

Instructions for Calculating an Administrative Penalty (for non charity care, non privacy breach violations)

Using the attached Scope and Severity Matrix, choose the appropriate initial penalty. Make the following adjustments as applicable:

Initial Penalty Adjustments

1. **Actual patient harm:**

Increase penalty by **10%** for actual harm to the patient at Severity Level 3 or 5 resulting in a physical or mental impairment that substantially limits one or more of the major life activities of a patient, or the loss of bodily function, if the impairment or loss lasts more than seven days or is still present at the time of discharge from the hospital, or the loss of a body part.

OR

Increase penalty by **5%** for actual harm to the patient at Severity Level 3 or 5 resulting in a physical or mental impairment that substantially limits one or more of the major life activities of a patient, or the loss of bodily function, if the impairment or loss lasts more than three days.

2. **Financial Harm:** Increase penalty by **1%** for actual financial harm to the patient, based on information acquired by CDPH during the normal course of the investigation.
3. **Beyond the Hospital's Control:** Decrease the penalty by **5%** for factors beyond the hospital's control that restrict the hospital's ability to comply with the requirements of licensure, if the hospital developed and maintained disaster and emergency programs as required by state and federal law that were appropriately implemented during a disaster.
4. **Willful Violation:** Increase the penalty by **10%** if this was a willful violation.

Final Base Penalty Adjustments

5. **Immediate Correction:** Decrease the penalty by **20%** if all of the following can be answered "yes":
 - a. The noncompliance was an event that the hospital was required to report to CDPH and the hospital self-reported the noncompliance to CDPH before it was identified by CDPH.
 - b. The hospital identified and immediately corrected the noncompliance before it was identified by CDPH.
 - c. The noncompliance that was corrected did not constitute immediate jeopardy, or result in the death of a patient.
 - d. The penalty was not imposed for a repeat deficiency that received a penalty reduction within the prior 12 months.
6. **Single Deficiency in Three Years:** Decrease the penalty by **5%** if this is the only deficiency in the last three years that resulted in patient harm or immediate jeopardy.

7. **Repeat Violations:** Increase the penalty by **5%** if the hospital has had three or more repeated deficiencies that posed a risk of more than minimal harm to patient health or safety within the last three years, including the deficiency that is the subject of this penalty calculation.

Maximum Penalty

8. **Maximum Penalty:** The maximum penalty is \$25,000 for a violation not constituting an IJ, \$75,000 for a first IJ penalty, \$100,000 for a second IJ penalty, \$125,000 for a third IJ penalty, and \$25,000 for a non-IJ penalty.

CDPH Administrative Penalties: Scope and Severity Matrix

(for non charity care, non privacy breach violations)

	ISOLATED	PATTERN	WIDESPREAD
SEVERITY LEVEL 6 (Immediate jeopardy to patient health or safety, resulting in death)	1st IJ penalty: \$75,000 2nd IJ penalty: \$100,000 3rd IJ penalty: \$125,000 (100% of maximum IJ penalty)	1st IJ penalty: \$75,000 2nd IJ penalty: \$100,000 3rd IJ penalty: \$125,000 (100% of maximum IJ penalty)	1st IJ penalty: \$75,000 2nd IJ penalty: \$100,000 3rd IJ penalty: \$125,000 (100% of maximum IJ penalty)
SEVERITY LEVEL 5 (Immediate jeopardy to patient health or safety, resulting in serious injury)	1st IJ penalty: \$45,000 2nd IJ penalty: \$60,000 3rd IJ penalty: \$75,000 (60% of maximum IJ penalty)	1st IJ penalty: \$52,500 2nd IJ penalty: \$70,000 3rd IJ penalty: \$87,500 (70% of maximum IJ penalty)	1st IJ penalty: \$60,000 2nd IJ penalty: \$80,000 3rd IJ penalty: \$100,000 (80% of maximum IJ penalty)
SEVERITY LEVEL 4 (Immediate jeopardy to patient health or safety, likely to cause serious injury or death)	1st IJ penalty: \$30,000 2nd IJ penalty: \$40,000 3rd IJ penalty: \$50,000 (40% of maximum IJ penalty)	1st IJ penalty: \$37,500 2nd IJ penalty: \$50,000 3rd IJ penalty: \$62,500 (50% of maximum IJ penalty)	1st IJ penalty: \$45,000 2nd IJ penalty: \$60,000 3rd IJ penalty: \$75,000 (60% of maximum IJ penalty)
SEVERITY LEVEL 3 (Actual harm that is not immediate jeopardy)	\$15,000 (60% of \$25,000)	\$20,000 (80% of \$25,000)	\$25,000 (100% of \$25,000)
SEVERITY LEVEL 2 (No actual harm; potential for more than minimal harm, not immediate jeopardy)	\$5,000 (20% of \$25,000)	\$12,500 (50% of \$25,000)	\$17,500 (70% of \$25,000)
SEVERITY LEVEL 1 (No actual harm; potential for no more than minimal harm)	No Penalty	No Penalty	No Penalty
MINOR VIOLATION	No Penalty	No Penalty	No Penalty

Notes:

- 1 This chart applies to general acute care hospitals (including long term care hospitals (LTCHs) and inpatient rehabilitation facilities (IRFs)) as well as acute psychiatric hospitals. The amount in each cell is the initial penalty; several adjustments will be made by CDPH to determine the final penalty amount. See "Instructions for Calculating an Administrative Penalty" regarding the adjustments that CDPH may make.
- 2 "1st IJ penalty," "2nd IJ penalty," and "3rd IJ penalty" refer to how many penalties the hospital has received in the past. If a hospital goes 3 years without an IJ penalty, the next IJ penalty will be considered the first.
- 3 A small and rural hospital may request a payment plan and reduction of the penalty if payment would cause financial hardship.