

OSHPD Office of Statewide Health Planning and Development

Information Services Division
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NOTICE OF PROPOSED RULEMAKING**CALIFORNIA CODE OF REGULATIONS**

Title 22, Division 7, Chapter 10: Health Facility Data

Sections 97005, 97018, 97019, 97040, 97040.1, 97041, 97041.1, 97043, and 97051

The Office of Statewide Health Planning and Development proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

Pursuant to the Health Data and Advisory Council Consolidation Act (the Data Act), Health and Safety Code §128675 - 128810, the Office of Statewide Health Planning and Development (OSHPD) has established uniform systems of accounting for all California health facilities licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code. Pursuant to Health and Safety Code (HSC) Section 128735, hospitals and long-term care (LTC) facilities are required to file annual financial disclosure reports with the Office of Statewide Health Planning and Development (OSHPD). The reports are known as the Hospital Disclosure Report and the LTC Integrated Disclosure and Medi-Cal Cost Report. Under HSC Section 128740, hospitals must also file Hospital Quarterly Financial and Utilization Reports with OSHPD. Health facilities, except congregate living health facilities, are required to file disclosure reports by electronic media as determined by OSHPD. OSHPD has operated these programs for many years. OSHPD is proposing regulatory amendments to require California licensed hospitals and long-term care facilities to use OSHPD's on-line, web-based System for Integrated Electronic Reporting and Auditing (SIERA) for filing the above referenced reports. OSHPD's Accounting and Reporting Manual for California Hospitals, Second Edition (Hospital Manual), and Accounting and Reporting Manual for California Long-term Care Facilities, Second Edition (LTC Manual) are being amended, to reflect the new filing requirements and to make other updates, and the specifications for software used to prepare the annual reports are also being updated.

I. PUBLIC HEARING

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

II. WRITTEN PUBLIC COMMENT PERIOD AND CONTACT PERSON

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. All comments must be received by OSHPD by 5:00 p.m. on February 27, 2019.

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

Starla Ledbetter, Chief Data Officer
Information Services Division
Fax: (916) 322-1442
Tel: (916) 326-3984
Email: starla.ledbetter@oshpd.ca.gov
Mailing address: 2020 West El Camino Avenue, Suite 1100
Sacramento, CA 95833-1880

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

Tim Pasco, Auditor
Information Services Division
Office of Statewide Health Planning and Development
Fax: (916) 322-1442
Tel: (916) 326-3838
Email: tim.pasco@oshpd.ca.gov

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

III. AUTHORITY AND REFERENCE

Authority: California Health and Safety Code, Section 128810.
Reference: California Health and Safety Code, Sections 128680, 128730, 128735, 128740, 128755, 128760, 128770, and 128755. California Welfare and Institutions Code, Section 14107.4.

IV. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

A. Summary of Existing Law

Pursuant to the Health Data and Advisory Council Consolidation Act (the Data Act), Health and Safety Code §128675 - 128810, the Office of Statewide Health Planning and Development (OSHPD) has established uniform systems of accounting for all California health facilities licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.

Pursuant to Health and Safety Code (HSC) Section 128735, hospitals and long-term care (LTC) facilities are required to file annual financial disclosure reports with the Office of Statewide Health Planning and Development (OSHPD). The reports are known as the Hospital Disclosure Report and the LTC Integrated Disclosure and Medi-Cal Cost Report. For long-term care facilities, the annual financial disclosure reports also serve as their Medi-Cal Cost Reports, pursuant to HSC Section 128730. Under HSC Section 128740, hospitals must also file Hospital Quarterly Financial and Utilization Reports with OSHPD.

Health facilities, except congregate living health facilities, are required to file annual disclosure reports by electronic media as determined by OSHPD, pursuant to the HSC 128755. Current regulations instruct health facilities to file their annual disclosure reports with OSHPD either on PC diskettes submitted through the U.S. mail, or as email attachments. Additionally, current regulations instruct hospitals to file their quarterly financial and utilization reports using OSHPD's Internet Hospital Quarterly Reporting System (IHQRS).

OSHPD's Accounting and Reporting Manual for California Hospitals, Second Edition (Hospital Manual), and Accounting and Reporting Manual for California Long-term Care Facilities, Second Edition (LTC Manual) are incorporated by reference in current regulation. The Manuals establish the accounting systems health facilities must use and detail methods for preparing and filing required reports.

Existing law allows health facilities to request extensions of report due dates from OSHPD and current regulations specify a process for submitting such requests. Existing law allows health facilities to request modifications to the reporting requirements.

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

Current regulations mandate an outdated method for California licensed hospitals and long-term care facilities to use in filing statutorily required reports. OSHPD needs to amend the regulations to adopt a report filing process consistent with current technology. These proposed regulations would require California licensed hospitals and long-term care facilities to use OSHPD's secure online System for Integrated Electronic Reporting and Auditing (SIERA) to file annual financial disclosure reports, and for hospitals to prepare and file quarterly financial and utilization reports. Facilities will be required to use SIERA to request extensions of report due dates, and to submit report revisions.

The proposed regulations update the *Accounting and Reporting Manual for California Hospitals*, Second Edition (Hospital Manual), and the *Accounting and Reporting Manual for California Long-term Care Facilities*, Second Edition (LTC Manual), which are incorporated by reference, to reflect the new report filing requirements. The Hospital and LTC Manuals will also be updated and reorganized in several other ways - by deleting text that duplicates California Code of Regulations (CCR) language, moving some text to CCR sections, and deleting some unnecessary non-regulatory information. These proposed changes streamline and enhance the usability of the Hospital and LTC Manuals.

Additionally, these proposed regulations update OSHPD's contact information and make several minor or non-substantive changes not listed above.

Updating the reporting processes to require use of more current technology will benefit the reporting entities, OSHPD, and the public generally. SIERA provides more efficient report filing processes, in line with current business practices. OSHPD has offered health facilities the opportunity to use the SIERA online reporting process on a voluntary, test basis and has seen an extremely high participation rate. Industry preference is to use a secure online transmission system for filing reports. Implementation of the SIERA system makes submitting data less time consuming, makes OSHPD's internal report processing and data review processes more efficient, and will support making important healthcare data available to the public on a more timely basis.

C. Determination of Inconsistency/Incompatibility with Existing Law

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

D. Documents Incorporated by Reference

The proposed rulemaking includes changes to the currently incorporated versions of the *Accounting and Reporting Manual for California Hospitals*, Second Edition, and the *Accounting and Reporting Manual for California Long-term Care Facilities*, Second Edition, and incorporates by reference the *Accounting and Reporting Manual for California Hospitals*, Second Edition, amended [date to be completed by OAL as the applicable quarterly effective date pursuant to Government Code Section 11343.4(a)]; and the *Accounting and Reporting Manual for California Long-term Care Facilities*, Second Edition, amended [date to be completed by OAL as the applicable quarterly effective date pursuant to Government Code Section 11343.4(a)].

In addition, proposed amendments to Title 22, CCR, Section 97041 incorporate by reference the following updated software specifications for preparing annual disclosure reports:

1. "Instructions and Specifications for Developing Approved Software to Prepare the California Hospital Annual Disclosure Report," published by OSHPD June 2018.
2. "Instructions and Specifications for Developing Approved Software to Prepare the California Long-term Care Facility Integrated Disclosure & Medi-Cal Cost Report," published by OSHPD December 2017.

V. DISCLOSURES REGARDING THE PROPOSED ACTION

OSHPD has made the following initial determinations:

- A. Mandate on local agencies and school districts: None.
- B. Cost or savings to any state agency: OSHPD estimates it will incur minor, absorbable costs; no costs are anticipated to any other state agencies.
- C. Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
- D. Other nondiscretionary cost or savings imposed on local agencies: None.
- E. Cost or savings in federal funding to the state: None.
- F. Cost impact on a representative person or business: There is no cost impact to 1,529 health facilities because these facilities either already voluntarily use SIERA, or they are exempt from electronic reporting requirements. There are 107 health facilities, including some small businesses, that do not use SIERA and may incur minor, one-time administrative costs of \$50 per facility to learn how to use SIERA. Those 107 health facilities may also have ongoing annual savings of \$3 per report from no longer mailing reports to OSHPD.

- G. Statewide adverse economic impact directly affecting business and Individuals: OSHPD has made an initial determination that the regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states.
- H. Significant effect on housing costs: None.
- I. Effect on small business: OSHPD determined that 14 health facilities match the small business definition stated in Government Code Section 11342.610. These health facilities could potentially be affected by OSHPD's proposed electronic reporting regulations.
- J. Business Reporting Requirement: OSHPD determined it is necessary for the welfare of the people of the state that this regulation which requires a report apply to business.

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

These changes are anticipated to be beneficial to the reporting facilities – while there may be minor initial implementation costs, using the SIERA system for reporting, requesting extensions, and making corrections will be more efficient and less burdensome. The industry has indicated its support for use of the SIERA system by widespread early adoption when the system was made available on a voluntary, test basis.

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

- A. this regulatory action will not create jobs within the state;
- B. this regulatory action will not eliminate jobs within the state;
- C. this regulatory action will not create new businesses;
- D. this regulatory action will not eliminate existing businesses;
- E. this regulatory action will not affect the expansion of businesses currently doing business in the state; and
- F. the benefits to the public are that greater efficiency and streamlined reporting processes for health facilities have a positive impact on the healthcare environment, and that streamlined reporting processing systems allow OSHPD to make important healthcare data available to the public more quickly.

VII. REASONABLE ALTERNATIVES

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

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

OSHPD will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the address given for the contact persons. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the text of the proposed changes to the regulations including the proposed changes to the Hospital and Long-Term Care Manuals incorporated by reference, the initial statement of reasons, an economic impact analysis contained in the initial statement of reasons, and information upon which the proposed rulemaking is based, including the OSHPD study, Review of Financial Report Submission Methods. In addition, the rulemaking file includes the software specifications incorporated by reference:

- A. "Instructions and Specifications for Developing Approved Software to Prepare the California Hospital Annual Disclosure Report," published by OSHPD June 2018.
- B. "Instructions and Specifications for Developing Approved Software to Prepare the California Long-term Care Facility Integrated Disclosure & Medi-Cal Cost Report," published by OSHPD December 2017.

IX. AVAILABILITY OF SUBSTANTIAL CHANGES TO ORIGINAL PROPOSAL

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

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

X. AVAILABILITY OF FINAL STATEMENT OF REASONS

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

XI. AVAILABILITY OF DOCUMENTS ON THE INTERNET

The Notice of Proposed Action, Initial Statement of Reasons, the text of the proposed regulations in italics and strikeout, and documents incorporated by reference can be accessed through OSHPD's website at <https://oshpd.ca.gov/about/laws-regulations/>.