

§ 76713. Issuance of Citations.

(a) When a routine visit, survey or investigation of a complaint is conducted and the representative of the Department determines that a facility is in violation of any statutory provision or regulation relating to the operation or maintenance of such facility, except with respect to violations determined to have only a minimal relationship to safety or health, the surveyor shall promptly, but not later than three days, excluding Saturdays, Sundays and holidays, after the date of inspection, or after the completion of inspection, issue a citation to the licensee.

(b) The citation shall be served personally upon the licensee or designee by the representative of the Department. If the licensee is not served personally, a copy of the citation shall be sent by registered or certified mail to the licensee.

(c) The district administrator, Facilities Licensing Section, for the district in which the facility is located or his designee shall review the alleged violation and shall fix the amount, if any, of the civil penalty to be imposed by the Department. The Department shall serve the licensee personally or by registered or certified mail, within four business days of the date of the issuance of the citation, with a written notice of the amount, if any, of the proposed civil penalty. The person who issued the citation shall not serve at any time as the designee of the district administrator under any provision of this Article.

(d) Each citation shall be in writing and shall include at least the following:

(1) A description of the nature of the violation fully stating the manner in which the licensee violated a specified statutory provision or regulation, and the particular place or area of the facility in which it occurred. The name of any client jeopardized by the violation shall not be specified in the citation in order to protect the privacy of the client. However, at the time the licensee is served with the citation, the licensee shall also be served with a written list of each of the names of the clients alleged to have been jeopardized by the violation. If the violation jeopardized all of the clients of the entire facility or all clients in any particular portion, wing or ward of the facility, such fact shall be specified in the citation, and a written list of the names of the clients involved is not required to be furnished to the licensee.

(2) The earliest feasible time for the elimination of the condition constituting the violation. Such time shall be the shortest possible time within which the licensee reasonably can be expected to correct the alleged violation. In prescribing such time, the Department shall consider the following factors:

(A) The seriousness of the alleged violation.

(B) The number of clients affected.

(C) The availability of required equipment or personnel.

(D) The estimated time required for delivery, and any installation, of required equipment.

(E) Any other relevant circumstances.

(3) The name, address and telephone number of the district administrator of the district in which the facility is located.

(e) If a citation is issued as the result of the investigation of a signed, written complaint to the Department, a copy of the citation shall be sent to each person or organization who filed the written complaint.

(f) No licensee shall be cited for any violation caused by any person licensed pursuant to the State Medical Practice Act, Chapter 5, commencing with Section 2000, of Division 2 of the Business and Professions Code, if such person is independent of and not connected with the licensee and the licensee shows that he or she has exercised reasonable care and diligence in notifying such persons of their duty to the clients in the licensee's facility.

Note: Authority cited: Section 208 (a), Health and Safety Code. Reference: Sections 1276 and 1423, Health and Safety Code.

22 CCR § 76713, 22 CA ADC § 76713