

**FINAL EXPRESS TERMS
FOR
PROPOSED BUILDING STANDARDS
OF THE
OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT

REGARDING PROPOSED CHANGES TO
CALIFORNIA ADMINISTRATIVE CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 1**

LEGEND FOR FINAL EXPRESS TERMS (combination of 45-day and 15-day changes)

1. For 45-day and 15-Day changes, existing California amendments or code language being modified appears in *italics*, with modified language underlined.
2. For 45-day and 15-Day changes, repealed text appears in ~~strikeout~~.

FINAL EXPRESS TERMS

**CHAPTER 7
SAFETY STANDARDS FOR HEALTH FACILITIES**

**ARTICLE 2
DEFINITIONS**

7-111. Definitions.

...

APPROVED CONSTRUCTION DOCUMENTS means all plans, specifications, amended construction documents addenda, instruction bulletins, change orders and deferred submittals that have the written approval of the Office. The identification stamp of the Office shall not be construed to mean the written approval of plans required by Section 7-113.

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**ARTICLE 3
APPROVAL OF CONSTRUCTION DOCUMENTS**

7-131. Incremental design, bidding and construction.

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(b) Increments shall be limited to complete phases of construction, such as demolition, site work and utilities, foundations and basement walls, structural framing, architectural work, mechanical work, electrical work, etc. A master plan identifying the work to be completed in each increment, an estimated cost for each increment, and a chart showing the proposed coordination of the design, bidding and construction schedules, state and local plan review times, and estimated completion and occupancy of the project shall be submitted with the first increment.

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7-133. Fees.

(a) **Plan review and field observation.** The fee for plan review and field observation shall be based on the estimated cost of construction as specified below ...

1. The fee for hospital buildings is 1.64 percent ...
2. The fee for skilled nursing and intermediate care facilities, as defined ...

3. The minimum filing fee shall be \$250.00. This filing fee is nonrefundable.

4. ...

E. In the event the Office makes a final determination that the estimated construction cost is underestimated or undervalued, the Office may deem the application incomplete and deny the project application until the applicant either: (a) revises the estimated construction cost to the Office's reasonable satisfaction, or (b) produces further documentation to substantiate the estimated construction cost to the Office's reasonable satisfaction. A notice of denial will be provided to the applicant in writing and may be appealed to a Hearing Officer consistent with Article 5.5 ~~the Hospital Building Safety Board consistent with Article 5.~~

...

7. ...

E. In the event that the Office makes a final determination that the actual construction cost is understated, the Office may deem the project as non-compliant with the Alfred E. Alquist Hospital Facilities Seismic Safety Act until the hospital governing board or authority either: (a) revises the actual construction cost to the Office's reasonable satisfaction, or (b) produces further supplemental information to substantiate the actual construction cost to the Office's reasonable satisfaction. A notice of denial will be provided to the hospital governing board or authority in writing and may be appealed to a Hearing Officer consistent with Article 5.5 ~~the Hospital Building Safety Board consistent with Article 5.~~

...

(e) **Incremental projects.** The fee for incremental projects pursuant to Section 7-131 is ~~70 percent of the fee,~~ based upon the estimated construction cost of ~~the entire facility~~ each increment, as calculated in accordance with Section 7-133 (a), and shall be due upon the submission of the construction documents of ~~the first~~ each construction increment. ~~The balance of the fee, 30 percent based upon the estimated construction cost of the entire facility as calculated in accordance with Section 7-133 (a), shall be due upon permitting of the initial increment.~~ The final fee shall be based upon the determination of the final actual construction cost of all increments in accordance with Section 7-133 (a).

...

(k) **Seismic assessment examination.** The Office shall charge actual costs for the seismic ~~assessment examination~~ examination on the condition of a hospital building upon written request to the Office by the governing board or authority of any hospital, pursuant to Section 129835 of the Health and Safety Code. In addition, the minimum filing fee of \$250.00 shall apply to each application pursuant to Health and Safety Code Section 129785(a). The total cost paid for these services shall be nonrefundable.

...

(p) **Alternate Method of Compliance.** The fee for an Alternate Method of Compliance/Protection (AMC) application is \$250.00. In addition, the Office shall charge actual costs for review of AMCs involving examination on the condition of any hospital building, including but not limited to review for equivalency to the California Building Standards Code. The total cost paid for these services shall be nonrefundable.

...

(g) **Amended Construction Documents.** The fee for submittal and review of Amended Construction Documents shall be as follows:

1. **Additional Costs.** The minimum filing fee for Amended Construction Documents which result in additional construction costs shall be \$250.00.
2. **Cost Reductions.** The minimum filing fee for Amended Construction Documents with cost reductions or no cost shall be \$500.00.

Exception: Projects that have been submitted and approved using the Collaborative Review Process shall have a minimum filing fee of \$250.00.

3. **Review by Examination.** The filing fee for Amended Construction Documents with a change in scope, as defined in Section 7-153(d) exception, shall be \$250.00. In addition, the Office shall charge actual costs associated with the examination and review of such documents.

The filing fees established in this subsection are nonrefundable.

Authority: Health & Safety Code Sections 18929 and 129675-130070
Reference(s): Health & Safety Code Section 129785 and 129850

ARTICLE 4 CONSTRUCTION

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7-141. Administration of construction.

(a) The administration of the work of construction, including the testing, inspection and observation program, shall be under the responsible charge of an architect ~~or~~ and structural engineer. When a structural engineer is not substantially involved, the architect shall be solely responsible. Where neither structural nor architectural elements are substantially involved, a mechanical or electrical engineer registered in the branch of engineering most applicable to the project may be in responsible charge ~~of the administration of the work of construction.~~

(b) All architects and engineers to whom responsibility has been delegated for the preparation of construction documents as listed on the application shall observe the work of construction for their portion of the project. They shall consult with the architect or engineer in responsible charge in the interpretation of the approved construction documents, the preparation of ~~addenda, change orders, instruction bulletins, changes to the approved construction documents and~~ deferred submittal and the selection of inspectors and testing laboratories.

...

(d.) The architect and/or engineer in responsible charge of the work shall prepare and administer a testing, inspection and observation program which shall be submitted to the Office for approval prior to the issuance of the building permit.

...

(g) The inspection program shall also identify all special inspections to be performed on the project and the individual(s) to perform the inspections. The special inspections shall include, at a minimum, those special inspections required by applicable sections of the California Building Standards Code.

(gh) The observation program shall identify each design professional that must, through personal knowledge as defined in Section 7-151, verify that the work is in compliance with the approved construction documents.

(i) The design professionals, contractor or owner/builder and the inspector(s) of record shall verify that the work is in compliance with the approved construction documents in accordance with the requirements for personal knowledge as it applies to each participant ~~or discipline~~. The program shall give specific intervals or project milestones at which such ~~observation reporting~~ is to occur for each affected participant ~~or discipline~~. Each required observation report shall be documented by a ~~compliance verification report~~ Verified Compliance Report form prepared by each participant ~~or discipline~~ and submitted to the Office.

(hj) The ~~tests~~ testing, inspection and observation program shall include samples of test and inspection reports and provide time limits for the submission of reports.

(ik) All completed test, and inspection and observation reports shall be submitted to the Office inspector of record, the owner and the architect or engineer in responsible charge by the author of the report.

~~Authority: Health and Safety Code Sections 127015 and 129850.
Reference: Health and Safety code Sections 129675-129998.
Authority: Health & Safety Code Sections 129825 and 129675-130070
Reference(s): Health & Safety Code Section 129850~~

7-144. Inspection.

(a) ...

(b) When the hospital governing board or authority proposes more than one inspector for a construction project, a lead inspector ~~may~~ shall be identified to coordinate construction inspection and communication with the Office. ~~If identified, t~~The lead inspector shall be certified in a class appropriate to the overall scope of the project.

...

7-149. Tests.

(a) Pursuant to Section 7-141, the architect or engineer in responsible charge shall establish and administer the testing program. Where job conditions warrant, the architect and/or engineer may waive certain specified tests contingent upon the approval of the Office. The Office shall be notified as to the disposition of materials noted on laboratory reports. One copy of all test reports shall be forwarded to the ~~Office inspector of record, owner and the architect or engineer in responsible charge~~ by the testing agency. The reports shall state definitely whether the material tested complies with the approved ~~contract~~ construction documents.

...

7-153. ~~Amended construction documents~~ Changes to the Approved Work.

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(d) **Changes in scope.** At the discretion of the Office, amended construction documents that ~~are~~ outside change the scope of the original project may be required to be submitted as a separate project.

Exception: At the discretion of the Office, changes in scope may be submitted as amended construction documents. The documents shall be reviewed by examination and subject to fees required by Section 7-133 (q)(3).

(e) **Documentation of changes.** The architect or engineer in responsible charge shall maintain a log of all changes to the work of construction. The log shall indicate whether the Office has made a determination as to whether each change materially alters the work, the date ~~and time~~ such determination was made, and the name of the Office staff who made the determination.

~~**Note:** Changes that do not materially alter the work shall not commence prior to Office determination of concurrence and such determination has been entered into the log.~~

~~Authority: Health and Safety Code Sections 127015 and 129850.
Reference: Health and Safety code Sections 129675-129998.
Authority: Health & Safety Code Sections 18929 and 129675-130070
Reference(s): Health & Safety Code Section 129850~~

**ARTICLE 5
APPEALS TO THE HOSPITAL
BUILDING SAFETY BOARD**

~~7-159. Appeals.~~

~~(a) — The Hospital Building Safety Board, except as provided in Section 18945 of the Health and Safety Code, shall act as a board of appeals in all matters relating to the administration and enforcement of building standards relating to the design, construction, alteration and seismic safety of health facility projects submitted to the Office pursuant to Chapter 1, Division 107, Health and Safety Code. Further, notwithstanding Section 13142.6 of the Health and Safety Code, the board shall act as the board of appeals in matters relating to all fire and panic safety regulations and alternate means of protection determinations for health facility projects submitted to the Office pursuant to Chapter 1, Division 107, Health and Safety Code.~~

~~(b) — In the event of disagreement with the rulings, orders, decisions or acts of the Office acting within the scope of Division 107 (commencing with Section 129675) of the Health and Safety Code, an appeal may be made by the current or prospective licensee or their authorized agent, hereafter known as the appellant, of a health facility to the Hospital Building Safety Board. Such appeal shall be considered by the Hospital Building Safety Board only following the failure of an informal conference, held to resolve the appeal in accordance with Section 7-161.~~

~~Authority: Health and Safety Code Sections 127015, 129850 and 129925. Reference: Health and Safety Code Sections 129675-129998.~~

~~HISTORY:~~

~~1. (OSHDP 2/95) Regular order by the Office of Statewide Health Planning and Development to amend Section 7-159. Filed with the secretary of state on August 14, 1996, becomes effective September 13, 1996. Approved by the California Building Standards Commission on March 19, 1996.~~

~~7-161. Informal conference.~~

~~(a) — Within six months of a ruling, order, decision or act of the Office acting within the scope of Division 107 (commencing with Section 129675) of the Health and Safety Code, the appellant may issue a written request for an informal conference upon such ruling, order, decision or act to the Office.~~

~~(b) — Within 15 business days of receipt of a written request for an informal conference, the Office shall give notice of the date, time and place of such conference to review the ruling, order, decision or act being questioned. The informal conference shall be in a convenient place mutually agreeable to the parties. The informal conference shall be held within 25 business days of receipt by the Office of the written request for an informal conference.~~

~~(c) — The informal conference shall be conducted by an Office representative. Parties to such conference may include the appellant, architects and engineers and other appropriate consultants under contract to the appellant or the appellant's legal counsel.~~

~~(d) — The purpose of the informal conference shall be to discuss the ruling, order, decision or act of the Office with the intent to resolve the issue.~~

~~(e) — Within 10 business days following the informal conference, the Office shall notify the appellant in writing as to the Office's action on the ruling, order, decision or act. Such action shall be to confirm, modify, or reverse the original ruling, order, decision or act.~~

~~Authority: Health and Safety Code Sections 18929 and 129675-130070. Reference: Health and Safety Code Section 129955.~~

~~HISTORY:~~

~~1. (OSHDP 2/95) Regular order by the Office of Statewide Health Planning and Development to amend Section 7-161. Filed with the secretary of state on August 14, 1996, becomes effective September 13, 1996. Approved by the California Building Standards Commission on March 19, 1996.~~

~~7-163. Formal hearing request.~~

~~(a) — If the appellant wishes to continue an appeal after the Office's decision following the informal conference, a formal hearing may be requested of the Hospital Building Safety Board. The appellant shall submit a written request for an appeal to the Hospital Building Safety Board through the Office within 15 business days of receipt of the notice of the result of the informal conference.~~

~~(b) — The notice of appeal shall be followed within 60 business days by documents supporting the request for a formal hearing before the Hospital Building Safety Board. Such documents shall be~~

submitted to the Office and shall contain specific information regarding the Office's ruling, order, decision or act and the basis for the appeal.

Authority: Health and Safety Code Sections 18929 and 129675-130070. Reference: Health and Safety Code Section 129955.

HISTORY:

1. (OSHDPD 2/95) Regular order by the Office of Statewide Health Planning and Development to amend Section 7-163. Filed with the secretary of state on August 14, 1996, becomes effective September 13, 1996. Approved by the California Building Standards Commission on March 19, 1996.

~~7-165. Formal hearing.~~

~~(a) The Hospital Building Safety Board, or a committee of the Board, appointed by the Chair of the Board, shall act as the hearing body and shall conduct a public hearing on the appeal.~~

~~(b) The Chair of the Hospital Building Safety Board shall call a hearing on an appeal. The hearing shall be convened at a location selected by the Chair which, where possible, is reasonably close to the appellant.~~

~~(c) The hearing shall be held within 45 business days of the receipt of documents supporting the request for an appeal hearing. Within 20 business days of the Office's receipt of the supporting documentation, the parties to the appeal shall be notified in writing of the time and place of the hearing and the composition of the hearing body.~~

~~(d) The Chair of the Hospital Building Safety Board shall develop, and have sent to each member, an agenda listing the matters to be considered and, insofar as practicable, copies of all written reports which are to be presented to the Board. The agenda and written reports shall be provided to the members of the Board at least 10 business days before the date of the hearing.~~

~~(e) Whenever notice of an appeal hearing for decision of an appeal is issued by the Hospital Building Safety Board or a committee of the Board, such notice shall be provided to the appellant, the Office and all parties to the action at least 10 business days before the date of the hearing.~~

~~(f) If a committee of the Board is appointed to hear the appeal, at least five voting members of the Board shall be appointed to such committee. The Chair of the hearing committee shall be appointed by the Chair of the Hospital Building Safety Board. The appeal shall be heard by at least three of the voting members appointed to an appeal committee. The decision shall bear the endorsement of a simple majority of the committee members present.~~

~~(g) If the Board is to hear the appeal, at least nine voting members of the Board shall be present to hear the matter. The decision shall bear the endorsement of a simple majority of the Board members present.~~

~~(h) The proceedings shall be recorded by tape recorder. Transcripts shall be made available to anyone making a request therefor upon deposit with the Hospital Building Safety Board of the amount of money which the Board has determined necessary to cover the costs of transcript preparation. In addition to the tape recording of the proceedings, decisions of the Board or a committee of the Board shall be recorded by stenographic recording and shown in the minutes of the meeting. The minutes shall show how each Board or committee member voted on the decision.~~

~~(i) The appellant may, at his own expense, arrange for stenographic recording and transcription of the hearings.~~

Authority: Health and Safety Code Sections 18929 and 129675-130070. Reference: Health and Safety Code Section 129955.

HISTORY:

1. (OSHDPD 2/95) Regular order by the Office of Statewide Health Planning and Development to amend Section 7-165. Filed with the secretary of state on August 14, 1996, becomes effective September 13, 1996. Approved by the California Building Standards Commission on March 19, 1996.

~~7-167. Rights of the appellant.~~

~~(a) The appellant shall have the right to counsel, to submit documentary evidence and exhibits, and to have witnesses appear and testify. These rights shall be executed by the appellant at the appellant's own expense.~~

~~(b) The appellant shall have the right to question representatives of the Office and other witnesses presenting testimony or documents in the hearing.~~

~~(c) The appellant shall have the right to question potential conflicts of interest of any voting member of the Hospital Building Safety Board or committee of the Board hearing an appeal. The Chair of the hearing will rule on such potential conflict and the ruling shall be entered in the record of the hearing.~~

Authority: Health and Safety Code Sections 127015 and 129850. Reference: Health and Safety Code Sections 129675-129998.

HISTORY:

1. (OSHPD 2/95) Regular order by the Office of Statewide Health Planning and Development to amend Section 7-167. Filed with the secretary of state on August 14, 1996, becomes effective September 13, 1996. Approved by the California Building Standards Commission on March 19, 1996.

~~7-169. Appeal hearing procedure.~~

~~(a) — An appeal hearing conducted by the Hospital Building Safety Board or a committee of the Board shall not be con-~~

~~ducted in accordance with strict rules of evidence or courtroom procedure. During the hearing, the Chair may accept into the record without formal proof any generally accepted technical or scientific matter related to seismic, architectural, structural, mechanical, electrical, fire and life safety of health facilities. Hearsay evidence may be allowed for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support the findings.~~

~~(b) — The Chair of the hearing shall determine the order of witnesses and presentation and introduction of documents, evidence and exhibits into the record of the hearing. The Chair may impose reasonable time limits, rule on admissibility of evidence, maintain decorum in the hearings, call recesses and rule on continuation of the hearings.~~

~~(c) — The Chair may request counsel from the Office for advice on points of law.~~

~~(d) — Prior to the closing of the hearing, the Chair shall announce either of the following:~~

~~1. — The recommended decision of the committee of the Board.~~

~~2. — The decision of the Board.~~

Authority: Health and Safety Code Sections 127015 and 129850. Reference: Health and Safety Code Sections 129675-129998.
HISTORY:

1. (OSHPD 2/95) Regular order by the Office of Statewide Health Planning and Development to amend Section 7-169. Filed with the secretary of state on August 14, 1996, becomes effective September 13, 1996. Approved by the California Building Standards Commission on March 19, 1996.

~~7-171. Decision on appeal.~~

~~(a) — Decision on an appeal heard by a committee of the Board shall be reached as follows:~~

~~1. — If all parties agree to the decision recommended by a committee of the Board, the agreement and the names of parties to the appeal shall be entered in the record. The appeal action shall be considered terminated when all parties to the appeal have stipulated to the agreement in writing.~~

~~2. — If all parties to the appeal do not agree with the decision recommended by a committee, the findings of fact, supporting documents, evidence, exhibits and decision recommended by the committee shall be transmitted to the Hospital Building Safety Board.~~

~~3. — Within 30 business days after the findings of fact, supporting documents, evidence exhibits and a recommended decision are received, the Board shall hear final arguments from the appellant and render a decision on the appeal. The appellant, the appellant's counsel or the appellant's representatives may not introduce new evidence without approval of the Board.~~

~~(b) — Decision on an appeal heard by or referred to the Hospital Building Safety Board shall be reached as follows:~~

~~1. — The Board shall render a decision in public meeting and transmit such decision in writing to each party to the appeal hearing within 15 business days after the close of the hearing.~~

~~2. — The Board may affirm, reverse or amend the ruling, order, decision or act being appealed or remand the issue for further study.~~

~~3. — If the Board remands all or a portion of the issues at appeal for further study, the Board shall specify the issues or matters to be studied, who is to study the issues and completion dates for such further study.~~

~~4. — Findings and recommendations from further study will be transmitted to all parties to the action prior to the Hospital Building Safety Board's public hearing for decision.~~

~~5. — Within 30 business days of receipt of the findings and recommendations from further study of the issues, the Hospital Building Safety Board shall convene a public hearing to consider the findings and recommendations and arguments from the appellant or the appellant's representatives. The decision of the Hospital Building Safety Board shall be announced in a public hearing and transmitted in writing to all parties involved within 30 business days of the conclusion of the public hearing.~~

~~6. — Decisions of the Hospital Building Safety Board shall become effective immediately upon their announcements by the Chair of the Board, unless otherwise specified by the Chair.~~

(c) — Should the appellant determine he or she has been adversely affected by the decision of the Hospital Building Safety Board, the appellant may further appeal the issue for resolution by the California Building Standards Commission, in accordance with Health and Safety Code Section 18945.

7-173. Expedited appeals.

(a) — Any facility or individual may elect an expedited procedure for the appeal of certain monetary penalties and regulatory decisions of the Office, under the purview of the Hospital Building Safety Board, including but not limited to monetary assessment pursuant to California Health and Safety Code Section 130061 (g) and appeals associated with suspension or revocation under Section 7-214 (d). If the appeal qualifies for an expedited procedure the following process shall apply:

1. — Within 10 business days of the ruling, order, decision or act of the Office acting within the scope of Division 107 of the Health and Safety Code, the appellant may file a written appeal to the Office specifying the matters which are disputed by the petitioner. Failure to file a written appeal within the time specified above constitutes a waiver of the petitioner's right to an expedited appeal on the matter.

2. — A hearing on the appeal shall be held before a subcommittee of the Hospital Building Safety Board chosen by the Chairperson for this purpose. The subcommittee shall consist of two voting members of the Board selected as follows: (1) the Chairperson shall solicit a panel of volunteers from the Board membership available to participate in the appeal hearing; and (2) the Chairperson shall select two Board members from the volunteer panel to serve on the subcommittee. The petitioner shall be given written notice of the date, location, and time of the hearing at least 5 business days before the date of the hearing.

3. — An appeal hearing conducted by the subcommittee shall not be conducted in accordance with strict rules of evidence or courtroom procedure. The subcommittee may accept any relevant evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The hearing shall be recorded by tape recorder. The appellant may, at his own expense, arrange for stenographic recording and transcription of the hearing(s). A copy of the recording or of the transcript, if made, shall be a public record available to any person upon request consistent with the requirements of the Public Records Act.

4. — At the conclusion of the hearing, the subcommittee shall prepare a recommended decision which includes findings of fact, and explains the basis for the decision by the subcommittee. The Chairperson shall ensure that the recommended decision is placed on the agenda of an appropriate committee of the Hospital Building Safety Board for consideration at a publicly noticed meeting. At the public meeting, the committee may adopt the subcommittee's recommended decision, modify the decision, or reverse the decision. The decision of the committee shall be final upon announcement at the committee meeting.

Authority: Health and Safety Code Sections 18929 and 129675-130070.

Reference: Health and Safety Code Section 129955. HISTORY:

I. (OSHDPD 2/95) Regular order by the Office of Statewide Health Planning and Development to amend Section 7-171. Filed with the secretary of state on August 14, 1996, becomes effective September 13, 1996. Approved by the California Building Standards Commission on March 19, 1996.

7-159. Grounds for appeal.

(a) The Hospital Building Safety Board shall act as a board of appeals in the following:

1. All matters relating to the administration and enforcement of building standards relating to the design, construction, alteration and seismic safety of health facility projects submitted to the Office pursuant to the Health and Safety Code, notwithstanding Health and Safety Code Section 13142.6 and except as provided in Health and Safety Code Section 18945.
2. Matters relating to all fire and panic safety regulations and alternate means of protection determinations for health facility projects submitted to the Office pursuant to the Health and Safety Code, notwithstanding Health and Safety Code Section 13142.6.
3. Explicitly enumerated matters identified in Health and Safety Code Sections 130060, 130061, and 130064 of the Health and Safety Code.

Only those matters identified in this section shall be appealable to the Hospital Building Safety Board. An appeal pursuant to this section may be made only by the current or prospective licensee of a health facility or their authorized agent, hereafter known as the appellant.

- (b) Appeals made pursuant to this section shall be considered by the Hospital Building Safety Board only following the completion of the Comment and Process Review, held in accordance with Section 7-161.

7-161. Comment and Process Review (CPR).

- (a) **First Level Review.** In the event that the appellant disagrees with a ruling, order, decision or act of the Office in a matter listed in Section 7-159(a), the appellant must first seek to resolve the issue informally with the original decision maker.
- (b) **Second Level Review.** In the event that the appellant disagrees with a ruling, order, decision or act of the Office following First Level Review as described in (a) of this section, the appellant may submit a request for Second Level Review to the immediate supervisor of the original decision maker. A request for Second Level Review must be submitted in writing within ten (10) calendar days of issuance of the initial ruling, order, decision or act, and must include the following:
1. The name, mailing or e-mail address, and telephone number of appellant;
 2. Identification of the specific ruling, order, decision or act to be reviewed;
 3. The reason for the requested review;
 4. Specific aspects of the decision with which the appellant disagrees and a proposal of alternatives the appellant would like for the reviewer to consider; and
 5. Copies of any documents or data the appellant believes support the appellant's case or that the appellant believes would assist the reviewer.
- (c) **Third Level Review.** In the event that the appellant disagrees with a determination made pursuant to (b) of this section, or in the event that the Second Level Reviewer does not issue to the appellant a response to the request for Second Level Review within ten (10) calendar days of submission of the request, the appellant may submit a request for Third level Review by submitting in writing the information described in Section 7-161 (b)(1)-(5) to the Deputy Division Chief.
- (d) **Fourth Level Review.** In the event that the appellant disagrees with a determination made pursuant to (c) of this section, or in the event that the Third Level Reviewer does not issue to the appellant a response to the request for Third Level Review within ten (10) calendar days of submission of the request, the appellant may submit a request for Fourth Level Review by submitting in writing the information described in Section 7-161(b)(1)-(5) to the Deputy Director. The Deputy Director shall provide the appellant with the written notice of his or her final determination.
- (e) In the event that the appellant disagrees with the final determination of the Deputy Director pursuant to (d) of this section, or in the event that the Deputy Director does not issue to the appellant a response to the request for Fourth Level Review within ten (10) calendar days of submission of the request, appellant may request a formal hearing before the Hospital Building Safety Board pursuant to Section 7-163.

7-163. Formal hearing request.

Consistent with Section 7-159 and upon completion of the Comment Process Review procedure identified in Section 7-161, the appellant may appeal the final determination of the Deputy Director to the Hospital Building Safety Board. To request a formal hearing, the appellant shall submit a written request for appeal containing the information described in Section 7-161(b)(1)-(5) to the Hospital Building Safety Board through the Office within fifteen (15) calendar days of issuance of the Deputy Director's final determination pursuant to Section 7-161(d). Any request for appeal submitted more than fifteen (15) calendar days after issuance of the Deputy Director's final determination pursuant to 7-161(d) may be considered at the discretion of the Office.

7-165. Formal hearing.

- (a) The Hospital Building Safety Board shall act as the hearing body for appeals submitted pursuant to Section 7-163 and shall conduct a public hearing on the appeal.
- (b) The Chair of the Hospital Building Safety Board shall call a hearing on an appeal. The hearing shall be convened at a location selected by the Chair.
- (c) The hearing shall be held within thirty (30) calendar days of issuance of the written request for appeal described in Section 7-163. The parties to the appeal shall be notified in writing of the time and place of the hearing within fifteen (15) calendar days of receipt by the Office of the request for appeal.
- (d) At least nine (9) voting members of the Board shall be present at the hearing. The decision shall bear the endorsement of a simple majority of the Board members present.
- (e) The proceedings shall be recorded. Transcripts shall be made available to anyone making a request therefor upon deposit with the Hospital Building Safety Board of the amount of money which the Office has determined necessary to cover the costs of transcript preparation.
- (f) The appellant may, at his or her own expense, arrange for stenographic recording and transcription of the hearings.

7-167. Rights of the appellant.

The appellant shall have the right to counsel, to submit documentary evidence and exhibits, to present and rebut evidence, to have witnesses appear and testify, and to question representatives of the Office and other witnesses presenting testimony or documents in the hearing. These rights shall be executed by the appellant at the appellant's own expense.

7-169. Appeal hearing procedure.

- (a) An appeal hearing conducted by the Hospital Building Safety Board shall not be conducted in accordance with strict rules of evidence or courtroom procedure. During the hearing, the Chair may accept into the record without formal proof any generally accepted technical or scientific matter related to seismic, architectural, structural, mechanical, electrical, fire and life safety or health facilities. Hearsay evidence may be allowed for the purpose of supplementing or explaining other evidence, but shall not be sufficient by itself to support the findings.
- (b) The Chair of the hearing shall determine the order of witnesses and presentation and introduction of documents, evidence and exhibits into the record of the hearing. The Chair may impose

reasonable time limits, rule on admissibility of evidence, maintain decorum in the hearings, call recesses and rule on continuation of the hearings.

- (c) The Chair may request counsel from the Office for advice on points of law.
- (d) Prior to closing of the hearing, the Chair shall announce the decision of the Board.

7-171. Decision on appeal.

- (a) A decision on an appeal heard by the Hospital Building Safety Board shall be reached as follows:
 - 1. The Board shall render a decision prior to the closing of the hearing.
 - 2. The Board may affirm, reverse or amend the ruling, order, decision or act being appealed.
 - 3. Decision of the Hospital Building Safety Board shall become effective immediately upon their announcements by the Chair of the Board, unless otherwise specified by the Chair.
- (b) The decision of the Board shall be provided in writing to the parties within fifteen (15) calendar days of the formal hearing held pursuant to Section 7-165.

ARTICLE 5.5
APPEALS TO A HEARING OFFICER

7-173. Grounds for appeal.

- (a) A hearing officer selected by the Director of the Office shall hear appeals in only the following:
 - 1. Underestimation, undervaluation, or understatement of construction costs pursuant to Section 7-133(a)(4)(E) and Section 7-133(a)(7)(E).
 - 2. Inspector of Record certification suspension or revocation pursuant to Section 7-214(d).
- (b) An appeal pursuant to subsection (a) may be made only by one of the following:
 - 1. In the case of a dispute regarding underestimation, undervaluation, or understatement of construction costs, the current or prospective licensee of a health facility or their authorized agent.
 - 2. In the case of a dispute regarding Inspector of Record certification suspension or revocation pursuant to Section 7-214(d), only an Inspector of Record whose certification has been suspended or revoked pursuant to Section 7-214(d).

7-175. Formal hearing request.

- (a) Consistent with Section 7-173, the appellant may appeal a final ruling, order, decision or act of the Office to a hearing officer. The appellant must submit a request for a formal hearing in writing to the Office within fifteen (15) calendar days of issuance of the written result of the formal conference and must contain the following:
 - 1. The name, mailing or e-mail address, and telephone number of appellant;

2. Identification of the specific ruling, order, decision or act to be reviewed;
 3. The reason for the requested review;
 4. Specific aspects of the decision with which the appellant disagrees and a proposal of alternatives the appellant would like the reviewer to consider; and
 5. Copies of any documents or data the appellant believes support the appellant's case or that the appellant believes would assist the reviewer.
- (b) All appeals submitted after fifteen (15) calendar days of issuance of the result of the formal conference shall be considered only at the discretion of the Office.

7-177. Formal Hearing.

- (a) A hearing officer selected by the Director of the Office shall act as the sole adjudicator for an appeal pursuant to Article 5.5 and shall conduct a hearing on the appeal.
- (b) The hearing officer shall call a hearing on an appeal. The hearing shall be convened at either the Sacramento or the Los Angeles location of the Office.
- (c) The hearing shall be held within thirty (30) calendar days of issuance of the written request for formal hearing pursuant to Section 7-175. The parties to the appeal shall be notified in writing of the time and place of the hearing within fifteen (15) calendar days of receipt by the Office of the written request for formal hearing.
- (d) The decision shall reflect the judgment of the hearing officer selected to hear the appeal.

7-179. Rights of the appellant.

The appellant shall have the right to counsel, to submit documentary evidence and exhibits to present and rebut evidence, to have witnesses appear and testify, and to question representatives of the Office and other witnesses presenting testimony or documents in the hearing. These rights shall be executed by the appellant at the appellant's own expense.

7-181. Appeal hearing procedure.

- (a) An appeal hearing conducted by the hearing officer shall not be conducted in accordance with strict rules of evidence or courtroom procedure. During the hearing, the hearing officer may accept into the record without formal proof any generally accepted technical, supportive, or validating matter related to the issue.
- (b) The hearing officer shall determine the order of witnesses and presentation and introduction of documents, evidence and exhibits into the record of the hearing. The hearing officer may impose reasonable time limits, rule on admissibility of evidence, maintain decorum in the hearings, call recesses and rule on the continuation of the hearings.
- (c) The hearing officer may request counsel from the Office for advice on points of law.
- (d) The hearing officer shall adjourn the appeal hearing after both the appellant and the Office have had an opportunity to present and rebut evidence.

7-183. Decision on appeal.

A decision on an appeal heard by a hearing officer shall be reached as follows:

- (a) The hearing officer shall issue a written decision to the appellant within fifteen (15) calendar days of adjournment of the appeal hearing.
- (b) The hearing officer may affirm, reverse or amend the ruling, order, decision or act being appealed.
- (c) Decisions of a hearing officer made pursuant to this section shall be final and binding and shall become effective immediately upon issuance of a written decision by that hearing officer unless otherwise specified by that hearing officer.

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Authority: Health & Safety Code Sections 18929 and 129675-130070
Reference(s): Health & Safety Code Section 129850 and 129935-129955

**ARTICLE 19
CERTIFICATION AND APPROVAL
OF HOSPITAL INSPECTORS**

...

7-214. Suspension or revocation of certification.

- (a) A hospital inspector of record certification, issued by the Office, may be suspended or revoked, as determined by the Office. A certification may be suspended or revoked if: (a1) the Office determines that one or more grounds for suspension/revocation exist and the immediate suspension of a certification is necessary for health and safety reasons, or (b2) the Office determines that reasonable grounds exist for the suspension/revocation of a certification ~~is appropriate~~ based upon the evidence presented. ~~Revocation of certification may occur when the Office determines that reasonable grounds exist.~~
- (b) **Grounds for suspension and/or revocation.** The Office ~~field staff~~ or third parties may propose the suspension/revocation of a certification to the Office based on evidence of a certificate holder's (1) incompetent inspection(s); (2) inadequate inspection(s); (3) misrepresentation(s); (4) incompetence; (5) and/or malfeasance misconduct; and/or (6) violation(s) of these regulations. ~~consistent with these regulations.~~
- (c) **Process for suspension and/or revocation.** The Office shall investigate the alleged ~~misconduct~~ inappropriate activity, as identified in Section 7-214(b), of the certificate holder, gather evidence related to the incident(s) in question, and interview witnesses, if appropriate. Based upon consideration of the evidence presented, the Office shall determine whether or not reasonable grounds exist for the suspension/revocation of certification.

In the event that the Office determines that reasonable grounds exist for suspension/revocation, the Office will notify the certificate holder in writing. The notice shall provide the certificate holder ~~in question~~ with an opportunity to participate in a formal ~~interview~~ conference and/or present additional evidence before a final determination is made. The Office must receive a written request for a formal conference and/or additional evidence from the certificate holder within 15 calendar days of the issuance of notice. If the Office does not receive a timely request for a formal conference, the Office may issue a final determination as to the suspension/revocation.

A formal interview conference may be conducted in person or by telephone. The Office shall make a final determination as to the suspension/revocation after considering all the evidence on record, including the formal interview conference and/or any additional information submitted by the certificate holder. Written notification of the Office's final determination will be provided to the certificate holder within 15 calendar days of the formal conference, if applicable.

(bd) **Suspension** is appropriate when the Office determines any of the following: (1) a certificate holder negligently or incompetently commits an act amounting to one or more grounds of revocation for suspension identified in Section 7-214(b); (2) ~~a certificate holder acts with negligence/incompetence in the performance of inspection duties~~; (3) the evidence demonstrates a single solitary, limited or isolated incident(s) rather than a course of negligent/incompetent conduct on the part of the certificate holder in question; and/or ~~(4) the Office determines that other factors, including but not limited to mitigating circumstances or facts relating to the certificate holder's course of conduct, support the suspension of the certification in lieu of revocation.~~

A certification may be suspended for a minimum of one month to a maximum of ~~eighteen~~ six months. The duration of suspension will be determined by the Office upon consideration of all of the evidence on record, and account for the severity of the action(s) constituting grounds for suspension.

(ee) **Revocation** is appropriate when the Office determines any of the following: (1) a certificate holder knowingly, ~~or willfully~~ or with gross negligence commits an act amounting to one or more grounds for revocation identified in Section 7-214(b); (2) ~~a certificate holder acts with gross negligence/incompetence in the performance of inspection duties~~; (3) the evidence demonstrates a course of actionable conduct and/or a history of repeated or continuous deviations from the general standard of care in the inspection industry; and/or ~~(4) the Office determines that other factors, including but not limited to damages to third parties or facts related to the certificate holder's course of conduct, justify the revocation of the certification in lieu of suspension.~~

A certification, once revoked, is no longer valid and may not be renewed pursuant to Section 7-211. In the event that a certificate holder has his or her hospital inspector certification revoked consistent with this Section, he or she may not apply for a new certification for a period of three years from the date of the Office's final written determination identified in Section 7-214(c).

(df) **Appeal.** ~~A final written determination of the Office related to the suspension and/or revocation of a certificate may be appealed by the certificate holder pursuant to Article 5.5 of these regulations. of any suspension or revocation by the certificate holder may be made to the Hospital Building Safety Board pursuant to Article 5 of these regulations, including an expedited appeal as described in Section 7-173.~~

7-215. Appeals.

~~The applicant, candidate or certificate holder may appeal any determination of the Office pursuant to this Article to the Hospital Building Safety Board, pursuant to Section 7-159 of these regulations.~~