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NOTICE OF PROPOSED RULEMAKING

CALIFORNIA CODE OF REGULATIONS

Title 22, Division 7, Chapter 10

Article 3.5 Sections 97046 – 97046.6

The Department of Health Care Access and Information (HCAI) proposes adding new Article 3.5 Skilled Nursing Facility Consolidated Reporting Requirements (Sections 97046 – 97046.6) to Chapter 10 of Division 7 of Title 22 of the California Code of Regulations (CCR). Article 3.5 will implement Section 128734.1 of the Health and Safety Code (HSC), added by Senate Bill (SB) 650 (Chapter 493, Statutes of 2021). HCAI proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

SB 650 made changes to California law to address skilled nursing facility (SNF) financial and ownership transparency. The legislation adds Section 128734.1 to Chapter 1 of Part 5 of Division 7 of the HSC and establishes a new mandated reporting program for HCAI.

The program expands financial disclosure reporting for SNFs by requiring an organization that operates, conducts, owns, manages, or maintains a SNF or SNFs to prepare and file with the Department, an annual consolidated financial report and documentation of the corporate structure. HCAI is charged with collecting, reviewing, and publishing the annual consolidated financial reports, including required attachments and documentation.

I. PUBLIC HEARING

HCAI has not scheduled a public hearing on this proposed action. However, HCAI will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period. Public hearing to be pursuant to Section 11346.8.

II. WRITTEN PUBLIC COMMENT PERIOD AND CONTACT PERSON

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. All comments must be received by HCAI by September 5, 2023, assuming July 21, 2023, date of public notice.

Inquiries and written comments regarding the proposed action should be addressed to the primary contact person named below. Comments delivered by email are suggested. Comments may also be hand-delivered or mailed.

Adrienne Wahleithner, Auditor
Office of Information Services
Department of Health Care Access and Information
Tel: (916) 326-3848
Email: adrienne.wahleithner@hcai.ca.gov
Mailing address: 2020 West El Camino Avenue, Suite 1100
Sacramento, CA 95833-1880

Inquiries and comments may also be directed to the backup contact person at the same mailing address:

Lexie Bloyd, Audit Supervisor
Office of Information Services
Tel: (916) 326-3833
Email: lexie.bloyd@hcai.ca.gov

Comments should include the author's name, U.S. Postal Service address, and email address, if applicable, for HCAI to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

III. AUTHORITY AND REFERENCE

Health and Safety Code, Section 128810 authorizes HCAI to adopt these proposed regulations. These proposed regulations implement, interpret, and make specific Section 128734.1 of the HSC.

IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

A. Summary of Existing Law

The proposed rulemaking is intended to implement a new statutorily mandated reporting program pursuant to HSC Section 128734.1, added by SB 650.

B. Policy Statement Overview/Specific Benefits of the Proposed Regulations

SB 650 made changes to California law to address SNF financial and ownership transparency.

The Legislation added Section 128734.1 to Chapter 1 of Part 5 of Division 7 of the Health and Safety Code, establishing a new mandated program for HCAI.

The program expands financial disclosure reporting for SNFs by requiring an organization that operates, conducts, owns, manages, or maintains a SNF or SNFs to prepare and file with the Department an annual consolidated financial report and documentation of the corporate structure. HCAI is charged with collecting, reviewing, and publishing the annual consolidated financial reports, including required attachments and documentation.

The proposed rulemaking will provide guidance and clarity for SNFs that are required to comply with the mandated new reporting program. The benefit will be to achieve the goal of SB 650 which is to increase the transparency of SNFs' financial data and ownership structure in relation to related parties.

C. Determination of Inconsistency/Incompatibility with Existing Law

As required by Government Code Section 11346.5(a)(3)(D), HCAI evaluated the language contained in the proposed regulations and determined that these proposed regulations are not inconsistent with or incompatible with existing state regulations. HCAI also determined there are no comparable federal regulations or statutes.

D. Documents Incorporated by Reference

The proposed rulemaking refers to the *Accounting and Reporting Manual for California Long-term Care Facilities*, Second Edition, which is incorporated by reference in Section 97019 of the CCR.

V. DISCLOSURES REGARDING THE PROPOSED ACTION

HCAI has made the following initial determinations:

- A. Mandate on local agencies and school districts: None.
- B. Cost or savings to any state agency: HCAI has identified costs of \$750,000 for fiscal year 2022-23 and \$250,000 for fiscal year 2023-24. These costs were included in an approved Fiscal Year 2022-23 BCP for SB 650 to implement the requirements of HSC Section 128734.1.
- C. Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
- D. Other nondiscretionary costs or savings imposed on local agencies: None.
- E. Cost or savings in federal funding to the state: None.

- F. Cost impact on a representative person or business: SNFs may incur up to \$80 per year to gather and upload the statutorily required information of HSC Section 128734.1.
- G. Statewide adverse economic impact directly affecting business and individuals: HCAI has made an initial determination that the regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- H. Significant effect on housing costs: None.
- I. Cost impact on small business: HCAI determined that 1 health facility matches the small business definition stated in Government Code Section 11342.610. This health facility could potentially be affected by HCAI's proposed regulations if they have interests in businesses that provide services to the facility.
- J. Business Reporting Requirement: HCAI determined it is necessary for the welfare of the people of the state that this regulation, which requires a report, apply to business.

VI. STATEMENT OF THE RESULTS OF THE ECONOMIC IMPACT ANALYSIS (EIA)

HCAI prepared an Economic Impact Analysis in the Initial Statement of Reasons and concludes that:

- A. this regulatory action will not create jobs within the state;
- B. this regulatory action will not eliminate jobs within the state;
- C. this regulatory action will not create new businesses;
- D. this regulatory action will not eliminate existing businesses;
- E. this regulatory action will not affect the expansion of businesses currently doing business in the state; and
- F. the benefits of the regulations to the health and welfare of California residents, worker safety, and the state's environment are to achieve SNF financial and ownership transparency, pursuant to HSC Section 128734.1, by implementing the newly mandated reporting program.

VII. REASONABLE ALTERNATIVES

HCAI must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of HCAI would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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

HCAI will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address given for the contact persons. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the text of the proposed changes to the regulations, the initial statement of reasons, an economic impact analysis contained in the initial statement of reasons, and information upon which the proposed rulemaking is based.

IX. AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL

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

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

X. AVAILABILITY OF FINAL STATEMENT OF REASONS

The Final Statement of Reasons, including all comments and responses, will be available, after its completion, through the HCAI website at <https://hcai.ca.gov/about/laws-regulations/>. The Final Statement of Reasons will also be available for review from the designated contact person.

XI. AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Notice of Proposed Action, Initial Statement of Reasons, and the text of the proposed regulations can be accessed through the HCAI website at <https://hcai.ca.gov/about/laws-regulations/>.