

APPEAL DOCUMENTS

If you choose to submit an appeal, the following documents may be used.
Appeals should be submitted to:

Office of Statewide Health Planning and Development
Patient Data Section
400 R Street, Suite 270
Sacramento, California 95811-6213
(916) 326-3935; Fax (916) 322-9555
www.oshpd.ca.gov/HID/MIRCal/

OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT
APPEALS PROCESS FOR CIVIL PENALTIES
ASSESSED PURSUANT TO
THE HEALTH DATA AND ADVISORY COUNCIL CONSOLIDATION ACT

Right to Appeal

Any health facility which has been assessed a penalty pursuant to Health and Safety Code Section 128770 may petition the Office for review of the penalty assessment. An appeal must be filed within 15 business days of the day the facility receives notification of the penalty assessment. The right to appeal is forfeited if an appeal is not either received by the Office or postmarked within 15 business days of notification of any action or decision. If an appeal is submitted, the facility is entitled to a formal administrative hearing within 60 days.

How to Appeal

The Office provides a form that may be used to file an appeal. Use of this form is not mandatory, but any appeal must be in writing and must include all necessary information. An appeal must be signed by the licensee or administrator, unless they choose someone else to represent the facility.

If the licensee or administrator chooses someone else to represent the facility in its appeal, the Office must be notified in writing of that delegation of authority. (A form for this purpose accompanies the appeal form.) The licensee or administrator should be aware that they will be bound by the statements and actions of an authorized representative.

Informal Procedure

For the convenience of health facilities filing appeals, the Office has established an informal appeal process. The informal procedure does not require the facility to actually attend a hearing. Review of the appeal is based on written materials submitted by the facility as well as the Office's records. If a facility elects to use the informal procedure, it still has the right to request a formal hearing if it is not satisfied with the informal decision. However, in order for a facility to take advantage of the informal procedure, it must waive its right to have a formal hearing held within 60 days.

The informal procedure works as follows:

1. The facility files an appeal, requests an informal review, states the grounds for the appeal, and agrees to waive the 60-day limit.
2. The Chief Counsel for the Office reviews the appeal, makes a decision, and notifies the facility.
3. The facility has fifteen (15) business days from the date it receives the written decision in the mail to either accept it or to reject it and request a formal hearing.
4. If a formal hearing is requested, one is scheduled.

Formal Hearing

Appeals are heard by an employee of the Office designated to hear such matters. Formal hearings are conducted substantially in conformity with the California Administrative Procedure Act. The facility may be represented by an attorney, but this is not required. The hearing will be tape recorded. The facility may, at its expense, supply a court reporter.

Any relevant evidence offered will be considered if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. A recommended decision, including findings of fact and conclusions of law, will be prepared and presented to the Director of the Office. The decision of the Director will be made in writing within 60 days of the conclusion of the hearing. It will be the final administrative decision.

References: Health and Safety Code Sections 128770 and 128775 and Title 22, California Code of Regulations, Sections 97052, 97053, and 97054.

**PETITION TO THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT**

Facility Name _____

Address _____

Telephone _____ OSHPD Identification No. _____

Authorized Representative (if any) _____

Address _____
Street City State Zip Code

Telephone _____

Petitioner appeals the decision of the Office of Statewide Health Planning and Development dated _____.

Check one

- Petitioner wishes to use the Office's informal procedure.
We waive our right to a formal hearing within 60 days.

- Petitioner does not wish to use the informal procedure and requests a formal hearing within 60 days.

This appeal is based on the following grounds: (Attach additional pages as necessary.)

Name* _____ Title _____
Please Print Please Print

Signature _____ Date _____

Attachment(s) Yes No

*Representatives other than the facility administrator or licensee must have written authorization from the facility administrator or licensee, which must be submitted with an appeal.

**AUTHORIZATION TO REPRESENT
FACILITY IN APPEAL**

_____ is hereby authorized to represent
(Name of Authorized Representative)

Name of Facility

before the Office of Statewide Health Planning and Development. This authorization extends to all communications between our representative and the Office concerning this appeal. This authorization may be terminated at any time upon written notice to the Office.

Facility Administrator or Licensee Name

Title

Signature

Date