Department of Health Care Access and Information
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PROPOSED REGULATIONS

CALIFORNIA CODE OF REGULATIONS

Legend – Insertions to existing regulations noted by underline and deletions noted by ~~strikethrough~~. All revisions for the 15-day comment period are noted with a double underline for new language and a ~~double strikethrough~~ for deleted language.

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

Chapter 9. Hospital Charges ~~and Fair Pricing Policies Reporting~~.

~~Article 2. Hospital Fair Pricing Policies Reporting, sections 96040-96050.~~

~~§ 96040. Definitions.~~

~~For the purposes of this article, the following definitions apply:~~
~~(a) "Hospital" means any facility that is required to be licensed under subdivision (a), (b), or (f) of California Health and Safety Code Section 1250, except a facility operated by the State Department of Mental Health or the Department of Corrections.~~
~~(b) "Office" means the Office of Statewide Health Planning and Development.~~
~~(c) "Discount payment" means that part of the hospital's charges that a financially qualified patient is expected to pay in accordance with Health and Safety Code Sections 127405 (b) and 127405 (d). That portion of the hospital's charges for which payment is not expected from the patient due to the patient's inability to pay is accounted for and reported as partial charity care.~~

~~NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127400, 127405 and 127435, Health and Safety Code.~~

~~§ 96041. Hospital Discount Payment and Charity Care Policies Reporting.~~

~~Each hospital shall submit a copy of its discount payment policy, charity care policy, eligibility procedures for those policies, review process, and application form for charity care or discount payment programs to the Office. This information is due January 1,~~

2008, and biennially on January 1 thereafter. If a hospital makes no significant change to its discount payment policy, charity care policy, eligibility procedures for those policies, review process, or application form for charity care or discounted payment programs previously submitted to the Office, the hospital may notify the Office of the lack of change in accordance with Section 96046 instead of submitting the information. The significance of the change shall be evaluated from the perspective of the anticipated impact on the population intended to benefit from California Health and Safety Code Section 127435.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

§ 96042. Electronic Reporting of Hospital Discount Payment and Charity Care Policies, Eligibility Procedures, and Review Process.

Each hospital shall submit its discount payment policy, charity care policy, eligibility procedures for those policies, and review process to the Office as one electronic file in Microsoft Word (.doc). The electronic file must clearly identify the hospital's discount payment policy, charity care policy, eligibility procedures for those policies, and review process in separate, distinct sections of the file. Hardcopy documents are not acceptable.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

§ 96043. Electronic Reporting of Hospital Application Form for Charity Care or Discount Payment Programs.

Each hospital shall submit its application form for charity care or discounted payment programs to the Office as one electronic file in one of the following file types: Microsoft Word (.doc), or Portable Document Format (.pdf). Hardcopy documents are not acceptable.

NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.

§ 96044. Reporting Significant Changes to Hospital Discount Payment and Charity Care Policies.

Whenever a hospital makes a significant change to its discount payment policy, charity care policy, eligibility procedures for those policies, or review process, the hospital must submit a complete copy of the entire discount payment policy, charity care policy, eligibility procedures for those policies, and review process to the Office in accordance with Sections 96042 and 96046. The significance of the change shall be evaluated from

~~the perspective of the anticipated impact on the population intended to benefit from California Health and Safety Code Section 127435.~~

~~NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.~~

~~§ 96045. Reporting Significant Changes to Hospital Charity Care or Discount Payment Programs Application Forms.~~

~~Whenever a hospital makes a significant change to its application form for charity care or discount payment programs, the hospital must submit a complete copy of the entire application form for charity care or discount payment programs to the Office in accordance with Sections 96043 and 96046. The significance of the change shall be evaluated from the perspective of the anticipated impact on the population intended to benefit from California Health and Safety Code Section 127435.~~

~~NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.~~

~~§ 96046. Method of Submission of Fair Pricing Documents and Notifications.~~

~~Each hospital shall submit its discount payment policy, charity care policy, eligibility procedures for those policies, review process, and application form for charity care or discount payment programs as electronic files identified in Sections 96042 and 96043 using the Office's internet System for Fair Price Hospital Reporting located on the Office's web site at: https:// syfphr.oshpd.ca.gov/. Hospitals shall use a Microsoft Internet Explorer web browser that supports a secure internet connection utilizing the Secure Hypertext Transfer Protocol (HTTPS or https) and 128-bit cypher strength Secure Socket Layer (SSL) to utilize the Office's internet System for Fair Price Hospital Reporting.~~
~~If there are no significant changes to a hospital's discount payment policy, charity care policy, eligibility procedures for those policies, review process, or application form for charity care or discounted payment programs previously submitted to the Office and the hospital chooses to notify the Office of the lack of changes to the information, the hospital shall use the Office's internet System for Fair Price Hospital Reporting to notify the Office of the lack of changes.~~

~~NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.~~

~~§ 96050. Request for Modifications to Requirements.~~

~~To obtain modifications for electronic file types or method of submitting electronic files or notifications, hospitals shall file written requests for modification with the Office.~~

~~Hospitals shall have an Office-approved modification prior to implementation of any change to the applicable requirements. Modification requests shall specify the precise changes being requested and the reason(s) the changes are needed. The Office shall either approve or disapprove requests for modification on a case-by-case basis.~~

~~NOTE: Authority cited: Section 11152, Government Code; and Section 127435, Health and Safety Code. Reference: Sections 127405 and 127435, Health and Safety Code.~~

CHAPTER 9.2: HOSPITAL FAIR BILLING PROGRAM

Article 1. 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 section 127400:

(a) "Act" means Health and Safety Code sections 127400 through 127446, inclusive.

(b) ~~"Charity care" means free or discounted hospital care and services provided to patients who meet the hospital's eligibility criteria under the hospital's charity care policy.~~

"Charity care" means the following:

(1) Free health services provided without expectation of payment to persons who meet the hospital's criteria for financial assistance and are unable to pay for all or a portion of the services. Charity care does not include bad debt defined as uncollectible charges that the hospital recorded as revenue but wrote off due to a patient's failure to pay; and/or

(2) Reduced cost health services or free health services provided to eligible patients, as outlined in the hospital's charity care policy.

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

(d) "Discount payment" means that part of the hospital's charges that a financially qualified patient is expected to pay in accordance with Health and Safety Code Sections 127405 (b) and 127405 (d).

(e) "Policy" or "policies" means document(s) the hospital is required to submit pursuant to Health and Safety Code section 127435 (a).

(f) "Working days" means Monday through Friday but shall not include State Holidays.

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

§ 96051.1. 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:

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

(2) Use a sans serif font in at least a 12-point size, 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.

~~(4) Provide information on how a patient with a disability may access the document in an alternative accessible format including, but not limited to, large print, braille, audio, and accessible electronic formats including by screen reader in a logical reading order.~~

~~(5) Provide information on how a patient may access the information in languages other than English.~~

(4) Meet the language requirements outlined in Health and Safety Code section 127410 (a).

(b) The notices required by section 96051.2, Health and Safety Code section 127410 (a), and Health and Safety Code section 127425 (e) shall include a tagline sheet with 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 127410 and 127425, Health and Safety Code.

§ 96051.2. Eligibility Determination Letters.

(a) 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) 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.

(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 reasonable payment plan, if applicable.

(4) Name of the hospital office, contact name, and contact information where the patient may appeal the hospital's decision.

(5) Information on the Hospital Bill Complaint Program, as outlined in section 96051.3.

(6) 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.

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

§ 96051.3. Hospital Bill Complaint Program Notice.

All notices provided to a patient under the Act and this chapter, and all billing statements, shall include 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: Sections 127405 and 127410, 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. ~~Submission of~~ Discount Payment, Charity Care, and Debt Collection Policies and Procedures

§ 96051.5. Hospital Contact and Registration for Policy Submission.

(a) Each hospital shall designate a primary contact for the purpose of receiving compliance and informational communications regarding the hospital's 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 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.

(3) The business title of the contact person.

(4) A business address.

(5) A business email.

(6) A business phone number.

(7) Whether they are the primary or secondary contact.

(c) Each hospital 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.

(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.

(1) Each hospital's primary or secondary contact, as referenced in 96051.~~1~~5, shall submit policies through the Department's online policy submission portal at hdc.hcai.ca.gov~~/~~, by January 1, 2024, and biennially by January 1 thereafter. 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," ~~as utilized in~~ 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) Hospitals that are newly licensed 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) 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.

(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 ~~1~~30 ~~working~~ 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 ~~10 working~~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. Discount Payment Program.

(a) All medically necessary services~~, as determined by the patient's treating provider or referring provider,~~ are eligible for the discount payment program. Services performed within the hospital are presumed to be medically necessary unless the hospital ~~demonstrates with an attestation from the patient's treating or referring provider(s) that the service was not medically necessary.~~ provides 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 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. ~~If the patient is utilizing paystubs to document income, the hospital may request a maximum of six months of consecutive paystubs.~~

(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.

§ 96051.8. Applications for Eligibility for Discount Payment Program or Charity Care Program.

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

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.

(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 ~~proof~~ contemporaneous record that written notice required under Health and Safety Code section 127410 (a) and (b) was provided to the patient 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. Hospital Postings.

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

(1) Use a sans serif font. ~~that meets or exceeds the following font sizes:~~

~~(A) Main title: 72-point.~~

~~(B) Section heading: 42-point.~~

~~(C) Body text: 24-point.~~

(2) Use a white background and black text.

(3) Use paper that is no smaller than an 11" x 17" 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) Meet the language requirements outlined in Health and Safety Code section 127410 (a).

(b) Hospital postings shall include the following content:

(1) "Help Paying Your Bill" as a main title, followed by information about the availability of discount payment and charity care programs.

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

(3) "Hospital Bill Complaint Program" 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) "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 ~~electronic formats that are accessible and may be read by a screen reader in a logical reading order~~ other accessible electronic formats.

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

(c) Department staff 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. Website Requirements.

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

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

(A) Eligibility requirements.

(B) Instructions on how to apply.

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

(D) Office where the patient may go for more information.

(2) The "Help Paying Your Bill" webpage 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) Hospital website's footer.

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

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

(3) Within the hospital website's header and footer, the "Help Paying Your Bill" link 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/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.

Article 4. Hospital Bill Complaint Program

§ 96051.12. Hospital Designated Contact and Statement of Certification.

(a) Each hospital 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 provide the following information:

(1) The legal name of the hospital.

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

(3) The business title of the primary contact.

(4) A business address.

(5) A business email address.

(6) A business phone number.

(c) Each hospital 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 shall identify approved users who may use the Department's online patient complaint portal on behalf of the hospital.

(e) Each hospital 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, 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 shall electronically sign a statement of certification under penalty of perjury, 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: Sections 127010, Health and Safety Code. Reference: Section 127436, Health and Safety Code.

§ 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. 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, 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, guardian, or conservator of a minor patient is not required to submit the information required under subsection (c).

(c) The patient or authorized representative shall submit the following to the Department 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 of the authorized representative.

(5) Telephone 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 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 under subdivision (c)(7).

(d) An authorization pursuant to this article 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. Release of Information.

The patient ~~or authorized representative, as outlined in section 96051.14 (a)(2) and (a)(3),~~ 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. ~~or authorized representative.~~

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

§ 96051.16. Filing a Patient Complaint.

(a) Complaints to the Department pursuant to Health and Safety Code section 127436 may be made electronically or in writing 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 complaint submitted by a patient, or their authorized representative, shall, ~~at minimum,~~ include the following information:

(1) Full name of patient.

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

(3) Date of birth.

(4) Sex.

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

(6) Mailing address, if available.

(7) Primary phone number, if available.

(8) Secondary phone number, if available.

(9) Email address, if available.

(10) Preferred language (optional).

(11) Hospital name and address.

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

(13) Health plan, ~~or~~ insurance ~~coverage~~ 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. ~~if applicable.~~

(14) Health plan(s) or insurance provider(s) that processed and paid claims for 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) Medi-Cal identification number, if applicable~~

~~(18) Medicare or Medicare Advantage identification number(s), if applicable~~

~~(19) Other Government Program identification number(s), if applicable (i.e., County Medical Services Program, etc.)~~

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

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

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

(23) A signed authorization for release of information pursuant to section 96051.15.

(24) A signed authorized representative designation pursuant to section 96051.14, 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) Signature of patient or authorized representative with legal authority to represent the patient.

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

§ 96051.17. Complaint Review.

(a) For the Department to ~~consider a complaint~~ investigate an eligibility determination by a hospital for its discount payment and/or charity care programs, ~~submitted by the patient or authorized representative,~~ 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 will forward the complaint to the hospital for response.

(1) The hospital shall respond to the complaint within ~~10~~ 30 ~~working~~ calendar days unless extended pursuant to section 96051.18.

(c) The hospital response to the Department 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 shall be provided to the Department within ~~1~~30 ~~working~~ calendar days of the request unless extended pursuant to section 96051.18.

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

(f) If the hospital is found to be out of compliance, the Department will issue a preliminary out of compliance notice to the hospital detailing the alleged violation(s).

(1) The hospital shall have 30 calendar days after issuance of the preliminary out of compliance notice to respond to the Department.

(2) If the hospital does not respond or if the hospital's response does not result in a change in the Department's preliminary out of compliance determination, a letter will be sent to the patient and to the hospital, 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) If the hospital does not file an appeal within 30 calendar days from the date the Department's final determination notice was issued, the hospital 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) Provide the Department with proof of patient reimbursement within 30 calendar days from the date the final determination notice was issued.

(3) 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. Request for Extension.

(a) If the hospital cannot provide the response required by section 96051.17 (b)(1) and (d)(1) within ~~1~~30 ~~working~~ calendar days, the hospital may request a reasonable extension of time through the online patient complaint portal. The request must be submitted 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) 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.

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

§ 96051.19. Debt Collection Ceased While Complaint Pending.

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, ~~, submit the patient to collections and all collections activity shall cease while the patient's complaint with the Department is pending. Cessation of collection activities~~ after the hospital has been notified that the patient has filed a complaint with the Department. 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: Section 127436, Health and Safety Code.

Article 5. 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 Health and Safety Code section 127400 through 127446 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. Penalties for Late Filing of Documents and Responses.

(a) A hospital that fails to file a required policy and/or response by the due date established by section 96051.6 (b)(1), (b)(3), (b)(4), (d)(1), or (d)(4), is liable for a penalty assessment of ~~one thousand~~ five hundred dollars ($~~1,000~~500) for each calendar day after the due date that the required document is not filed.

(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 ~~one thousand~~ five hundred dollars ($~~1,000~~ 500) for each calendar day after the due date that the required response is not filed.

Note: Authority cited: Sections 127010 and 127436, Health and Safety Code. Reference: Section 127436, 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 by 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 ~~Notice and~~ Hospital Policy, Posting, and Website Requirements.

(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) through (c)(4) that fail to comply with the Act and section 96051.10.

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

(3) Minor - The violation 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 ~~If the~~ alleged violations that do~~es~~ not affect patient access to, or eligibility for, the hospital's discount payment or charity care programs, ~~the Department may use its discretion to close its investigation without a penalty assessment,~~ provided the hospital takes corrective action as directed by the Department.

(c) Penalties for violations ~~of Health and Safety Code section 127436~~ 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.

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 ~~If the~~ alleged violation(s) that do~~es~~ not affect patient access to, or eligibility for, the hospital's discount payment or charity care programs, ~~the Department may use its discretion to close its investigation without a penalty assessment,~~ 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.

§ 96051.26. Adjustments to the Base Penalty.

(a) The base penalty determined in section 96051.25 shall be adjusted considering each of the following factors:

(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.

(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 ~~Health and Safety Code sections 127400 through 127446, inclusive,~~ 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) 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.

(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 ~~Health and Safety Code sections 127400 through 127446, inclusive,~~ 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.

§ 96051.27. Final Penalty.

The final penalty for an investigation of a patient's complaint resulting in one or more violations is the cumulative adjusted base penalty 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.

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 (a) 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 (a), the Department will calculate the accrued penalty pursuant to subsection (b) 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. 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:

(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 shall submit its written request for penalty modification as described in subsection (a) to the Department within 10 working days after the issuance of the administrative penalty. The request shall describe how the hospital qualifies for a small 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) 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 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: Section 127840, 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.

§ 96051.31. Corrective Action.

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 in compliance with the Act and this chapter.

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

Article 6. Appeals

§ 96051.32. Appeals.

(a) Filing an Appeal. A hospital that has received notice of an accrued penalty under the Act 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 shall be filed with the Department's hearing officer either by mail or by email 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) The request for hearing 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.
(4) The date of the penalty assessment notice.
(5) A statement of the basis for the appeal.
(6) A copy of the penalty notice.

(c) No later than five calendar days after filing the request for hearing, the hospital 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.

§ 96051.33. 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, shall be made as follows:

(1) For appeals before the Department's hearing officer, communications shall be made via mail or email as specified in section 96051.32 (a).

(2) For appeals before an administrative law judge employed by the California Office of Administrative Hearings pursuant to section 96051.35, communications 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 shall be made via mail or email as specified in section 96051.32 (a).

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

§ 96051.34. Prehearing Provisions.

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

(b) The hospital and the Department 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) The hearing officer 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.

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

(e) Request to Change Hearing Date. Either party may request a change of hearing date, if necessary. Requests for rescheduling 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) 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) 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 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) 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) 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 shall notify the hearing officer in advance and make all necessary arrangements. The original transcript 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. Conduct of Hearing.

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

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

(d) The hearing 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).

(e) The hearing 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 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. Settlement.

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

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

§ 96051.37. Decision.

(a) The hearing officer shall prepare a recommended decision for the Director. The recommended decision shall be in writing and 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 shall be in writing and shall be final.

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