

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

In the Matter of the Penalty Issued to:

CONTINUUM LIVING

Appellant.

HCAI No. 25-004-LTC

PROPOSED DECISION

This matter was heard before Michelle Church-Reeves, Hearing Officer, Department of Health Care Access and Information (“HCAI”), State of California, beginning on Wednesday, July 16, 2025, at 1:30 PM PDT.

HCAI was represented by Ty Christensen, Manager, Accounting and Reporting Systems Section. Tina Tran, Associate Governmental Program Analyst, Accounting and Reporting Systems Section, was also present on behalf of HCAI.

Continuum Living, LLC, owner and operator of Continuum Living,¹ collectively, “Appellant,” was represented by Ashley Carbajal, Director of Nursing.

Both documentary and testamentary evidence were received. The matter was submitted for decision and the record was closed on July 16, 2025 at 1:59 PM PDT.

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¹ Department of Public Health, CalHealth Find Database
<https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx> [as of July 15, 2025].

PROCEDURAL FINDINGS

1. On June 3, 2025, HCAI assessed a penalty against Appellant in the amount of \$2,800 for the late extension request for its Long-Term Care Annual Disclosure Report.²
2. Appellant appealed the penalty by submitting a Request for Administrative Hearing form dated June 5, 2025 and received by the HCAI Hearing Office on June 5, 2025. Appellant submitted its appeal within the required fifteen business days from receipt of the penalty letter.³
3. 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.
4. 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. The California Department of Public Health (“CDPH”) License Information for the facility was admitted as exhibit B.

FACTUAL FINDINGS

1. Appellant was required under Health and Safety Code section 128770 to file or request an extension for its Long-Term Care Annual Disclosure Report for the Report Period Ended (“RPE”) date of December 31, 2024⁴, by Wednesday, April 30, 2025.⁵
2. HCAI sent automated reminders to Appellant via the email on record, mbbansal@gmail.com, on Saturday, April 5, 2025, Sunday, April 20, 2025, and Tuesday, April 29, 2025.⁶ A delinquent report reminder was automatically emailed to Appellant on

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

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

⁴ 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].

⁵ Health & Saf. Code, § 128770. *See also* Cal. Code Regs. Tit. 22, §§ 97051.

⁶ Exhibits 2, 3, and 4.

Saturday, May 3, 2025.⁷ A delinquent report notice, dated May 12, 2025, was mailed to Appellant using General Logistics Systems (“GLS”) overnight mail and delivered to “A. Chen” at the alternative address registered by the previous owner, at approximately 9:39 AM on Tuesday, May 13, 2025.⁸

3. Appellant requested and received the full 90-days of available extension via phone call on Wednesday, May 28, 2025.⁹ In addition, HCAI staff added account access for the new administrator, Sheena Valette, and updated the email address on record and changed the mailing address back to the facility address.

4. Penalties accrued from Thursday, May 1, 2025, until Wednesday, May 28, 2025, when the extension was requested and approved.¹⁰ In accordance with Health and Safety Code section 128770, subsection (a), HCAI assessed penalties in the amount of \$100 per day for twenty-eight days, resulting in a total penalty amount of \$2,800.¹¹

5. Appellant filed the report at issue on Wednesday, June 4, 2025, prior to the expiration of the approved extension.¹²

6. Ms. Tran confirmed that the stock transfer which affected the ownership of the business was shown in the CDPH system as of October of 2024.¹³ However, as it was a stock transfer and not a full transfer of ownership, she testified that CDPH did not notify HCAI of the change.

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

8. Appellant is a five-bed congregate living health facility located in Moreno Valley, California.¹⁴ Congregate living health facilities are only required to file pages 1 through 9 of the report and can email it in as they are not required to purchase compatible software due to a

⁷ Exhibit 5.

⁸ Exhibits 6 and 7.

⁹ Exhibit 9.

¹⁰ Exhibits 8 and 9.

¹¹ Health & Saf. Code, § 128770; see Exhibit 9.

¹² Exhibit 11.

¹³ See also exhibit B.

¹⁴ Department of Public Health, CalHealth Find Database <https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/SearchResult.aspx> [as of May 28, 2025].

statutory exemption.¹⁵

9. Appellant submitted exhibits with its appeal and made oral statements of fact it believes show good cause why the report at issue was not submitted in a timely manner.¹⁶ In its written statement, Appellant stated it was unaware of the reporting requirement or due date because the correspondence went to the previous owner's email address and mailing address.¹⁷ In contrast, the notice for the Annual Utilization Report was received as it was sent to the facility address.

10. Ms. Ashley Carbajal testified that Appellant was unaware of this specific reporting requirement because the notices for the report at issue were sent to the previous owner's email address and mailing address, and not the facility. In addition, the previous owner did not forward any of the emails to Appellant, and only notified Appellant of the mailed delinquency notice days after it was received by the previous owner.

11. Ms. Carbajal testified that while she and Administrator Valette both have experience in the healthcare workforce, they primarily worked in hospice and home care, which has different reporting requirements. So, while Appellant was aware that reporting requirements exist, it was unaware of the specific deadlines. She further testified that both were unaware that updating ownership and contact information with CDPH would be insufficient to receive notification of the reporting requirements.

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

13. Exhibit 11 showed that this is Appellant's first report and that the report at issue was filed prior to the expiration of the extension period.

DISCUSSION AND LEGAL CONCLUSIONS

1. The issue here is whether Appellant had good cause, as required by Health and Safety

¹⁵ Exhibit 8. *See also* Health & Saf. Code §128775(b)(4)(B) and Cal. Code Regs. Tit. 22, § 97041(c).

¹⁶ Exhibit A.

¹⁷ Exhibit A.

Code section 128770, for failing to file or request an extension for the report at issue by Wednesday, April 30, 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.”¹⁸ 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.¹⁹ 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.²⁰

3. 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.²¹ A party’s diligence is a factor in determining good cause for an extension or a delay.²² Appellant has no filing history as the previous owner obtained a license for the facility in July of 2019 and had no patients in 2020, 2021, 2022, or 2023. Continuum Living LLC was purchased by the current stockholders in 2024, and the first patients were received in or around May of 2024. The previous owner rarely responded to HCAI correspondence, as documented in exhibit 1 by program staff.

4. In contrast, once the new owner was notified of the reporting requirements, the

¹⁸ *Waters v. Super. Ct. of Los Angeles County* (1962) 58 Cal.2d 885, 893 (hereafter *Waters*).

¹⁹ *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].

²⁰ 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.

²¹ *Laraway v. Sutro & Co.* (2002) 96 Cal.App.4th 266, 274.

²² *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.

substantiated facts show that Appellant contacted HCAI on or about the same day and immediately both requested an extension and began preparing the report, submitting it a mere seven calendar days later. This substantiates Appellant's credible testimony that the notifications were not received, and it was unaware of the report deadline. And while mere ignorance is not a strong showing of good cause,²³ were it not for the actions of the previous owner to change the contact information with HCAI away from the facility and also fail to update contact information with HCAI after the stock transfer, despite receiving multiple notifications which were ignored, Appellant would have received the notifications and been able to timely request an extension and file the report at issue.

5. In addition, program staff were unaware of the stock transfer and unable to obtain updated contact information from CDPH due to the processing time following the stock transfer. The stock transfer and facility opening were both completed in or around May of 2024. The stock transfer and updated contact information was filed with CDPH in or around May of 2024. However, because the stock sale was not a full transfer of ownership, CDPH did not notify HCAI staff of the sale. In addition, CDPH did not update the license information or contact information until October of 2024. This delay was outside of the control of both Appellant and HCAI.

6. Finally, Congregate living health facilities are residential homes with a capacity of no more than eighteen beds that provide inpatient skilled nursing care on a recurring, intermittent, extended, or continuous basis.²⁴ However, they are typically home-based facilities and often share administrative staff between facilities. Due to their unique organization and limited staffing, congregate living health facilities are exempt from the electronic reporting requirements which apply to other types of facilities.²⁵ While the exact number of staff were not provided by Appellant, the substantiated facts demonstrated that they operate with the expected limited administrative staff, primarily Ms. Valette and Ms. Carbajal.

7. Here, the substantiated facts also show that Appellant filed the report at issue on June 4, 2025. However, had the extensions been requested timely, the due date would have been

²³ *Tsingaris v. State of California* (1979) 91 Cal.App.3d 312, 314.

²⁴ Health & Saf. Code § 1250(i).

²⁵ Health & Saf. Code §128775(b)(4)(B). *See also* Cal. Code Regs. Tit. 22, § 97041(c).

extended to July 29, 2025. Therefore, the report at issue was filed within the normal statutory window and did not cause any undue delays for HCAI staff.

8. The facts show that Appellant was impacted by circumstances clearly outside its control and that it acted with due diligence under the circumstances. Therefore, the substantiated facts show good cause for waiver of the \$2,800 penalty.

PROPOSED ORDER

The assessed penalty is waived for good cause.

Dated: August 8, 2025

//original signed//

MICHELLE CHURCH-REEVES
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: August 22, 2025

//original signed//

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