

## **Frequently Asked Questions Concerning AB 1020 Collecting Acute Care Hospital Debt**

**1. What type of debt is subject to AB 1020?**

Debt that is owed to a general acute care hospital licensed pursuant to Health & Safety Code Section 1250.

Tip: Ask the representatives of your hospital client if the hospital has this license. If the answer is yes, then the debt collection provisions of AB 1020 apply to the debt you are collecting for that hospital. If the answer is something other than yes, you are advised to confer with your attorney.

**2. Is the debt owed to doctors and other providers (e.g. ER doctors, anesthesiologists, and ambulance services) who bill separately from the general acute care hospital subject to AB 1020?**

No. The provisions of AB 1020 apply specifically to the general acute care hospitals licensed pursuant to Health & Safety Code Section 1250.

**3. What does AB 1020 require debt collectors to do?**

AB 1020 requires debt collectors, who are collecting debt from a general acute care hospitals licensed pursuant to Health & Safety Code Section 1250, to do the following with the first written communication with the debtor:

- Include a statement that the debt collector “will wait at least 180 days from the date the debtor was initially billed for the hospital services that are the basis of the debt before reporting adverse information to a credit reporting agency or filing a lawsuit against the debtor.”
- Send a copy of the notice that the hospital is required to send pursuant to Health & Safety Code Section 127425(e).

Note: The notice required by Health & Safety Code Section 127425(e) is called herein the “The Goodbye Letter.”

**4. What constitutes a first written communication with a debtor?**

AB 1020 defines it as follows: “The first communication sent to the debtor in writing or by facsimile, email, or other similar means.”

**5. What is the Goodbye Letter?**

The Goodbye Letter is the notice described in Health & Safety Code Section 127425(e) that subject general acute care hospitals (those licensed pursuant to Health & Safety Code Section 1250) must send.

**6. What must a subject hospital include in the Goodbye Letter?**

Before assigning an account to collections, or selling an account to a debt buyer, a hospital subject to AB 1020 must send a patient a notice with all of the following information:

- The date or dates of service of the bill that is being assigned to collections or sold.
- The name of the entity the bill is being assigned or sold to.
- A statement informing the patient how to obtain an itemized hospital bill from the hospital.
- The name and plan type of the health coverage for the patient on record with the hospital at the time of services or a statement that the hospital does not have that information.
- An application for the hospital’s charity care and financial assistance.
- The date or dates the patient was originally sent a notice about applying for financial assistance, the date or dates the patient was sent a financial assistance application, and, if applicable, the date a decision on the application was made.

**7. Are debt collectors required to provide a copy of the subject hospital’s charity care policy?**

No. The debt collector is not required to send a copy of the charity care policy. The debt collector is required to provide the Goodbye Letter which will include a copy of the application for charity care and financial assistance. That is different from the charity care policy.

The Goodbye Letter (which by statute includes the application for charity care and financial assistance) must be sent with the first written communication with the debtor. The charity care policy is not required to be sent.

**8. Must collection agencies send the Goodbye Letter with the Reg F letter?**

Yes, assuming the Reg F letter is the first written communication with the debtor. AB 1020 revises the Rosenthal Act to mandate that, with the first written communication with a debtor, a debt collector must send the Goodbye Letter and the statement that the debt collector will wait 180 days from the date of first billing to report the debt or file a lawsuit.

Tip: The 180-day statement may be included on the back side of the Reg F letter.

**9. May a debt collector wait to provide the Goodbye Letter until it is about to credit report the account?**

No. AB 1020 specifically requires that a copy of the Goodbye Letter must be sent with the first written communication to the debtor.

**10. May a debt collector wait to provide the Goodbye Letter until after the validation period expires?**

No. AB 1020 specifically requires that a copy of the Goodbye Letter must be sent with the first written communication to the debtor.

**11. When does AB 1020 become effective?** January 1, 2022.

**12. Does AB 1020 apply only to new debt or also to existing debt?**

In California, unless the statute expressly states otherwise, the requirements of a new statute apply prospectively and not retroactively. So, AB 1020 should apply to hospital debt that is sold or assigned on or after January 1, 2022. However, the best practice is to comply on all subject hospital debt.

**13. What should a debt collector do when a debtor who has gone through a bankruptcy contacts the debt collector and wants to affirm the debt?**

AB 1020 makes minor revisions Section 1788.14 (a) of the Rosenthal Act, which reads as follows:

“No debt collector shall collect or attempt to collect a consumer debt by means of the following practices: (a) Obtaining an affirmation from a debtor of a consumer debt which that has been discharged in bankruptcy, without clearly and conspicuously disclosing to the debtor, in writing, at the time such the affirmation is sought, the fact that the debtor is not legally obligated to make an affirmation.”

Some iteration of this has been existing law under Rosenthal since 1977. In the bankruptcy context, “affirmation” means obtaining a written agreement by which the debtor agrees that she/he will still be obligated to pay the debt even though the debt was/will be discharged in a bankruptcy. Before a collection agency accepts a payment on an account owed by a debtor who obtained a discharge in a bankruptcy, the collection agency must send a statement to the consumer stating that the consumer is not legally obligated to make the payment. If such a consumer sends a payment, the collection agency should send the required notice before depositing the check.

**14. If a hospital is not compliant, what is the liability of a debt collector?**

Under AB 1020, any liability for a debt collector will be based on Rosenthal. If the provisions of Rosenthal in general and as modified by AB 1020 are not followed, the debt collector will be subject to the traditional damages available under Rosenthal.

The obligations imposed on hospitals subject to AB 1020 are just that – obligations imposed on those hospitals. Nevertheless, to avoid the issues involved in being named in lawsuits as co-defendants with hospitals concerning the hospitals’ obligations, debt collectors should internally adopt a checklist to keep track of the various notices and obligations that hospitals must comply with in assigning debt.

Tip: Your software providers will likely be able to help you with this.

**15. Are the additional requirements that a debt collector must comply with when filing a lawsuit on this type of hospital debt?**

Yes. When filing a complaint on hospital debt subject to AB 1020, a debt collector must include in that lawsuit the items listed in Civil Code Section 1788.185.

Be sure to confer with your attorney to make sure that your complaints comply with these new requirements.