State of California
Office of Administrative Law

In re:
Office of Statewide Health Planning and Development

Regulatory Action:

Title 22, California Code of Regulations

Adopt sections:
Amend sections: **90417, 97212, 97213, 97221**
Repeal sections:

NOTICE OF APPROVAL OF CHANGES WITHOUT REGULATORY EFFECT

California Code of Regulations, Title 1, Section 100

OAL Matter Number: 2020-0610-01

OAL Matter Type: Nonsubstantive (N)

The Office of Statewide Health Planning and Development submitted this action proposing changes without regulatory effect, pursuant to California Code of Regulations, title 1, section 100, to update cross references in four regulations. The updated cross references are based on a change in a statute or a change in a regulation.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: June 22, 2020

Richard L. Smith

Richard L. Smith
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Robert David, Director
Copy: Kimberly Gustafson

NONSUBSTANTIVE

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER
	Z-	2020-0610-01	N

For use by Office of Administrative Law (OAL) only

2020 JUN 10 A 11:52

OFFICE OF ADMINISTRATIVE LAW

NOTICE

REGULATIONS

ENDORSED - FILED
in the office of the Secretary of State of the State of California

JUN 22 2020

1:33pm

AGENCY WITH RULEMAKING AUTHORITY: Office of Statewide Health Planning and Development

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE | TITLE(S) | FIRST SECTION AFFECTED | 2. REQUESTED PUBLICATION DATE

3. NOTICE TYPE
☐ Notice re Proposed Regulatory Action ☐ Other

4. AGENCY CONTACT PERSON | TELEPHONE NUMBER | FAX NUMBER (Optional)

OAL USE ONLY — ACTION ON PROPOSED NOTICE
☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/ Withdrawn

NOTICE REGISTER NUMBER | PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): Correcting Cross-references Update

1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)

ADOPT

AMEND: 90417, 97212, 97213, and 97221

TITLE(S): 22

REPEAL

3. TYPE OF FILING

☐ Regular Rulemaking (Gov. Code §11346)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)
☐ Emergency (Gov. Code, §11346.1(b))
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)
☐ Emergency Readopt (Gov. Code, §11346.1(h))
☐ File & Print
☐ Other (Specify)
☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) ☐ Effective on filing with Secretary of State ☒ §100 Changes Without Regulatory Effect ☐ Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY
☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal
☐ Other (Specify)

7. CONTACT PERSON: Kimberly Gustafson | TELEPHONE NUMBER: (916) 326-3939 | FAX NUMBER (Optional) | E-MAIL ADDRESS (Optional): kimberly.gustafson@oshpd.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE | DATE: 6/3/2020

TYPED NAME AND TITLE OF SIGNATORY: MARKO MIJIC, ACTING DIRECTOR

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 22 2020

Office of Administrative Law

OSHPD Office of Statewide Health Planning and Development

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FINAL AMENDMENTS WITHOUT REGULATORY EFFECT – JUNE 22, 2020

CALIFORNIA CODE OF REGULATIONS

TITLE 22, DIVISION 7, CHAPTER 1,
ARTICLE 5: CERTIFICATE OF NEED
§ 90417

and

TITLE 22, DIVISION 7, CHAPTER 10,
ARTICLE 8: PATIENT DATA REPORTING REQUIREMENTS
§§ 97212, 97213, and 97221

90417. Special Fees.

(a) Health Facilities, except those exempt by law and long-term care facilities (as defined by Section 97005(d), California Code of Regulations), shall be charged a special fee as follows:

(1) For the last fiscal year ending on or before June 30, of the preceding calendar year the fee shall be 0.027 percent of the gross operating cost for the provision of health care services as determined by the Office.

(b) Long-term care facilities (as defined by Section 97005(d), California Code of Regulations), except those exempt by law, shall be charged a special fee as follows:

(1) For the last fiscal year ending on or before June 30, of the preceding calendar year, the fee shall be 0.025 percent of the gross operating cost for the provision of health care services as determined by the Office.

(c) Freestanding ambulatory surgery clinics as defined in Health and Safety Code 128700~~(c)~~(d) shall be charged a special fee that shall be established at an amount equal to the number of ambulatory surgery data records submitted to the Office pursuant to Section 128737 for encounters in the preceding calendar year multiplied by fifty cents ($.50).

Note: Authority cited: Sections 127150, 127280, 128700 and 128810, Health and Safety Code. Reference: Sections 127280 and 128737, Health and Safety Code.

97212. Definitions, as Used in This Article.

(a) Ambulatory Surgery (AS) Data Record. The Ambulatory Surgery Data Record consists of the set of data elements related to an encounter, as specified in Subsection (a) of Section 128737 of the Health and Safety Code and as defined in Sections 97251-97265 and 97267-97268 of the California Code of Regulations.

(b) CPT-4. The Current Procedural Terminology, 4th Edition, is published and maintained by the American Medical Association. It is a standard medical code set for healthcare services or procedures in non-inpatient settings.

(c) Days. Days, as used in this article, are defined as calendar days unless otherwise specified.

(d) Designated Agent. An entity designated by a reporting facility to submit that reporting facility's data records to the Office's Patient Data Program.

(e) Discharge. A discharge is defined as an inpatient who:

(1) is formally released from the care of the hospital and leaves the hospital, or

(2) is transferred within the hospital from one type of care to another type of care, as defined by Subsection ~~(x)~~(y) of Section 97212, or

(3) leaves the hospital against medical advice, without a physician's order or is a psychiatric patient who is discharged as away without leave (AWOL), or

(4) has died.

(f) Do Not Resuscitate (DNR) Order. A DNR order is a directive from a physician in a patient's current inpatient medical record instructing that the patient is not to be resuscitated in the event of a cardiac or pulmonary arrest. In the event of a cardiac or pulmonary arrest, resuscitative measures include, but are not limited to, the following: cardiopulmonary resuscitation (CPR), intubation, defibrillation, cardioactive drugs, or assisted ventilation.

(g) Emergency Care Data Record. The Emergency Care Data Record consists of the set of data elements related to an encounter, as specified in Subsection (a) of Section 128736 of the Health and Safety Code and as defined in Sections 97251-97265 and 97267-97268.

(h) Emergency Department (ED). Emergency Department means, in a hospital licensed to provide emergency medical services, the location in which those services are provided, as specified in Subsection (b) of Section 128700 of the Health and Safety Code. For the purposes of this chapter, this includes emergency departments providing standby, basic, or comprehensive services.

(i) Encounter. An encounter is a face-to-face contact between an outpatient and a provider.

(j) Error. Error means any record found to have an invalid entry or to contain incomplete data or to contain illogical data.

(k) Facility Identification Number. A unique six-digit number that is assigned to each facility and shall be used to identify the facility.

(*l*) Freestanding Ambulatory Surgery Clinic. Freestanding ambulatory surgery clinic means a surgical clinic that is licensed by the state under paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code. This type of facility is commonly known as a freestanding ambulatory surgery center.

(m) Hospital Discharge Abstract Data Record. The Hospital Discharge Abstract Data Record consists of the set of data elements related to a discharge, as specified in Subsection (g) of Section 128735 of the Health and Safety Code and as defined by Sections 97216-97234 for Inpatients.

(n) (1) ICD-10-CM. The International Classification of Diseases, Tenth Revision, Clinical Modification, published by the U.S. Department of Health and Human Services. Coding guidelines and annual revisions to ICD-10-CM are made nationally by the "Cooperating Parties" (the American Hospital Association, the Centers for Medicare and Medicaid Services, the National Center for Health Statistics, and the American Health Information Management Association).

(2) ICD-10-PCS. The International Classification of Diseases, Tenth Revision, Procedure Coding System, published by the U.S. Department of Health and Human Services. Coding guidelines and annual revisions to ICD-10-PCS are made nationally by the "Cooperating Parties" (the American Hospital Association, the Centers for Medicare and Medicaid Services, the National Center for Health Statistics, and the American Health Information Management Association).

(o) Inpatient. An inpatient is defined as a baby born alive in this hospital or a person who was formally admitted to the hospital with the expectation of remaining overnight or longer.

(p) Licensee. Licensee means an entity that has been issued a license to operate a facility as defined by Subsection (d) or (f) of Section 128700 of the Health and Safety Code.

(q) MIRCal. MIRCal means the OSHPD Medical Information Reporting for California system that is an online transmission system through which reports are submitted using an Internet web browser either by file transfer or data entry. It is a secure means of electronic transmission of data in an automated environment and allows facilities to edit and correct data held in a storage database until reports meet or exceed the Approval Criteria specified in Section 97247.

(r) MS-DRG. Medicare Severity Diagnosis Related Groups is a classification scheme with which to categorize inpatients according to clinical coherence and expected resource intensity, as indicated by their diagnoses, procedures, sex, and disposition. It was established and is revised annually by the U.S. Department of Health and Human Services (DHHS) Centers for Medicare and Medicaid Services (CMS).

(s) Outpatient. An outpatient means:

(1) a person who has been registered or accepted for care but not formally admitted as an inpatient and who does not remain over 24 hours, as specified in Subsection (a)(2) of Section 70053 of Title 22 of the California Code of Regulations, or

(2) a patient at a freestanding ambulatory surgery clinic who has been registered and accepted for care.

(t) Provider. A provider is the person who has primary responsibility for assessing and treating the condition of the patient at a given contact and exercises independent judgment in the care of the patient. This would include, but is not limited to, a practitioner licensed as a Medical Doctor (M.D.), a Doctor of Osteopathy, (D.O.), a Doctor of Dental Surgery (D.D.S.), or a Doctor of Podiatric Medicine (D.P.M.).

(u) Record. A record is defined as the set of data elements specified in Subsection (g) of Section 128735, Subsection (a) of Section 128736, or Subsection (a) of Section 128737 of the Health and Safety Code, for one discharge or for one encounter.

(v) Report. A report is defined as the collection of all Hospital Discharge Abstract Data Records, or all Emergency Care Data Records, or all Ambulatory Surgery Data Records required to be submitted by a reporting facility for one reporting period. A report contains only one type of record.

(w) Reporting Facility. Reporting facility means a hospital or a freestanding ambulatory surgery clinic required to submit data records, as specified in Subsection (g) of Section 128735, or Subsection (a) of Section 128736, or Subsection (a) of Section 128737 of the Health and Safety Code.

(x) SIERA. SIERA means the Office's System for Integrated Electronic Reporting and Auditing that is a secure online transmission system through which reports are submitted and corrected, and report extension requests are submitted using an internet web browser. SIERA is available on the Office's internet web site at: https://siera.oshpd.ca.gov.

(y) Type of Care. Type of care in hospitals is defined as one of the following:

(1) Skilled nursing/intermediate care. Skilled nursing/intermediate care means inpatient care that is provided to inpatients occupying beds appearing on a hospital's license in the classifications of skilled nursing or intermediate care, as defined by paragraphs (2), (3), or (4) of Subdivision (a) of Section 1250.1 of the Health and Safety Code. Skilled nursing/intermediate care also means inpatient care that is provided to inpatients occupying general acute care beds that are being used to provide skilled nursing/intermediate care to those inpatients in an approved swing bed program.

(2) Physical rehabilitation care. Physical rehabilitation care means inpatient care that is provided to inpatients occupying beds included on a hospital's license within the general acute care classification, as defined by paragraph (1) of Subdivision (a) of Section 1250.1 of the Health and Safety Code, and designated as rehabilitation center beds, as defined by Subsection (a) of Section 70034 and by Section 70595 of Title 22 of the California Code of Regulations.

(3) Psychiatric care. Psychiatric care means inpatient care that is provided to inpatients occupying beds appearing on a hospital's license in the classification of acute psychiatric beds, as defined by paragraph (5) of Subdivision (a) Section 1250.1 of the Health and Safety Code, and psychiatric health facility, as defined by Subdivision (a) of Section 1250.2 of the Health and Safety Code.

(4) Chemical dependency recovery care. Chemical dependency recovery care means inpatient care that is provided to inpatients occupying beds appearing on a hospital's license as chemical dependency recovery beds, as defined by paragraph (7) of Subdivision (a) of Section 1250.1 of the Health and Safety Code and Subdivisions (a), (c), or (d) of Section 1250.3 of the Health and Safety Code.

(5) Acute care. Acute care, as defined by paragraph (1) of Subdivision (a) of Section 1250.1 of the Health and Safety Code, means all other types of inpatient care provided to inpatients occupying all other types of licensed beds in a hospital, other than those defined by paragraphs (1), (2), (3) and (4) of Subsection ~~(x)~~(y) of this section.

(z) User Account Administrator. A healthcare facility representative responsible for maintaining the facility's online submission system user accounts and user account contact information.

Note: Authority cited: Section 128810, Health and Safety Code. Reference: Sections 1250, 1250.1, 128700, 128735, 128736 and 128737, Health and Safety Code.

97213. Required Reporting.

(a) (1) Hospital Discharge Abstract Data: Each hospital shall submit a hospital discharge abstract data record, as specified in Subdivision (g) of Section 128735 of the Health and Safety Code, for each inpatient discharged during the semiannual reporting period, according to the format specified in Subsection (a) of Section 97215 and by the dates specified in Subsection (c)(1) of Section 97211.

(2) Emergency Care Data: Each hospital shall submit an emergency care data record, as specified in Subsection (a) of Section 128736 of the Health and Safety Code, for each encounter during the quarterly reporting period, according to the format specified in Subsection (b) of Section 97215 and by the dates specified in Subsection (c)(2) of Section 97211. A hospital shall not report an Emergency Care Data Record if the encounter resulted in a same-hospital admission.

(3) Ambulatory Surgery Data: Each hospital and freestanding ambulatory surgery clinic shall submit an ambulatory surgery data record, as specified in Subsection (a) of Section 128737 of the Health and Safety Code, for each encounter during which at least one ambulatory surgery procedure is performed, during the quarterly reporting period, according to the format specified in Subsection (c) of Section 97215 and by the dates specified in Subsection (c)(3) of Section 97211. An ambulatory surgery procedure is defined by Subsection (a) of Section 128700 of the Health and Safety Code as those procedures performed on an outpatient basis in the general operating rooms, ambulatory surgery rooms, endoscopy units, or cardiac catheterization laboratories of a hospital or a freestanding ambulatory surgery clinic. A hospital shall not report an Ambulatory Surgery Data Record if the encounter resulted in a same-hospital admission.

(b) A hospital shall separately identify records of inpatients being discharged from the acute care type of care, as defined by paragraph (5) of Subsection ~~(x)~~(y) of Section 97212. The hospital shall identify these records by recording a “1” on each of these records as specified in the Format and File Specifications for Online Transmission: Inpatient Data in Section 97215.

(c) A hospital shall separately identify records of inpatients being discharged from the skilled nursing/intermediate care type of care, as defined by paragraph (1) of Subsection ~~(x)~~(y) of Section 97212. The hospital shall identify these records by recording a “3” on each of these records as specified in the Format and File Specifications for Online Transmission: Inpatient Data in Section 97215.

(d) A hospital shall separately identify records of inpatients being discharged from the psychiatric care type of care, as defined by paragraph (3) of Subsection ~~(x)~~(y) of Section 97212. The hospital shall identify these records by recording a “4” on each of these records as specified in the Format and File Specifications for Online Transmission: Inpatient Data in Section 97215.

(e) A hospital shall separately identify records of inpatients being discharged from the chemical dependency recovery care type of care, as defined by paragraph (4) of Subsection ~~(x)~~(y) of Section 97212. The hospital shall identify these records by recording a “5” on each of these records as specified in the Format and File Specifications for Online Transmission: Inpatient Data in Section 97215.

(f) A hospital shall separately identify records of inpatients being discharged from the physical rehabilitation care type of care, as defined by paragraph (2) of Subsection ~~(x)~~(y) of Section 97212. The hospital shall identify these records by recording a “6” on each of these records as specified in the Format and File Specifications for Online Transmission: Inpatient Data in Section 97215.

(g) Licensees operating and maintaining more than one physical plant on separate premises under a single consolidated license who choose to file separate data reports for each location must request, in writing, a modification to file separate data reports for each location. A licensee granted a modification under this paragraph shall be responsible for all regulatory requirements for each separate report. Separate extension requests, filed under the provisions of Section 97241, shall be required for each report, and penalties, assessed pursuant to Section 97250, shall be assessed on each delinquent report.

Note: Authority cited: Section 128810 Health and Safety Code. Reference: Sections 128735, 128736 and 128737, Health and Safety Code.

97221. Definition of Data Element for Inpatients - Admission Date.

(a) For discharges occurring on or after January 1, 2017:

(1) For online transmission of data reports as electronic data files, the patient's admission date shall be reported in numeric form as follows: the 4-digit year, the 2-digit month, and the 2-digit day. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

(2) For online entry of individual records, the patient's admission date shall be reported in numeric form as follows: the 2-digit month, the 2-digit day, and the 4-digit year. The numeric form for days and months from 1 to 9 must have a zero as the first digit.

(3) For discharges representing a transfer of a patient from one level of care within the hospital to another level of care within the hospital, as defined by Subsection ~~(x)~~(y) of Section 97212 and reported pursuant to Section 97212, the admission date reported shall be the date the patient was transferred to the level of care being reported on this record.

Note: Authority cited: Section 128810, Health and Safety Code. Reference: Section 128735, Health and Safety Code.