

PROCEDURAL FINDINGS

1. On March 5, 2021, HCAI assessed a penalty against Appellant in the amount of \$1,000 for Stabler Lane Behavioral Health's delinquent Hospital Quarterly Financial Utilization Report.²
2. Appellant appealed the penalty by submitting a Request for Administrative Hearing form dated March 11, 2021, and received by the Hearing Office on March 16, 2021.
3. Appellant submitted its appeal within the required fifteen business days from receipt of the penalty letter.³
4. The hearing was conducted electronically using video and teleconferencing. No party objected to the use of video and teleconferencing or requested an in-person hearing.
5. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. Exhibits 1 through 10 were found to be authentic and relevant and admitted to the record.
6. Appellant submitted written statements to the Hearing Office and HCAI at the time of appeal. The written statement was found to be authentic and relevant and admitted to the record.

FACTUAL FINDINGS

1. On September 29, 2020, a psychiatric health facility license for Stabler Lane Behavioral Health became effective.
2. On February 4, 2021, Appellant was sent an automated report reminder email from HCAI's System for Integrated Electronic Reporting and Auditing ("SIERA"). An additional reminder was emailed to Appellant on February 13, 2021.

² Health & Saf. Code, § 128770.

³ Health & Saf. Code, § 128775. *See also* Cal. Code Regs. tit. 22, § 97052.

3. Appellant was required under Health and Safety Code section 128740 to file its report by February 14, 2021.⁴ Penalties accrued from February 15, 2021, until February 24, 2021, when the report was filed.

4. Appellant received the Initial Delinquency Letter on February 25, 2021.

5. In accordance with Health and Safety Code section 128770, HCAI assessed penalties in the amount of \$100 per day for 10 days for the late filing of Stabler Lane Behavioral Health's Hospital Quarterly Financial Utilization Report, resulting in a penalty amount of \$1,000.⁵

6. These facts were substantiated both by oral statements made under oath by Mr. Christensen at the hearing and written exhibits.

7. Under Health and Safety Code section 128770, a penalty may "be reviewed on appeal, and the penalty may be reduced or waived for good cause."⁶

8. Appellant made oral statements of facts it believes show good cause why its report was not submitted in a timely manner.

9. Appellant's representative testified that the facility opened on or around October 2, 2020, and she is a first-time facility administrator. Therefore, the report at issue was its first-ever Hospital Quarterly Financial Utilization Report. Appellant's representative worked with other staff, primarily owner Arne Hyson, to register for a SIERA account and become familiar with HCAI's reporting requirements. On or around February 12, 2021, Appellant's representative filed its Hospital Annual Financial Report, which was not due until April of 2021. Appellant believed it had completed the reporting requirement and did not realize the report at issue was also due. Upon receiving the reminder email, Appellant's representative logged in to the SIERA portal and verified that the annual report had been submitted and assumed the automated reminder was sent regardless of the submission status. When logged into SIERA, Appellant's representative did not know how to view the quarterly reports, including the report at issue. The two reports are located on different applications within the platform which must be navigated between using several menus, but as she was unaware that there were even two different reports

⁴ See also Cal. Code Regs. tit. 22, § 97051.

⁵ Health & Saf. Code, § 128770(a).

⁶ Health & Saf. Code, § 128770(c).

coming due let alone how to find that report status in SIERA, she remained unaware that the report at issue would become delinquent. On February 17, 2021, at approximately 11:00 p.m. SIERA sent an automated report delinquent email. Upon receiving this email on February 18, 2021, Appellant immediately spoke with other staff to ascertain what might have occurred and began working on the report at issue, filing it seven calendar days later.

10. During this time Appellant was also dealing with impacts of the COVID-19 pandemic, including an outbreak at the facility at the time of the hearing.

11. Appellant has taken steps to ensure this does not happen again.

12. These facts were substantiated by oral statements made under oath by Ms. Morrell at the hearing.

13. Mr. Christiansen confirmed that viewing the report status for the annual utilization and quarterly financial reports in SIERA requires navigating between different applications within the platform. He stated that users most often only have one role, but in Ms. Morell's case she is a user for both the quarterly financial and annual utilization reporting applications. Upon logging in to SIERA, the platform will load the user's default application, in Ms. Morell's case, this appears to be the annual utilization application.

14. Mr. Christiansen further testified that HCAI made changes to the SIERA reminder email text to further distinguish between the types of reports to help prevent future misunderstanding.

15. HCAI's exhibit 10 shows that Appellant filed its subsequent Hospital Quarterly Financial Utilization Report in a timely manner.

DISCUSSION AND LEGAL CONCLUSIONS

1. The issue here is whether Appellant had good cause, as required by Health and Safety Code section 128770, for failing to file the Hospital Quarterly Financial Utilization Report for Stabler Lane Behavioral Health by February 14, 2021, and whether the penalty should be waived in whole or in part.

2. In *Waters v. Superior Court*, the California Supreme Court stated that, “good cause may be equated to a good reason for a party’s failure to perform that specific requirement from which he seeks to be excused.”⁷ Good cause must be directly related to the specific legal requirement which the party failed to perform and should be outside the reasonable control of the party.⁸ Good cause is sometimes defined as circumstances beyond the party’s control, and not related to the party’s own negligent act or failure to act. On an individual basis, courts and administrative bodies have often found that hospitalization, incapacitation, accident involvement, or loss or unavailability of records may constitute good cause.⁹ The determination of good cause in a particular context should utilize common sense based on the totality of the circumstances, including the underlying purpose of the statutory scheme.¹⁰

3. Appellant asserts the report at issue was late due to its recent opening under a new administrator and a lack of understanding that two separate reports were due with two different deadlines that had to be accessed from two separate applications within SIERA. The substantiated facts show that Appellant filed its Hospital Annual Utilization Report early, believing that was the report the reminder email was referencing and was unaware of the Hospital Quarterly Financial Utilization Report until it received the emailed delinquency notice.

4. A party’s diligence is a factor in determining good cause for an extension or a delay.¹¹ Appellant first opened its facility for business in October of 2020, and was filing its first reports, having no previous experience with HCAI’s reporting requirements. Despite the impacts of the COVID-19 pandemic, Appellant attempted to complete its reports timely and in fact was able to

⁷ *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal.2d 885, 893 (hereafter *Waters*).

⁸ *Waters, supra*, 58 Cal.2d 885,893 and Secretary of State, “Good Cause” Reasons for Waiving Late Campaign & Lobbying Filing Fees <https://www.sos.ca.gov/campaign-lobbying/good-cause-reasons-waiving-late-campaign-lobbying-filing-fees/> [as of December 4, 2019].

⁹ Fair Political Practices Commission, Guidelines for Waiving Late Fines (Nov. 2017) <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/FilingOfficer/700FO-Folder/Late%20Fine%20Guidelines.pdf> [as of December 4, 2019]. See also *Waters, supra*, 58 Cal.2d 885, 893.

¹⁰ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

¹¹ *People v. Financial & Surety, Inc.* (2016) 2 Cal.5th 35, 47. See also *Wang v. Unemployment Ins. Appeals Bd.* (1990) 225 Cal.App.3d 412, 420.

complete its annual report timely. However, Appellant was unaware that the report at issue was due, despite reviewing HCAI's reminder emails and logging into SIERA to view the report status. HCAI's reminder emails, as documented in exhibits 1 and 2, merely state that "the quarterly report(s) listed below are coming due" and show the Report Period End ("RPE") date of 12/31/20, which was the same for both its annual report and the quarterly report at issue. Appellant's representative took the step to log into SIERA and review the report status to ensure that the report it submitted had been properly submitted, but because Appellant's representative did not know that there were two separate reports with the same RPE date, nor understand how to navigate between the applications within SIERA, Appellant believed it had met its reporting requirements until it received the delinquency email on February 18, 2021. Appellant's representative took immediate steps to prepare and file the report, and in fact filed the report before the mailed delinquency notice was received at the facility. Furthermore, Appellant has filed all its other reports timely, demonstrating that it is aware of its statutory reporting obligations and has processes in place to ensure they are submitted timely going forward.

5. These facts taken together demonstrate that Appellant acted with due diligence under the circumstances and with reasonable haste to provide the late report. Therefore, the substantiated facts show good cause for waiver of the penalty.

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PROPOSED ORDER

The assessed penalties are waived for good cause.

Dated: December 3, 2021

//original signed//
MICHELLE L. CHURCH-REEVES
Hearing Officer
Department of Health Care Access and Information

DECISION

Pursuant to Health and Safety Code section 128775 and California Code of Regulations, title 22, section 97054, after due consideration of the record, the Proposed Decision is:

Accepted

Rejected

Dated: December 6, 2021

//original signed//
ELIZABETH A. LANDSBERG
Director
Department of Health Care Access and Information