

# Comparison of California and IRS Requirements for Community Health Needs Assessments and Plans

## (1) What should be included in community benefit plans?

CALIFORNIA	IRS
<p>The community benefit plan report must include, but need not be limited to, the following:</p> <ul style="list-style-type: none"> <li>• A description of the activities that the hospital has undertaken to address the identified community needs within its mission and financial capacity;</li> <li>• The process by which the hospital developed the plan in consultation with the community.</li> </ul> <p>Health and Safety Code Section 127345(a)</p> <p><b>“Community benefit”</b> means a hospital’s activities that are intended to address community needs and priorities primarily through prevention and improvement of health status, including, without limitation, the following:</p> <ul style="list-style-type: none"> <li>• Health care services, rendered to vulnerable populations, including, but not limited to, charity care and the unreimbursed cost of providing services to the uninsured, underinsured, and those eligible under state health programs, or county indigent programs.</li> <li>• Unreimbursed cost for certain community health services.</li> <li>• Financial or in-kind support of public health programs.</li> <li>• Donation of funds, property, or other resources that contribute to a community priority.</li> <li>• Health care cost containment.</li> <li>• Enhancement of access to health care or related services that contribute to a healthier community.</li> <li>• Services offered without regard to financial return because they meet a community need in the service area of the hospital, and other services including health promotion, health education, prevention, and social services.</li> <li>• Food, shelter, clothing, education, transportation, and other goods or services that help maintain a person’s health.</li> </ul> <p>“Community benefit” does not mean activities or programs that are provided primarily for marketing purposes or are more beneficial to the organization than to the community.</p> <p>Health and Safety Code Section 127345(d)</p> <p><i>(continued on next page)</i></p>	<p>Internal Revenue Code Section 501(r) does not have specific requirements regarding preparation of a “community benefit plan.” Although a specific community benefit plan is not required, final regulations published on December 31, 2014 [79 Fed. Reg. 78954 (Dec. 31, 2014)] (the Final Regulations) require the hospital to adopt a written “implementation strategy” to meet the community health needs identified in the Community Health Needs Assessment (CHNA). The differences between the two are described in this chart and in the manual.</p> <p>Section 1.501(r)-3(c) (all references are to Title 26 of the Code of Federal Regulations, unless otherwise stated)</p>

**(1) What should be included in community benefit plans? (continued)**

CALIFORNIA	IRS
<p>Community benefit plans should include the following:</p> <ol style="list-style-type: none"> <li>1. Mechanisms to evaluate the plan’s effectiveness including, but not limited to, a method for soliciting the views of the community served by the hospital and identification of community groups and local government officials consulted during the development of the plan.</li> <li>2. Measurable objectives to be achieved within specified time frames.</li> <li>3. Community benefits categorized into the following framework:                             <ol style="list-style-type: none"> <li>a. Medical care services.</li> <li>b. Other benefits for vulnerable populations.</li> <li>c. Other benefits for the broader community.</li> <li>d. Health research, education, and training programs.</li> <li>e. Nonquantifiable benefits.</li> </ol> </li> </ol> <p>Health and Safety Code Section 127355.</p> <p>The community benefit plan must assign and report the economic value of community benefits provided in furtherance of its plan, and include a description of how needs identified in the assessment are being addressed and which needs are not being addressed, and why.</p> <p>Health and Safety Code Section 127350(d)</p>	

**(2) What is required of a community health needs assessment?**

CALIFORNIA	IRS
<p>The community needs assessment is the process by which the hospital identifies, for its service area, unmet community needs for improvement and maintenance of health status of the community.</p> <p>Health and Safety Code Section 127345(d)-(e)</p>	<p>In completing its CHNA, the hospital must complete the following steps:</p> <ul style="list-style-type: none"> <li>• Define the community it serves;</li> <li>• Assess the health needs of that community;</li> <li>• In assessing the health needs of the community, solicit and take into account input received from persons who represent the broad interests of that community, including those with special knowledge of or expertise in public health;</li> <li>• Document the CHNA in a written report (“CHNA report”) that is adopted for the hospital facility by an authorized body of the hospital facility; and</li> <li>• Make the CHNA report widely available to the public.</li> </ul> <p>Section 1.501(r)–3(b)(1)(i)-(v)</p> <p>To assess the health needs of the community a hospital serves, a hospital must identify significant health needs of the community, prioritize those health needs, and identify resources (such as organizations, facilities, and programs in the community) potentially available to address those health needs. The health needs of a community should include requisites for the improvement or maintenance of health status in both the community at large and in particular parts of the community (such as particular neighborhoods or populations experiencing health disparities). In determining whether a health need is significant, the hospital facility may consider all of the facts and circumstances present in the community it serves. A hospital facility may use any criteria to prioritize the significant health needs it identifies, including, but not limited to, the burden, scope, severity, or urgency of the health need; the estimated feasibility and effectiveness of possible interventions; the health disparities associated with the need; or the importance the community places on addressing the need.</p> <p>Section 1.501(r)–3(b)(4)</p> <p><i>(continued on next page)</i></p>

**(2) What is required of a community health needs assessment? (continued)**

CALIFORNIA	IRS
	<p>In order to be considered to take into account the broad interests of the community it serves (including those with special knowledge of or expertise in public health), the hospital must solicit and take into account input received from all of the following:</p> <ul style="list-style-type: none"> <li>• At least one state, local, tribal, or regional governmental public health department (or equivalent department or agency), or a State Office of Rural Health, with knowledge, information, or expertise relevant to the health needs of that community;</li> <li>• Members of medically underserved, low-income, and minority populations in the community served by the hospital facility, or individuals or organizations serving or representing the interests of such populations</li> <li>• Written comments received on the hospital facility’s most recently conducted CHNA and most recently adopted implementation strategy; and</li> <li>• The hospital facility may also solicit and take into account input received from a broad range of other persons located in or serving its community.</li> </ul> <p>Section 1.501(r)–3(b)(5)</p> <p>The CHNA report must include the following:</p> <ul style="list-style-type: none"> <li>• A definition of the community served by the hospital facility and a description of how it was determined;</li> <li>• A description of the process and methods used to conduct the CHNA;</li> <li>• A description of how the hospital facility solicited and took into account input received from persons who represent the broad interests of the community it serves;</li> <li>• A prioritized description of the significant identified health needs of the community identified through the CHNA, along with a description of the process and criteria used in identifying certain health needs as significant and prioritizing those significant health needs;</li> <li>• A description of the resources potentially available to address the significant health needs identified through the CHNA; and</li> <li>• an evaluation of the impact of any actions that were taken, since the hospital facility finished conducting its immediately preceding CHNA, to address the significant health needs identified in the hospital facility’s prior CHNA(s).</li> </ul> <p>Section 1.501(r)–3(b)(6)(i)(A)-(F)</p>

**(3) How often must community benefit plans and community health needs assessments be updated?**

CALIFORNIA	IRS
<p>Community benefit plans must be adopted and updated on an annual basis.</p> <p>Health and Safety Code Section 127350(c)</p> <p>The community needs assessment must be updated at least once every three years.</p> <p>Health and Safety Code Section 127350(b)</p> <p>OSHPD may grant an automatic 60-day extension to a hospital.</p> <p>Health and Safety Code Section 127346(b)</p>	<p>A CHNA will meet applicable timing requirements if it is conducted in the current taxable year or in either of two taxable years immediately preceding such taxable year (i.e., the CHNA must be conducted once every three years).</p> <p>Section 1.501(r)-3(a)(1)</p>

**(4) May the hospital complete its community health needs assessment in conjunction with other organizations?**

CALIFORNIA	IRS
<p>Yes. A hospital may complete its community health needs assessment either alone, or in conjunction with other health care providers, or through other organizational arrangements.</p> <p>Health and Safety Code Section 127350(b)</p>	<p>Yes, under limited circumstances.</p> <ul style="list-style-type: none"> <li>A hospital facility that collaborates with other hospital facilities or other organizations (such as state or local public health departments) in conducting its CHNA will satisfy the applicable requirements if an authorized body of the hospital facility adopts for the hospital facility a joint CHNA report produced for the hospital facility and one or more of the collaborating facilities and organizations, provided that the joint CHNA report has all required contents of a separate CHNA report, is clearly identified as applying to the hospital facility, and all of the collaborating hospital facilities and organizations included in the joint CHNA report define their community to be the same.</li> </ul> <p>Section 1.501(r)-3(b)(6)(v)</p> <p>In addition, portions of separate CHNA reports may be substantively identical to portions of a collaborating hospital facility or other organization conducting a CHNA, if appropriate under the facts and circumstances.</p> <p>Section 1.501(r)-3(b)(6)(iv)</p>

**(5) Are updates of the community health needs assessment sufficient or is an entirely new community health needs assessment required?**

CALIFORNIA	IRS
<p>Yes. Health and Safety Code Section 127350(b) provides that the “community needs assessment shall be updated at least once every three years.”</p>	<p>No. The Final Regulations do not provide for updated CHNAs. However, the IRS expects that, in conducting CHNAs, hospital facilities will build upon previously-conducted CHNAs.</p> <p>79 Fed. Reg. 78954, 78962 (Dec. 31, 2014)</p>

**(6) What are the requirements for approving the report?**

CALIFORNIA	IRS
<p>There are no specific requirements for approving the reports.</p>	<p>An authorized body of the hospital must adopt the CHNA and the implementation strategy.</p> <p>Sections 1.501(r)-3(a)(2) and 1.501(r)-3(b)(1)(iv)</p> <p><b>“Authorized body”</b> is defined to include:</p> <ul style="list-style-type: none"> <li>• The governing body (that is, the board of directors, board of trustees, or equivalent controlling body) of the hospital organization that operates the hospital facility, or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body; or</li> <li>• Is the governing body of an entity that is disregarded or treated as a partnership for federal tax purposes that operates the hospital facility or a committee of, or other party authorized by, that governing body to the extent such committee or other party is permitted under state law to act on behalf of the governing body.</li> </ul> <p>Section 1.501(r)-1(b)(4)(i)-(ii)</p>

**(7) What are the implementation requirements?**

CALIFORNIA	IRS
<p>There are no specific implementation requirements, but the community benefits plan should include mechanisms to evaluate the plan’s effectiveness and measurable objectives within specific time frames.</p> <p>Health and Safety Code Section 127355(a)-(b)</p> <p>The community benefits plan must also include a report of activities that the hospital has taken to meet community needs.</p> <p>The community benefits plan must be posted on the hospital’s internet website annually.</p> <p>Health and Safety Code Section 127350(d)</p>	<p>The implementation strategy should describe how the hospital plans to address the health need or identify the health need as one that the hospital does not intend to address and explain why not.</p> <p>Section 1.501(r)-3(c)(1)(i)-(ii)</p> <p>In describing how a hospital plans to address an identified significant health need, the implementation strategy must describe the actions the hospital intends to take to address the health need and the anticipated impact of these actions. The implementation strategy must also identify the resources the hospital plans to commit to address the health need and must describe any planned collaboration between the hospital facility and other facilities or organizations in addressing the health need.</p> <p>Section 1.501(r)-3(c)(2)</p> <p>In explaining why a hospital facility does not intend to address a significant health need, a brief explanation of the reason is sufficient. For example, reasons could include resource constraints or lack of expertise to effectively address the need.</p> <p>Section 1.501(r)-3(c)(3)</p>

**(8) How is the relevant community defined?**

CALIFORNIA	IRS
<p>“Community” is not precisely defined and provides latitude to the hospital in setting the relevant community. In particular, under Health and Safety Code Section 127345(b), <b>“Community”</b> means the service areas or patient populations for which the hospital provides health care services.”</p>	<p>The Final Regulations provide a somewhat complex, nuanced definition for “community.”</p> <ul style="list-style-type: none"> <li>• In defining the community a hospital serves, a hospital may take into account all of the relevant facts and circumstances, including the geographic area served by the hospital, target population(s) served (for example, children, women, or the aged), and principal functions (for example, focus on a particular specialty area or targeted disease). However, a hospital facility may not define its community to exclude medically underserved, low-income, or minority populations live in geographic areas from which the hospital facility draws its patients (unless such populations are not part of the hospital facility’s target patient population(s) or affected by its principal functions) or otherwise should be included based on the method the hospital facility uses to define its community. In addition, in determining its patient populations for purposes of defining its community, the hospital facility must take into account all patients without regard to whether (or how much) they or their insurers pay for the care received or whether they are eligible for assistance under the hospital facility’s financial assistance policy.</li> <li>• Also, if a hospital facility consists of multiple buildings that operate under a single state license and serve different geographic areas or populations, the community served by the hospital facility is the aggregate of such areas or populations.</li> </ul> <p>Section 1.501(r)–3(b)(3)</p>



**(9) Are any tax-exempt private nonprofit hospitals exempt from these requirements?**

CALIFORNIA	IRS
<p>Yes. The following tax-exempt hospitals are exempt from the requirements:</p> <ul style="list-style-type: none"> <li>• Hospitals that are dedicated to serving children and that do not receive direct payment for services to any patient.</li> <li>• Certain small and rural hospitals, unless the hospital is part of a hospital system.</li> <li>• District hospitals or nonprofit corporations affiliated with a district hospital owner by means of the district’s status as the nonprofit corporation’s sole corporate member.</li> </ul> <p>Health and Safety Code Section 127345(f)(1)-(2)</p> <p>Public hospitals, including county, health care districts and University of California hospitals are also exempt, as are chemical dependency recovery hospitals.</p>	<p>As a general matter, no. All hospitals exempt from taxation under Section 501(c)(3) that are required to be licensed by the state or similarly recognized must comply with the CHNA requirements.</p> <p>Multiple buildings operated under a single state license are considered to be a single hospital facility.</p> <p>Section 1.501(r)-1(b)(17)</p>

**(10) Are systemwide reports permitted?**

CALIFORNIA	IRS
<p>Yes. Hospitals under common control of a single entity may file a consolidated report if the report includes each hospital’s community benefit financial data and describes the benefits provided to the communities in the hospitals’ geographic area.</p> <p>Health and Safety Code Section 127350(d)</p>	<p>Generally, each hospital facility must prepare its own CHNA report, although joint reports are permitted under certain circumstances. <i>(See answer to question number 5.)</i></p>

**(11) What are the requirements for making the reports and related information publicly available?**

CALIFORNIA	IRS
<p>Hospitals are required to post their community benefit plans annually on their website.</p> <p>Health and Safety Code Section 127350(e)</p> <p>In addition, OSHPD makes the reports available to the public on its website.</p>	<p>A hospital must make its CHNA report widely available on a website that meets certain specifications, at least until the date the hospital facility has made widely available on a website its two subsequent CHNA reports; and make a paper copy of the CHNA report available for public inspection upon request and without charge at the hospital for the same timeframe.</p> <p>Section 1.501(r)-3(b)(7)(i)(A)-(B)</p>

**(12) What are the requirements for reporting to an agency?**

CALIFORNIA	IRS
<p>The community benefit plan must be filed with OSHPD within 150 days after the end of the hospital's fiscal year.</p> <p>Health and Safety Code Section 127350(d)</p>	<p>With respect to the hospital's IRS Form 990 (Return for Organization Exempt from Income Tax), the hospital organization must include either a copy of the most recently adopted implementation strategy for each hospital facility it operates, or the URL of each web page on which it has made each such implementation strategy available along with (or as part of) the CHNA to which the implementation strategy relates; for each hospital facility it operates, a description of the actions taken during the taxable year to address the significant health needs identified through its most recently conducted CHNA, or, if no actions were taken with respect to one or more of these health needs, the reason(s) why no actions were taken; and the amount of the excise tax imposed on the organization under IRS Section 4959 during the taxable year.</p> <p>Section 1.6033-2(a)(2)(ii)(I)(2)-(4)</p>

**(13) What are the penalties for failure to satisfy the requirements of each applicable law?**

CALIFORNIA	IRS
<p>OSHPD may impose a fine of up to \$5000 for failure to adopt, update, or submit a community benefit plan.</p> <p>Health and Safety Code Section 127346(a)</p>	<p>Failure to meet the obligations under Internal Revenue Code Section 501(r) may result in revocation of tax exempt status or imposition of taxes on income for the taxable year or years when the hospital facility was a non-compliant facility.</p> <p>Section 1.501(r)-2(a)-(d)</p> <p>In determining whether revocation of exemption is appropriate, the IRS will consider all relevant facts and circumstances, including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• whether the organization has previously failed to meet the requirements of Section 501(r), and, if so, whether the same type of failure previously occurred;</li> <li>• the size, scope, nature, and significance of the organization's failure(s);</li> <li>• in the case of an organization that operates more than one hospital facility, the number, size, and significance of the facilities that have failed to meet the applicable requirements relative to those that have complied with these requirements;</li> <li>• the reason for the failure(s);</li> <li>• whether the organization had, prior to the failure(s), established practices and procedures (formal or informal) reasonably designed to promote and facilitate overall compliance with the requirements;</li> <li>• whether the practices or procedures had been routinely followed and the failure(s) occurred through an oversight or mistake in applying them;</li> <li>• whether the organization has implemented safeguards that are reasonably calculated to prevent similar failures from occurring in the future;</li> <li>• whether the organization corrected the failure(s) as promptly after discovery as is reasonable given the nature of the failure(s); and</li> <li>• whether the organization took measures to implement safeguards to prevent similar failures and correct the failures promptly after discovery and before the IRS discovered the failure(s).</li> </ul> <p>Section 1.501(r)-2(a)(1)-(9)</p> <p>The Final Regulations also provide latitude for certain minor or inadvertent omissions and errors that are corrected and allows certain failures to be excused if the hospital corrects and discloses the failures, provided the failures are not willful or egregious.</p> <p>Section 1.501(r)-2(b)-(c); Rev. Proc. 2015-21</p> <p><i>(continued on next page)</i></p>

**(13) What are the penalties for failure to satisfy the requirements of each applicable law? (continued)**

CALIFORNIA	IRS
	<p>In addition to the penalties discussed above, if a hospital organization fails to meet the CHNA requirements separately with respect to a hospital facility it operates in any taxable year, the IRS will impose a tax of \$50,000. If a hospital organization operates multiple hospital facilities and fails to meet the CHNA with respect to more than one facility it operates, the \$50,000 tax is imposed for each hospital facility’s failure. The tax is imposed for each taxable year that a hospital facility fails to meet the requirements of Section 501(r)(3).</p> <p>Section 53.4959-1(a)</p>

**(14) Law and guidance regarding impact of state laws**

CALIFORNIA	IRS
	<p>Although the IRS has recognized that similar state law analogs exist to which a hospital may wish to draw upon, the Final Regulations do not contain any provisions equating compliance with one or more requirements in applicable state law to compliance with one or more of the requirements of the Final Regulations. Moreover, the IRS explained that the Final Regulations are not intended to preempt any state laws or regulations, and that it expects that any additional or stricter requirements under a state’s laws or regulations will continue to apply to hospital facilities licensed in that state.</p> <p>79 Fed. Reg. 78954, 78994 (Dec. 31, 2014)</p>

**(15) Effective dates for each applicable law**

CALIFORNIA	IRS
<p>The law was effective Jan. 1, 1995. Hospitals had to conduct a community needs assessment every three years, beginning in 1995, and develop and adopt a community benefits plan by April 1996.</p>	<p>Hospital organizations should note that the statutory effective date for the CHNA requirements is a hospital organization's first taxable year beginning after March 23, 2012. However, the Final Regulations apply to a hospital facility's taxable years beginning after Dec. 29, 2015. For taxable years prior to Dec. 29, 2015, a hospital facility may rely on a reasonable, good faith interpretation of Section 501(r). A hospital facility will be deemed to have operated in accordance with a reasonable, good faith interpretation of Section 501(r) if it has complied with the provisions of proposed regulations published on June 26, 2012 [77 Fed. Reg. 38148 (June 26, 2012)] and/or the proposed regulations published on April 5, 2013 [78 Fed. Reg. 20523 (April 5, 2013)] or the Final Regulations.</p> <p>79 Fed. Reg. 78954, 78956, 78996 (Dec. 31, 2014)</p> <p>The Final Regulations state that an authorized body of the hospital facility must adopt the implementation strategy on or before the 15th day of the fifth month after the taxable year in which the hospital facility conducts a CHNA.</p> <p>Section 1.501(r)-3(c)(5)(i)</p> <p>The Final Regulations also include a transitional rule pertaining to the first adoption and implementation of the CHNA, where it was conducted in a taxable year before March 23, 2012:</p> <ul style="list-style-type: none"> <li>• The hospital does not need to meet the requirements of Section 501(r)(3) again until the third taxable year following the taxable year in which the hospital facility previously conducted a CHNA, provided that the hospital facility adopted an implementation strategy to meet the community health needs identified through that CHNA on or before the 15th day of the fifth calendar month following the close of its first taxable year beginning after March 23, 2012.</li> </ul> <p>Section 1.501(r)-3(e)(1)</p>

