

BEFORE THE
DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION
STATE OF CALIFORNIA

In the Matter of the Penalty Issued to:

**ALAMEDA HEALTHCARE AND
WELLNESS CENTER,
HAYWARD HEALTHCARE AND
WELLNESS CENTER,
ROSEVILLE POINT HEALTH AND
WELLNESS CENTER, AND
SAN PABLO HEALTHCARE AND
WELLNESS CENTER**

Appellant.

HCAI No. 25-001C-LTC

PROPOSED DECISION

This matter was heard before Camille Dixon, Hearing Officer, Department of Health Care Access and Information (“HCAI”), State of California, beginning on Wednesday, May 21, 2025, at 1:30 PM PST.

HCAI was represented by Ty Christensen, Manager, Accounting and Reporting Systems Section. Tina Tran, Associate Governmental Program Analyst, Accounting and Reporting Systems Section and Michelle Church-Reeves, Attorney III, Legal Office were also present on behalf of HCAI.

Axiom Healthcare Group, on behalf of owner and operator Sol Healthcare LLC, owner and operator of Alameda Healthcare and Wellness Center, Hayward Healthcare and Wellness Center, Roseville Point Health and Wellness Center, and San Pablo Healthcare and Wellness Center,¹ collectively, “Appellant,” was represented by Michael Lesnick, Axiom Healthcare

¹ Department of Public Health, CalHealth Find Database
<https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx> [as of May 28, 2025].

Group Consultant, Shun Tong, Rockport Health Care Services, and Ernesto Valle, Axiom Healthcare Group Consultant, was also present on behalf of Appellant.

The hearing concluded at 2:12 PM PST. Both documentary and testamentary evidence were received. The record was held open for Appellant to submit additional documentary evidence. Appellant submitted additional documentary evidence on May 23, 2025, without objection from HCAI. The record was closed on May 28, 2025, at 3:50 PM PST.

PROCEDURAL FINDINGS

1. On April 17, 2025, HCAI assessed penalties against Appellant in the amount of \$900 per facility (a total of \$3,600) for its Long-Term Care (LTC) Annual Disclosure Reports, which were filed after the expiration of the extension period, for four facilities.²
2. Appellant timely appealed the penalties within the required fifteen business days³ from receipt of the penalty letters by emailing the Hearing Office directly on April 15, 2025, and subsequently submitting a Request for Administrative form dated April 23, 2025, which was received by the Hearing Office on Monday, April 28, 2025.
3. Appellant requested the consolidation of the four appeals at the time of appeal. No party objected to the consolidation request and the consolidation was approved by the Hearing Office.
4. HCAI submitted written exhibits to the Hearing Office and Appellant in advance of the hearing in a timely manner. All exhibits were found to be authentic and relevant and were admitted to the record as Exhibits 1 through 11.
5. Appellant submitted a letter of explanation to the Hearing Office and HCAI at the time of appeal. This letter was found to be authentic, relevant and admitted to the record as Exhibit A. Appellant submitted additional documentary evidence on May 23, 2025, without objection from HCAI. The Hearing Officer found the documentary evidence to be authentic and relevant and admitted the additional exhibits, labeled Exhibits B and C.

² Health & Saf. Code, § 128770. *See also* Exhibit 9.

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

FACTUAL FINDINGS

1. Alameda Healthcare and Wellness Center is a 166-bed skilled nursing facility located in Alameda, California; Hayward Healthcare and Wellness Center is a 99-bed skilled nursing facility located in Hayward, California; Roseville Point Health and Wellness Center is a 98-bed skilled nursing facility located in Roseville, California; and San Pablo Healthcare and Wellness Center is a 108-bed skilled nursing facility located in San Pablo, California.⁴

2. Appellant was required under Health and Safety Code section 128770 to file or timely request an extension for its LTC reports for the Report Period Ending (“RPE”) date of August 31, 2024⁵, by December 31, 2024.⁶

3. Appellant requested and received a 90-day extension but filed its report 9 days after the extension expired on April 9, 2025.⁷

4. HCAI sent automated reminders to Appellant via email on Thursday, March 6, 2025, and Friday, March 21, 2025.⁸ A delinquent report reminder was automatically emailed to Appellant on Thursday, April 3, 2025 at approximately 10:00 PM PST.⁹ Delinquent report notices, dated April 7, 2025, were mailed to Appellant using General Logistics Systems (“GLS”) overnight mail and delivered, and signed for by the facility, on Tuesday, April 8, 2025.¹⁰

5. Penalties accrued from April 1, 2025, until April 9, 2025, when the reports were filed.¹¹ Appellant submitted its reports on Wednesday April 9, 2025, after the expiration of the extension.¹² In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for 9 days per facility, resulting in a total

⁴ Department of Public Health, CalHealth Find Database <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx> [as of May 28, 2025].

⁵ Exhibits 1 and 2. Department of Public Health, CalHealth Find Database <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx> [as of May 28, 2025].

⁶ Health & Saf. Code, § 128770. *See also* Cal. Code Regs. Tit. 22, §§ 97051.

⁷ Exhibit 9.

⁸ Exhibits 3 and 4.

⁹ Exhibit 5.

¹⁰ Exhibits 6 and 7.

¹¹ Exhibits 8 and 9.

¹² Exhibits 8 and 10.

penalty amount of \$3,600.¹³ These facts were substantiated both by oral statements made under oath by Mr. Christensen at the hearing and written exhibits.

6. Subsequent to HCAI's presentation of its written exhibits, and based on Appellant's written statement, the Hearing Officer requested that HCAI provide background information regarding Senate Bill ("SB") 650, a skilled nursing facility consolidated reporting requirement bill that passed in 2021 and became operative in 2023.¹⁴ SB 650 added an additional report screen into the System for Integrated Electronic Reporting and Auditing ("SIERA") and both the SB 650 and LTC reports have to be submitted into SIERA. Appellant raised the issue of their belief that it thought in good faith the LTC reports at issue were submitted and processed when its 2024 SB 650 reports were submitted on March 25, 2025.¹⁵

7. In response to the Hearing Officer's question, Mr. Christensen testified that SB 650 is a new requirement and the report that is submitted is a consolidated financial report, which adds all of the facility-related entities into one financial statement versus each individual facility filing individual financial statements. Mr. Christensen further testified that the SB 650 due date is the same as other individual reports, which could be confusing; however, some of the information needed for the consolidated reports comes from the individual reports. For the first year of SB 650 report submission HCAI gave facilities a grace period to comply with SB 650 and did not pursue any penalties in the first year if the reports were submitted within the grace period. Mr. Christensen also testified that Appellant's 2024 SB 650 reports were on time, even without the grace period. Further, the new SB 650 submission process required the addition of a new submission screen within SIERA which could have caused Appellant to believe that its LTC reports at issue were submitted on time.

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¹³ Health & Saf. Code, § 128770; see Exhibit 9.

¹⁴ California Legislative Information https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB650 [as of June 3, 2025]. See also [SKILLED NURSING FACILITY ANNUAL CONSOLIDATED FINANCIAL REPORT GUIDE](#) [as of June 30, 2025].

¹⁵ Exhibit A and Exhibit 11.

8. Appellant made oral statements and referenced its appeal documents to state why it demonstrated good cause regarding the four late-filed LTC reports.¹⁶ In its written statement Appellant stated the LTC reports were inadvertently filed late and providers and cost report preparers worked diligently to upload the reports to SIERA on the same day the first notice was received.¹⁷ Additionally, the LTC reports were all complete as of March 25, 2025, however, due to confusion with the additional SB 650 submission process, which was a new process, Appellant inadvertently marked the facilities as submitted even though they were in fact not submitted and Appellant seeks a one-time abatement of the penalty.¹⁸

9. Michael Lesnick testified that Appellant does not debate or dispute about dates and circumstances, but testified he does believe there were circumstances that represent good cause for “excusable, forgivable delays.” In addition to LTC reports at issue for Appellant in this appeal, Mr. Lesnick testified there are about 70 cost reports related to the facilities at issue that Axiom is responsible for submitting and all the other cost reports were submitted on time. Mr. Lesnick further testified that Axiom is responsible for submitting about 700 facility cost reports for other facilities as well, and the overwhelming majority of those reports are submitted on time, and they have a “pretty good track record.”

10. Mr. Lesnick testified that Shun Tong provides data that is used for the LTC reports and Raymond Lo is in charge of preparing the LTC reports. Once Mr. Lo drafts the LTC reports he sends the LTC reports to Sandra Whitley for review. Ms. Whitley completes the review of the LTC reports, and if she is satisfied the LTC reports are ready, Ms. Whitley will communicate with Shun Tong (Rockport Health Care Services) and Eddie Uppal (Axiom Healthcare Group), informing them the LTC reports are ready for submission, and Eddie Uppal’s team figures out who will submit the LTC reports.

Mr. Lesnick testified that Ms. Whitley received an email response from Eddie Uppal’s team that the LTC reports were submitted and confirmed okay. Due to the response from Eddie Uppal’s team, Ms. Whitley assumed the LTC reports were submitted and confirmed. It was not

¹⁶ Exhibit A.

¹⁷ Exhibit A.

¹⁸ Exhibit A.

until it received the April 7, 2025,¹⁹ delinquency letters from HCAI that Appellant became aware the reports had not been submitted.

11. Mr. Lesnick testified that Shun Tong informed Axiom that the April 7, 2025, delinquency letters were received. Mr. Lesnick testified that the LTC reports were finished but had not been uploaded, and Appellant immediately uploaded reports on April 9, 2025, two days after the April 7, 2025, delinquency letters were received.

12. The Hearing Officer asked Ernesto Valle for a timeline between April 3, 2025, when the delinquent notification email was sent, and April 9, 2025, when the LTC reports were filed.

13. Mr. Valle testified that he is not part of the “actual submission process.” Mr. Valle testified that emails are forwarded to all Axiom team members responsible for preparing and submitting the LTC reports. Mr. Valle further testified that he is not part of the LTC report submission process.

14. The Hearing Officer requested additional information from Appellant regarding its employee responsibilities and gave Appellant a deadline of Friday, May 23, 2025, to submit additional information. Appellant, on May 23, 2025, provided additional information, including an email from Michael Lesnick with information about Ernesto Valle’s responsibilities and information about good cause, as well as an email from Ernesto Valle with an attachment describing Ernesto Valle’s duties.

15. Mr. Lesnick stated that Mr. Valle is not responsible for the preparation of the LTC reports.²⁰ Mr. Lesnick stated that Appellant’s facts demonstrate the late submission of Appellant’s LTC reports is the product of mistake, inadvertence, and/or excusable neglect and there is no prejudice to the Department in accepting the late LTC reports.²¹ Mr. Lesnick closed out the letter by requesting a finding of good cause.²²

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¹⁹ Exhibit 9.

²⁰ Exhibit B.

²¹ Exhibit C.

²² Exhibit C.

16. Mr. Valle testified that, on April 3, 2025, he received an email about the delinquent LTC reports for Appellant.²³ Mr. Valle testified that he is registered as a SIERA user and the reason he is registered is that he often responds to HCAI questions about LTC reports that have been filed but he does not prepare or submit LTC reports.²⁴ Mr. Valle testified that, during the hearing, Mr. Christensen acknowledged Mr. Valle is a registered SIERA user, and because Mr. Valle is a SIERA user he received reminder and delinquent notification emails despite having no involvement with the LTC report submissions.²⁵ Mr. Valle further testified that he was aware other people at Axiom, such as Raymond Lo and Tracy Havens, who were more directly connected to the LTC report submissions, would address submitting the LTC reports.²⁶

17. Mr. Valle stated that it was an extremely busy period. Mr. Valle stated that another mitigating factor was that Raymond Lo, who was directly connected to this LTC report submission, was traveling out of the country, which contributed to the short delay in responding to this issue and Mr. Valle also communicated with Tracy Havens who completed some of the actual LTC report submissions from her office.²⁷

18. HCAI did not object to Appellant's additional evidence and Exhibits B and C, which were found to be authentic, were admitted into the record on May 28, 2025, at 3:50 PM PST. These facts were substantiated by oral statements made under oath by Mr. Lesnick and Mr. Valle at the hearing as well as written exhibits.

19. Neither HCAI nor Appellant offered additional testimony. The initial statements of both parties were not rebutted.

20. Exhibits 10 and 11 showed that Appellant does have a history of filing required reports in a timely manner.

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²³ Exhibit C.

²⁴ Exhibit C.

²⁵ Exhibit C.

²⁶ Exhibit C.

²⁷ Exhibit C.

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 its LTC reports by the extension period expiration date of March 31, 2025, and whether the penalty should be waived in whole or in part.
2. Under Health and Safety Code section 128770, subsection (c), a penalty may “be reviewed on appeal, and the penalty may be reduced or waived for good cause.” 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.”²⁸ 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.²⁹ 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.³⁰ 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.³¹ As a general rule, however, “good cause” includes reasons that are fair, honest, in good faith, not trivial, arbitrary, capricious, or pretextual, and reasonably related to legitimate needs, goals, and purposes.³² Mere ignorance is not a strong showing of good cause.³³

²⁸ *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal.2d 885, 893 (hereafter *Waters*).

²⁹ *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/helpful-resources/fines-late-filing-disclosure-statements-and-reports/guidelines-waiver-liability-late-filing-fines> [as of June 4, 2025].

³⁰ Fair Political Practices Commission, Guidelines for Waiving Late Fines (Oct. 2024) <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/FilingOfficer/700FO-Folder/Late%20Fine%20Guidelines.pdf> [as of June 4, 2025]. See also *Waters, supra*, 58 Cal.2d 885, 893.

³¹ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

³² *Cotran v. Rollins Hudig Hall Intern., Inc.* (1998) 17 Cal.4th 93, 96.

³³ *Tsingaris v. State of California* (1979) 91 Cal.App.3d 312, 314.

A party's diligence is a factor in determining good cause for an extension or a delay.³⁴

3. March 31, known as "Cesar Chavez Day," is a holiday in this state.³⁵ When the last day for filing any instrument or other document with a state agency falls upon a Saturday or holiday, such act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.³⁶ Therefore, the reports at issue would have been timely filed on Tuesday, April 1, 2025.

4. Here, the substantiated facts show that Appellant submitted its LTC reports 9 days after the extended due date on Wednesday, April 9, 2025, resulting in penalties of \$900 per facility for a total of \$3,600.³⁷

5. Mr. Lesnick testified that Ms. Whitley received an email response from Eddie Uppal's team that the LTC reports were submitted and confirmed okay. Due to the response from Eddie Uppal's team, Ms. Whitley assumed the LTC reports were submitted and confirmed. It was not until it received April 7, 2025,³⁸ delinquency letters from HCAI that Appellant became aware the LTC reports had not been submitted.

6. Appellant stated the reports were ready to be filed by March 25, 2025, and credible testimony established Appellant believed that the reports had been properly submitted by the due date. Appellant stated the reports were mistakenly filed late and providers and LTC report preparers worked diligently to upload the reports to SIERA on the same day the first notice was received, however, due to confusion with the additional SB 650 submission process, the four facilities were inadvertently marked as submitted in error.³⁹

7. Appellant inadvertently marking the LTC reports as "submitted" is an error. The SIERA system provides system users with a confirmation email that a report was submitted. Any of Mr. Uppal's employees that are responsible for the LTC report filing submission process could have checked to ensure that the four LTC reports at issue had confirmation emails from SIERA.

³⁴ *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.

³⁵ Government Code section 6700(a)(7).

³⁶ Government Code section 6707.

³⁷ Exhibits 8, 9, and 10.

³⁸ Exhibit 9.

³⁹ Exhibit A.

8. Mr. Valle and Mr. Lesnick stated that Mr. Valle is not part of the “actual submission process.” Emails are forwarded to all Axiom team members responsible for preparing and submitting the LTC reports. Mr. Valle stated that, unlike Raymond Lo and Tracy Havens, he is not integrated into the LTC report submission process.⁴⁰ Mr. Valle further stated that Raymond Lo was out of the country, and it was a busy period, which further complicated the timely submission of the reports.⁴¹ Mr. Christensen acknowledged at the hearing that because Mr. Valle was registered, he received the reminder and delinquent notification emails even though he was not involved with the submission of the LTC reports.

9. Good cause should utilize common sense based on the totality of the circumstances and Appellant’s diligence is a factor in determining good cause for an extension or a delay.⁴² The new SB 650 reporting requirement added an additional submission screen in SIERA and Appellant believed in good faith that its LTC reports were submitted along with the SB 650 reports on March 25, 2025.⁴³ The SB 650 report was due at the same time as the LTC reports at issue, and an additional submission screen was added to SIERA for SB 650 report submission. It is reasonable under the circumstances to understand why Appellant was under the impression the LTC reports at issue were also submitted on March 25, 2025, along with the SB 650 report.⁴⁴ Mr. Christensen testified that SB 650 could have caused confusion about the submission process and Mr. Lesnick testified Appellant’s reports were ready by March 25, 2025, and Appellant, in good faith, believed they were submitted. Based on the totality of the circumstances, Appellant has shown good cause but as explained below, Appellant has only shown good cause sufficient for a reduction of the \$3,600 penalty.

10. Mr. Lesnick stated that Shun Tong informed Axiom the April 7, 2025, delinquency letters were received, and documentation shows that Tracy Havens uploaded the reports on Wednesday, April 9, 2025.⁴⁵ Mr. Lesnick testified that Axiom was responsible for submitting about 700

⁴⁰ Exhibit C.

⁴¹ Exhibit C.

⁴² *Laraway, supra*, (2002) 96 Cal.App.4th 266, 274. See also *Wang, supra*, (1990) 225 Cal.App.3d 412, 420.

⁴³ Exhibit 11.

⁴⁴ Exhibits 10 and 11.

⁴⁵ Exhibit 8.

reports for other facilities as well, and the overwhelming majority of those reports are submitted on time, and they have a “pretty good track record.”

11. Appellant’s reports were due, prior to the expiration of the extension period, on Monday, March 31, 2025.⁴⁶ March 31st, however, is a state holiday, and pursuant to the authority of Government Code sections 6700(a)(7) and 6707, the LTC reports were due the following business day on Tuesday, April 1, 2025. The reminder emails were sent to Ernesto Valle, and the delinquent notification email was also sent to Ernesto Valle on Thursday, April 3, 2025, at approximately 10:00 PM PST, after business hours.⁴⁷ As Appellant believed the reports had been submitted, a representative for Appellant did not have actual knowledge of the delinquency until at least Friday, April 4, 2025. Additionally, according to testimony by Appellant and HCAI, Mr. Valle is not responsible for submitting the LTC reports. No evidence in the record shows that Tracy Havens, the person responsible for submitting the LTC reports, received the April 3, 2025, delinquent notification email.⁴⁸ Shun Tong received hard copies of the delinquency letters dated April 7, 2025, which were all signed for by the facility on April 8, 2025.

12. Whether or not Mr. Valle communicated with Appellant about the LTC reports on Friday, April 4, 2025, Appellant should have submitted the LTC reports no later than April 8, 2025, when Shun Tong received hard copy delinquency letters. As Mr. Lesnick testified, the reports were ready to be submitted as early as March 25, 2025. It is unclear what happened between Tuesday, April 8, 2025, and Wednesday, April 9, 2025, when the LTC reports were submitted, and the evidence and relevant testimony does not support good cause for Tuesday, April 8, 2025, or Wednesday, April 9, 2025.

13. Mr. Lo’s travel did not appear to have any impact on the submission of the LTC reports, as the LTC reports were submitted by Tracy Havens on April 9, 2025. Mr. Lo’s travel and the hectic nature of the Appellant’s report filing season can be appreciated, but ultimately, the last 48 hours before the LTC reports were submitted simply does not appear to support an argument of

⁴⁶ Exhibits 2, 3, and 4.

⁴⁷ Exhibit 5.

⁴⁸ Exhibit 5.

good cause. Based on the extension due date occurring on a holiday, the lack of evidence showing Tracy Havens received LTC report reminders and delinquency notification emails, Mr. Valle's testimony and written statement that he is not responsible for submitting the LTC reports, the confusion caused by the additional submission screen for SB 650 reports as stated by both Appellant and HCAI, and appellant's good filing history, Appellant's penalty should be reduced by a total of \$2,800 for the four facilities.

14. Based on the totality of the circumstances, the substantiated facts show good cause for a \$2,800 reduction of the penalties assessed. However, a \$200 per facility penalty (for a total of \$800) is upheld.

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PROPOSED ORDER

The assessed penalties in the total amount of \$3,600 for the late-filed reports for the period ending August 31, 2024, are reduced by \$2,800; \$200 per facility (a total of \$800) is upheld.

Dated: July 2, 2025

//original signed//

CAMILLE DIXON
Hearing Officer
Department of Health Care Access and Information

DECISION

Pursuant to Health and Safety Code section 128775, after due consideration of the record, the Proposed Decision is:

☒ Accepted
☐ Rejected

Dated: 7/17/2025

//original signed//

JAMES YI, Attorney IV
FOR ELIZABETH A. LANDSBERG, Director
Department of Health Care Access and Information