitted to the Department, is liable for a penalty assessment, paid to the Department, of one thousand dollars ($1,000) for each calendar day after the due date that the required payment is not made, not to exceed three times the amount of the reimbursement owed to the patient, including interest.

(c) The Department will notify the hospital's designated contact of an accrued late penalty.

(d) Late penalties will be added to the administrative penalty assessment issued with the final compliance determination.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Sections 127435, 127436, and 127440, Health and Safety Code.

~~§ 96051.22. Notification of Penalty Assessment for Late Filing of Documents and Responses.~~

~~(a) When a document required by section 96051.6 is filed after the due date specified in section 96051.6(b)(1), (b)(3), (b)(4), (d)(1), or (d)(4), the Department will notify the hospital of the accrued penalty. The notice shall be provided to the primary contact identified by the hospital under section 96051.5.~~

~~(b) When a response required by section 96051.17(b) or (d) is filed after the due date specified in section 96051.17(b)(1), (d)(1), or 96051.18, the Department will notify the hospital of the accrued penalty. The notice shall be provided to the primary contact identified by the hospital under section 96051.12(a).~~

~~(c)The Department will calculate the accrued penalty pursuant to section 96051.21.~~

~~NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: 127435, Health and Safety Code.~~

~~§ 96051.23. Penalty Assessment for Violations of Hospital Policy, Posting, and Website Requirements.~~ § 96051.28. Violation Classification.

For purposes of penalty assessments, violations of the Act and this chapter are classified as follows:

~~(a) Administrative penalties assessed for the following violations shall be calculated under this section:~~

~~(1) Policies submitted pursuant to Health and Safety Code section 127435 that fail to comply with the Act and this chapter.~~

~~(2) Hospital posting requirements pursuant to Health and Safety Code section 127410(c)(1), (c)(2), (c)(3), and (c)(4) that fail to comply with the Act and section 96051.10.~~

~~(3) Website requirements pursuant to Health and Safety Code section 127410(c)(5) that fail to comply with the Act and section 96051.11.~~

~~(b) The Department shall determine the penalty for each deficiency by considering the extent of noncompliance with the Act and this chapter. Multiple violations will result in multiple penalties. The categories of noncompliance and corresponding penalties are defined as follows:~~

~~(1)~~(a) Major -- ~~The violation deviates from the requirement in a way~~ A violation that negatively impacts patient eligibility for discount payment or charity care ~~programs. The penalty for this category is twenty-five thousand dollars ($25,000).~~

~~(2)~~(b) Moderate -- ~~The violation deviates from the requirement in a way~~ A violation that does not directly impact patient eligibility for discount payment or charity care ~~programs~~ but has the potential to impact a patient's ability to receive discount payment or charity care. ~~The penalty for this category is ten thousand dollars ($10,000).~~

~~(3)~~(c) Minor -- ~~The violation~~ A violation other than one defined as Major or Moderate. ~~deviates somewhat from the requirement. The requirement functions nearly as~~

~~intended, but not as well as if all provisions had been met. The penalty for this category is five thousand dollars ($5,000).~~

~~(4) There is no penalty for alleged violations that do not affect patient access to, or eligibility for, the hospital's discount payment or charity care programs, provided the hospital takes corrective action as directed by the Department.~~

~~(c) Penalties for violations arising out of an investigation resulting from a complaint filed by a patient, as outlined in sections 96051.24, 96051.25, 96051.26, and 96051.27 shall be excluded from this section.~~

(d) Repeat – A violation of the same statutory or regulatory requirement in a separate patient complaint investigation for which a penalty was assessed within the prior three years.

(e) Willful -- A violation where evidence shows that the hospital committed an intentional and knowing, as opposed to inadvertent, violation.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Sections 127410, 127435 and 127436, Health and Safety Code.

~~§ 96051.24. Definition of Multiple Violations Identified During the Same Investigation, for the Purpose of Penalty Assessments.~~

~~(a) For the purposes of this chapter, all violations arising out of an investigation resulting from a complaint filed by a patient pursuant to Health and Safety Code section 127436(b), are subject to one penalty assessment.~~

~~(b) For purposes of this chapter, “investigation” is defined as information arising out of a single complaint, filed by a single patient, or the patient's authorized representative, regarding a single bill.~~

~~(c) Violations discovered during the investigation regarding other patients, or other bills, are excluded from this definition.~~

~~NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.~~

~~§ 96051.25. Determining the Base Penalty for Each Investigation Resulting in One or More Violation(s).~~

~~(a) The base penalty shall be determined for each investigation resulting in one or more violations, as follows:~~

~~(1) If violation(s) are identified and the patient experienced financial harm, the violation will be assessed a base penalty of twenty-five thousand dollars ($25,000).~~

~~(2) If the violation(s) caused no financial harm, the violation will be assessed a base penalty of twelve thousand and five hundred dollars ($12,500).~~

~~(3) There is no penalty for alleged violation(s) that do not affect patient access to, or eligibility for, the hospital's discount payment or charity care programs, provided the hospital takes corrective action as directed by the Department.~~

~~(b) "Financial harm" means out-of-pocket medical costs paid by a patient, or in the case of a minor, the parent or guardian of the minor, over the adjusted discount payment or charity care amount owed, or if medical debt appeared on the patient's credit report, or in the case of a minor, the credit report of the parent or guardian of the minor.~~

~~NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.~~

§ 96051.29. Base Penalties.

(a) Except as described in subdivision (b), the base penalty assessed for each violation is as follows:

(1) Major -- Twenty-five thousand dollars ($25,000) per violation.

(2) Moderate -- Ten thousand dollars ($10,000) per violation.

(3) Minor -- Five thousand dollars ($5,000) per violation.

(b) Multiple instances of the same violation identified in the same investigation will be considered one violation. This does not limit an assessment of multiple penalties for multiple different violations in the same investigation. For example, if a hospital sent a patient multiple billing statements that exclude the Hospital Bill Complaint Program Notice, it will be considered one violation. However, if the same billing statements also exclude the Health Consumer Alliance Notice, it will be considered a separate violation.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.26.~~ 96051.30. Base Penalty Adjustments~~. to the Base Penalty.~~

(a) This section only applies to penalties assessed in patient complaint investigations.

~~(a)~~(b) The base penalty for each violation will ~~determined in section 96051.25 shall~~ be adjusted as described below considering ~~each of~~ the following factors to calculate the adjusted penalty:

~~(1) Nature, Scope, and Severity. The initial penalty shall be adjusted upward by 20 percent if the hospital's policies, postings, or screening practices are not in~~

~~compliance with Health and Safety Code sections 127405 through 127435, inclusive.~~

(1) Severity.

(A) The degree of severity is based on actual or potential financial harm.

(B) Severity levels and base penalty adjustments:

(i) High -- Twenty percent of the base penalty will be added if there is actual financial harm.

(ii) Medium -- Ten percent of the base penalty will be added if there is no actual financial harm, but there is potential for financial harm.

(iii) Low -- No adjustment if there is no actual and no potential financial harm.

(2) Scope.

(A) Scope is based on the number of patients actually or potentially impacted, depending on whether it is an isolated incident or a widespread issue.

(B) Scope levels and base penalty adjustments:

(i) High – For hospitals with over 250 licensed beds, twenty percent of the base penalty will be added for a widespread issue due to noncompliant hospital policies, websites, or postings.

(ii) Medium -- For hospitals with 51 to 250 licensed beds, ten percent of the base penalty will be added for a widespread issue due to noncompliant hospital policies, websites, or postings.

(iii) Low -- For hospitals with up to 50 licensed beds, no adjustment for a widespread issue due to noncompliant hospital policies, websites, or postings. No adjustment for an isolated incident impacting one patient.

~~(2) Compliance history with related state and federal laws. A hospital's compliance history refers to its record of compliance with the Act and this chapter, and with related federal laws. Violations of the Act prior to January 1, 2022, and violations of this chapter prior to January 1, 2024, will not be considered.~~

~~(A) The base penalty shall be adjusted downward by five percent if there are no violations of related state or federal laws within the three-year period immediately prior to the date of the violation.~~

~~(B) The base penalty shall be increased by five percent if there are any violations of related state or federal laws within the three-year period immediately prior to the date of the violation.~~

~~(C) The base penalty shall be increased 50 percent if all the following conditions are met:~~

~~(i) The hospital has been assessed a penalty for prior violations of the Act or this chapter, within the three-year period immediately prior to the date of the violation.~~

~~(ii) The previous violation is similar in nature to the current violation.~~

~~(iii) The incident for which the current penalty is being assessed occurred after the hospital was notified of the Department's penalty determination for the prior violation used to enhance the penalty.~~

(3) Compliance History.

(A) Compliance history is determined by examining and evaluating the hospital's records with the Department and the State Department of Public Health for compliance with the Act and related state and federal statutes and regulations.

(B) Compliance history levels and base penalty adjustments:

(i) Good -- Ten percent of the base penalty will be subtracted if within the last three years, no Major, Repeat, or Willful violations and five or fewer Moderate or Minor violations have been assessed.

(ii) Fair -- Five percent of the base penalty will be subtracted if within the last three years, no Major, Repeat, or Willful violations and six to twenty Moderate or Minor violations have been assessed.

(iii) Poor -- No adjustment if within the last three years, a Major, Repeat, or Willful violation or more than twenty Moderate or Minor violations have been assessed.

(4) Repeat.

(A) For violations classified as Repeat, the base penalty is adjusted upward as follows:

(i) First repeat -- One and a half times the base penalty will be added.

(ii) Second repeat -- Two times the base penalty will be added.

(iii) Third repeat and beyond -- Three times the base penalty will be added.

~~(3) Willful violation. The initial penalty shall be adjusted upward by 20 percent if the deficiency was the result of a willful violation.~~

~~(A) "Willfulness," "willfully," or "willful" mean that the person doing an act or omitting to do an act intends the act or omission, and knows the relevant circumstances connected with the act or omission.~~

(5) Willfulness.

(A) Three times the base penalty will be added for violations classified as Willful.

~~(4) Factors beyond the hospital's control. For factors beyond the hospital's control that restrict the hospital's ability to comply with the requirements of the Act, the initial penalty shall be adjusted downward by 20 percent.~~

~~(5) Immediate correction of the violation. When the Department determines that a hospital subject to an administrative penalty promptly corrects the noncompliance for which the administrative penalty was imposed, the base penalty shall be adjusted downward by 20 percent, provided all the following apply:~~

~~(A) The hospital identified and immediately corrected the noncompliance before the noncompliance was identified by the Department.~~

~~(B) The hospital initiated corrective action and took appropriate steps to prevent the violation from recurring, with prompt and detailed documentation of the action.~~

~~(C) The hospital did not receive a penalty reduction under this subsection within the 12-month period prior to the violation.~~

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ 96051.31. Interest of Fairness.

(a) This section applies to all penalty assessments.

(b) The Department may waive or reduce a penalty in the interest of fairness on a case-by-case basis, which includes, but is not limited to, situations where:

(1) Factors beyond the hospital's control restrict the hospital's ability to comply with the requirements of the Act or this chapter.

(2) A mistake resulted in a violation of the hospital's policies and practices.

(3) The purpose of a statutory or regulatory requirement becomes useless because of the greater benefit offered by the hospital's policies.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.31.~~ 96051.32. Corrective Action.

(a) In addition to the penalties addressed in this chapter, the Department may also require corrective action as deemed necessary to achieve and demonstrate the hospital's policies and procedures for discount payment, charity care, and debt collection are compliant with the Act and this chapter.

(b) Corrective action that eliminates the violation will result in a waiver or reduction of a penalty. Notwithstanding subdivisions (1) and (2), no adjustment will be made if there was actual financial harm, or for Repeat or Willful violations.

(1) When a hospital takes corrective action in response to a Department request, the penalty will be adjusted as follows:

(A) Penalty will be waived for Minor violations.

(B) Fifty percent of the base penalty will be subtracted for Moderate or Major violations.

(2) When a hospital proactively takes corrective action before a Department request, the penalty will be adjusted as follows:

(A) Penalty will be waived for Minor violations.

(B) Seventy-five percent of the base penalty will be subtracted for Moderate or Major violations.

NOTE: Authority cited: Section 127010, Health and Safety Code. Reference: Sections 127405, 127410, 127420, 127425, 127426, 127430, 127435, 127436 and 127440, Health and Safety Code.

§ ~~96051.27.~~ 96051.33. Final Penalty.

(a) For policy review, the final penalty is the cumulative total of each adjusted penalty, including late penalties.

(b) For patient complaints, the ~~The~~ final penalty ~~for an investigation of a patient's complaint resulting in one or more violations~~ is the cumulative total of each adjusted ~~base~~ penalty, including late penalties, ~~as determined under sections 96051.22(b), 96051.25, and 96051.26,~~ or the maximum penalty specified in Health and Safety Code

section 127436(b)(4), whichever is lower. For the purpose of penalty calculation, the cumulative total penalty may exceed the statutory maximum, so long as the final penalty does not exceed the statutory maximum.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

~~§ 96051.28. Failure to Reimburse Patient and Pay Assessed Penalty.~~

~~(a) Upon determination by the hospital that a patient paid an amount in excess of the amount required under the Act or this chapter, the hospital shall reimburse the patient within 30 calendar days of the hospital's determination, in accordance with Health and Safety Code 127440.~~

~~(b) Upon determination by the Department that the hospital owes reimbursement to the patient pursuant to Health and Safety Code section 127440, payment shall be made to the patient within 30 calendar days if no appeal is filed, or if an appeal is filed, 30 calendar days after all appeal rights have been exhausted.~~

~~(c) A hospital that fails to reimburse the patient by the due date established by subsection (b) is liable for a penalty assessment, paid to the Department, of one thousand dollars ($1,000) for each calendar day after the due date that the required payment is not made, not to exceed three times the amount of the reimbursement owed to the patient, including interest.~~

~~(d) When the payment is made after the due date indicated in subsection (b), the Department will calculate the accrued penalty pursuant to subsection (c) and will notify the hospital of the assessed penalty. The notice shall be provided to the designated contact identified by the hospital under section 96051.12.~~

~~NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127440, Health and Safety Code.~~

§ ~~96051.29.~~ 96051.34. Small and Rural Hospitals.

(a) A small and rural hospital that has been assessed an administrative penalty ~~pursuant to the Act and this chapter~~ may request a payment plan and/or reduction of the penalty if immediate full payment would cause financial hardship.~~:~~

~~(1) Payment of the penalty extended over a period of time if immediate, full payment would cause financial hardship, or~~

~~(2) Reduction of the penalty, if extending the penalty payment over a period of time would cause financial hardship, or~~

~~(3) Both a penalty payment plan and reduction of the penalty.~~

(b) The small and rural hospital must ~~shall~~ submit its written request to the Department for a payment plan or penalty reduction ~~modification as described in subsection (a) to the Department~~ within 10 working days after the issuance of the administrative penalty. The request must ~~shall~~ describe how the hospital qualifies for a small and ~~or~~ rural hospital designation, the special circumstances showing financial hardship to the hospital, and the potential adverse effects on access to quality care in the hospital.

~~(1) If the required information cannot be timely forwarded to the Department by the due date established by this section, a hospital may request a reasonable extension of time, prior to the due date, for submission of the required response. The hospital's request shall describe the actions being taken to obtain the information, the reasons for the delay, and when receipt is expected.~~

~~(2) The Department has discretion to agree to a requested extension of time. The Department will consider the following factors in determining whether to grant the extension request:~~

~~(A) Complexity of required response.~~

~~(B) Hospital's history of cooperativeness.~~

~~(C) Necessity for third party assistance in obtaining records.~~

~~(D) Any other factors submitted by the hospital showing good cause.~~

(c) The Department will approve or deny the request ~~Upon timely request from a small and rural hospital under subsection (b), the Department may approve a penalty payment plan, reduce the final penalty, or both, if in the judgment of the Department, immediate, full payment of the penalty would cause financial hardship to the hospital and thereby reduce access to quality care in the hospital. The Department's decision shall be~~ based on the information provided by the small and rural hospital ~~in support of its request~~ and on hospital financial information from the Department or other governmental agency.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Sections 124840 and 127436, Health and Safety Code.

~~§ 96051.30. Penalty Adjustment to Reflect Percentage Change in Medical Care Index.~~

~~Adjustments to the maximum penalty pursuant to Health and Safety Code section 127436(b)(4) shall be made only to the base penalty.~~

~~NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.~~

Article 6. Appeals

§ ~~96051.32.~~ 96051.35. Filing an Appeal~~s~~.

(a) ~~Filing an Appeal.~~ A hospital that has received notice of an assessed ~~accrued~~ penalty under the Act or ~~and~~ this chapter may appeal the penalty assessment by filing a written request for hearing within 30 calendar days after the date of the notice. The request must ~~shall~~ be filed with the Department's hearing officer either by mail to the Legal Office of the Department of Health Care Access and Information in Sacramento, or ~~by~~ email to HearingOfficer@hcai.ca.gov.~~: as follows:~~

~~(1) Mail shall be sent to the hearing officer at the Legal Office of the Department of Health Care Access and Information, located at 2020 West El Camino Avenue, Suite 1217, Sacramento, CA 95833.~~

~~(2) Email shall be sent to the following email address: HearingOfficer@hcai.ca.gov.~~

(b) A hospital is not required to use a specific form to request a hearing, but the Department will make available an optional hearing request form, downloadable from its website, that may be used. The request for hearing must ~~shall~~ include the following:

(1) The name of the hospital.

(2) The name of the hospital's authorized representative for the appeal and the representative's contact information.

(3) The name, address, phone number, and email address of the patient and any authorized representative who filed the complaint, if applicable.

(4) The date of the administrative penalty notice. ~~penalty assessment notice.~~

(5) The penalty number listed on the penalty assessment and the individual violation number(s) being appealed.

~~(5)~~(6) The components of the penalty assessment being challenged, as described in section 96051.36, and a~~A~~ statement of the basis for the appeal.

~~(6)~~(7) A copy of the administrative penalty notice.

(c) Any violation listed in the penalty assessment but not appealed must be paid within thirty (30) calendar days from the date the administrative penalty notice was issued.

(d) The hospital is deemed to have waived any legal or factual basis for appeal which is not stated in a timely filed appeal or timely filed supporting statement.

~~(c)~~(e) No later than five calendar days after filing the request for hearing, the hospital must ~~shall~~ provide a copy of the request to the Hospital Bill Complaint Program by email at HFBP@hcai.ca.gov.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ 96051.36. Issues on Appeal.

(a) The issues on appeal are limited to those arising out of the facts set forth in the Department action, and the grounds set forth in the appeal.

(b) For each appealed penalty assessment and violation number, the hospital must also specify which of the following components of the Department's penalty assessment it is challenging in its appeal:

(1) The existence of the violation alleged in the underlying penalty assessment.

(2) The classification of the violation.

(3) The reasonableness of the penalty.

(c) If the appeal contests only the reasonableness of the penalty, the issues on appeal will be limited to the classification of the violation and the reasonableness of the penalty.

(d) If a violation is classified as a Repeat violation, the earlier penalty established by failure to appeal or the entry of a final decision by the Director will not be in issue.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ 96051.37. Stay of Corrective Action Period.

The deadline to take corrective action required by the Department in an administrative penalty notice is stayed upon the filing of an appeal with the Department and remains stayed until withdrawal of the appeal or a final decision of the proceeding by the Director.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.33.~~ 96051.38. Communications After Appeal Has Been Filed.

(a) Other communications, including, but not limited to, requests for consolidation of appeals, questions about the hearing schedule or process, and all documents and proposed exhibits, must ~~shall~~ be made as follows:

(1) For appeals before the Department's hearing officer, communications must ~~shall~~ be made via mail or email as specified in section 96051.352~~2~~(a).

(2) For appeals before an administrative law judge employed by the California Office of Administrative Hearings pursuant to section 96051.4035~~35~~, communications must ~~shall~~ be made directly to the administrative law judge serving as hearing officer as directed by their office once an Office of Administrative Hearings case number has been assigned. Prior to a case number being assigned by the Office of Administrative Hearings, other communications must ~~shall~~ be made via mail or email as specified in section 96051.352~~2~~(a).

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.34.~~ 96051.39. Prehearing Provisions.

(a) The hearing officer will notify the hospital, the patient who filed the complaint, if applicable, and the Department of the hearing date and time at least 60 calendar days in advance.

(b) The hospital and the Department must ~~shall~~ provide copies of all proposed exhibits and list of witnesses to the hearing officer and to the other party no later than 45 calendar days prior to the hearing date.

(c) For appeals of penalties assessed in a patient complaint investigation:

(1) The hearing officer must ~~shall~~ provide a copy of all proposed exhibits and list of witnesses to the patient who filed the complaint and allow the patient 30 calendar days to submit a response, including additional evidence in support of the complaint, unless the penalties assessed are unrelated to the issues of the patient's complaint.

(2)~~(d)~~ Upon receipt of any response or additional evidence from the patient, the hearing officer must ~~shall~~ provide copies of the response and evidence to the hospital and the Department.

~~(c)~~(d) Request to Change Hearing Date. Either party may request a change of hearing date, if necessary. Requests for rescheduling must ~~shall~~ be submitted to the hearing officer at least 10 calendar days before the scheduled hearing. Requests for

rescheduling must be based upon good cause, as determined by the hearing officer, and will only be granted if the change would not prejudice the other party.

~~(f)~~(e) Request to Change Hearing Method. All hearings will be held in-person as specified by the hearing officer; however, the hearing officer may schedule a hearing to be conducted by telephone or other electronic means. If so, either party may object; upon receipt of such an objection, the hearing officer will schedule an in-person hearing. If the hearing officer does not initially plan to conduct a hearing by telephone or other electronic means, either party may so request; if the hospital and the Department consent, the hearing officer may, but is not required to, conduct the hearing by telephone or other electronic means. The hospital and the Department will be notified of the hearing officer's decision.

~~(g)~~(f) Request for Consolidation. The hearing officer may, on their own determination or upon written request of one of the parties, consolidate for hearing or decision any number of appeals when the facts and circumstances are similar, and no substantial right of any party will be prejudiced. The hearing officer must ~~shall~~ notify both the hospital and the Department if consolidation is occurring. Either party may request consolidation by filing a request with the hearing officer containing the following information:

(1) Identification of the appeals to be consolidated.

(2) A statement of the basis for consolidation.

~~(h)~~(g) Request for Interpreter. If a party or a witness of a party does not speak or understand English proficiently, or is deaf or hard-of-hearing, the party may request interpretation services and the Department will provide an interpreter. Such a request must be received by the hearing officer at least 10 working days before the hearing.

~~(i)~~(h) Request for Court Reporter. Hearings will be recorded electronically; however, either party may provide a court reporter at that party's expense. If a party chooses to provide a court reporter, that party must ~~shall~~ notify the hearing officer in advance and make all necessary arrangements. The original transcript must ~~shall~~ be provided directly to the Department. The non-appearance of a court reporter will not be considered adequate grounds for canceling or rescheduling a hearing.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.35.~~ 96051.40. Conduct of Hearing.

(a) The hearing must ~~shall~~ be conducted by one of the following, as determined by the Department:

(1) An employee of the Department appointed by the Director to serve as hearing officer.

(2) An administrative law judge employed by the California Office of Administrative Hearings serving as hearing officer.

(b) The hearing will ~~shall~~ not be conducted according to technical rules relating to evidence and witnesses. Any evidence will ~~shall~~ be admitted unless it is irrelevant, immaterial, unduly repetitious, or otherwise unreliable or of little probative value.

(c) All testimony at the hearing must ~~shall~~ be taken under oath or affirmation.

(d) The hearing must ~~shall~~ be recorded by electronic means unless one party has chosen to provide a court reporter at their own expense as specified in section 96051.~~34(i)~~39(h).

(e) The hearing must ~~shall~~ be open to the public, unless a party shows good cause as to why it should be closed.

(f) All exhibits, documents, and information related to an appeal of a patient complaint investigation under this chapter are deemed confidential due to financial and medical information contained therein, except for the proposed decision and final decision.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.36.~~ 96051.41. Settlement.

If a settlement is reached between the parties prior to the hearing, the Department must ~~shall~~ notify the hearing officer and no hearing will ~~shall~~ be held.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ ~~96051.37.~~ 96051.42. Decision.

(a) The hearing officer must ~~shall~~ prepare a recommended decision for the Director. The recommended decision must ~~shall~~ be in writing and must ~~shall~~ include findings of fact and conclusions of law.

(b) The Director may either adopt or reject the recommended decision. If the Director does not adopt the proposed decision as presented, the Director will independently prepare a decision based upon the hearing record; the Director may adopt factual findings of the hearing officer.

(c) The decision of the Director must ~~shall~~ be in writing and will ~~shall~~ be final.

NOTE: Authority cited: Sections 127010 and 127436, Health and Safety Code.
Reference: Section 127436, Health and Safety Code.