

NOTICE PUBLICATION/REGULATIONS SUBMISSION

For use by Secretary of State only

STD. 400 (REV. 01/2013)

OAL FILE NUMBERS: Z- NOTICE FILE NUMBER: REGULATORY ACTION NUMBER: 2025-0211-06 EON EMERGENCY NUMBER:

For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2025 FEB 11 PM 4:31

NOTICE REGULATIONS

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

MAR 03 2025
3:09 PM

AGENCY WITH RULEMAKING AUTHORITY
Department of Corrections and Rehabilitation

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE: TITLE(S): FIRST SECTION AFFECTED: 2. REQUESTED PUBLICATION DATE:

3. NOTICE TYPE: ☐ Notice re Proposed Regulatory Action ☐ Other: 4. AGENCY CONTACT PERSON: TELEPHONE NUMBER: FAX NUMBER (Optional):

OAL USE ONLY: ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn: NOTICE REGISTER NUMBER: PUBLICATION DATE:

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S): 1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S):

Compassionate Release

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related):

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ACTION ON PROPOSED NOTICE
ADOPT 3999.209	<input type="checkbox"/> Approved as Submitted
AMEND 3076, 3076.1, 3076.5, 3999.98, 3999.99, 3076.2	<input type="checkbox"/> Approved as Modified
REPEAL 3076.3, 3076.4	<input type="checkbox"/> Disapproved/Withdrawn

PER AGENCY REQUEST
JF

3. TYPE OF FILING:

☐ Regular Rulemaking (Gov. Code §11346)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)
☒ Emergency (Gov. Code, §11346.1(b))

☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.
☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)

☐ Emergency Readopt (Gov. Code, §11346.1(h))
☐ File & Print
☒ Other (Specify) PC 5058.3 Operational Necessity

☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Print Only

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) ☒ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☐ Effective other (Specify):

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal

☐ Other (Specify):

7. CONTACT PERSON: TELEPHONE NUMBER: FAX NUMBER (Optional): E-MAIL ADDRESS (Optional):

Robin Hart (916) 896-6780 Robin.Hart@cdcr.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE: DATE: 2/7/2025

TYPED NAME AND TITLE OF SIGNATORY: Jeffrey Macomber

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

MAR 03 2025

Office of Administrative Law

TEXT OF PROPOSED REGULATIONS

In the following, strikethrough indicates deleted text and underline indicates added, amended, or moved text.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs, and Parole

Chapter 1. Rules and Regulations of Adult Operations

Article 6.6 Department Recommendation to Recall Sentence and Resentence Incarcerated Person

Section 3076 is amended to read:

Section 3076. Secretary's Authority.

(a) Subdivision (a)(1) of Section 11702.031 of the Penal Code authorizes the Secretary to recommend to a sentencing court that the sentence and commitment previously imposed on an incarcerated person be recalled and that the court resentence the incarcerated person for any reason, subject to the Secretary's sound discretion.

~~(b) Subdivision (e)(1) of Section 1170 of the Penal Code authorizes the Secretary to recommend to a sentencing court that the sentence previously imposed on an incarcerated person be recalled if the criteria found in subdivision (e)(2) of Section 1170 of the Penal Code are satisfied.~~

~~(e)~~(b) The provisions of this article do not apply to condemned incarcerated persons and incarcerated persons sentenced to life without the possibility of parole.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 11702.031, ~~1170(e)~~ and 5054, Penal Code.

Section 3076.1 is amended to read:

Section 3076.1. Recommendation Pursuant to Subdivision (a)(1) of Section 11702.031 of the Penal Code.

Sections 3076.1(a) through 3076.1(e)(3) remain unchanged.

(4) Pursuant to the broad discretion vested in the Secretary by statute, namely subdivision (a)(1) of Section 11702.031 of the Penal Code, the Secretary's decision is final and not subject to internal administrative review.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 290, 11702.031, 3041, 3051, 3055 and 5054, Penal Code; and Cal. Const., Art. I, sec. 32.

Section 3076.2 is amended to read:

Section 3076.2. Referral Based on a Law Enforcement, Prosecutorial, or Judicial Referral.

(a) No more than 10 business days after receiving a request from the head of a law enforcement agency, head of a prosecutorial agency, or judicial officer asking that the Secretary consider referring an incarcerated person to a sentencing court pursuant to subdivision (a)(1) of Section 11702.031 of the Penal Code, the Classification Services Unit shall forward a copy of the request to the District Attorney of the county that prosecuted the incarcerated person resulting in their current incarceration in state prison for consideration pursuant to the District Attorney's independent authority to initiate such a referral.

Sections 3076.2(b) and 3076.2(c) remain unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections ~~1170(a)~~ 1172.1(a), 3043 and 5054, Penal Code.

Section 3076.3 is repealed:

~~Section 3076.3. Recommendation Pursuant to Subdivision (c) of Section 1170 of the Penal Code—Consideration Factors.~~

~~For incarcerated persons meeting one or more of the recall eligibility requirements of section 3076(b), the Classification and Parole Representative (C&PR), shall consider the following factors as may be applicable when recommending recall of commitment consideration for an incarcerated person:~~

- ~~(a) The incarcerated person's commitment offense.~~
- ~~(b) Whether the incarcerated person has a history of affiliation with organized criminal activity, including, but not limited to, any known disruptive group, street gang, prison gang, terrorist group, or racketeering enterprise.~~
- ~~(c) The incarcerated person is or is not designated as a Public Interest Case by the Classification Staff Representative, or their placement has or has not been ordered by the Departmental Review Board because of an unusual threat to the safety of persons or public interest in the incarcerated person's case.~~
- ~~(d) Whether the court was aware of the incarcerated person's medical condition at the time of sentencing.~~
- ~~(e) Whether the incarcerated person's prior criminal history includes violent acts against persons pursuant to Penal Code (PC) section 667.5(e) or PC section 1192.7(c), or registerable offense pursuant to PC section 290.~~
- ~~(f) Whether there exists a documented victim or next of kin of the incarcerated person's commitment offense in the community who would suffer fear from the release of the incarcerated person back into the community.~~
- ~~(g) Whether the incarcerated person's documented institutional behavior reflects a history of offenses involving force, violence, assault, arson, or predatory sexual behavior.~~
- ~~(h) Whether there are verifiable community resources appropriate, sufficient, and immediately available to provide support and sustenance and to meet the incarcerated person's medical and/or psychological needs upon release.~~
- ~~(i) Whether the incarcerated person has committed any other criminal acts, either prior to or during the current period of incarceration, that indicates they would be a danger to the public if released.~~
- ~~(j) Whether the incarcerated person retains the capacity to commit or to influence others to commit criminal acts that endanger public safety.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1170(e), 3043 and 5054, Penal Code; and *Martinez v. Board of Parole Hearings* (2010) 183 Cal.App.4th 578.

Section 3076.4 is repealed:

~~Section 3076.4. Recommendation Pursuant to Subdivision (e) of Section 1170 of the Penal Code—Processes.~~

~~A physician employed by the California Department of Corrections and Rehabilitation (CDCR) who determines an incarcerated person meets the eligibility requirements described in section 3076(b), shall initiate the recall process on behalf of the incarcerated person. The incarcerated person or their family member or designee may also independently request Penal Code (PC) section 1170(e) recall consideration by contacting the institution's Chief Medical Officer (CMO) or Chief Medical Executive (CME), or the Secretary.~~

~~(a) The physician shall document on a CDC Form 128-C (Rev. 01/96), Chrono Medical-Psychiatric-Dental, the incarcerated person's illness, functional status, including the incarcerated person's abilities or limitations in performing activities of daily living, ambulatory status, the reason why the incarcerated person has 12 months or less to live or is permanently medically incapacitated, and their desire to participate in the recall process.~~

~~(b) The CMO or CME, Deputy Medical Executive, and Statewide Chief Medical Executive, California Prison Health Care Services, shall have five working days to review and sign the CDC Form 128-C, approving the physician's prognosis. The signed CDC Form 128-C shall be submitted to the C&PR within three working days following the Statewide Chief Medical Executive's approval.~~

~~(1) If the CMO or CME, or the Deputy Medical Executive, or the Statewide Chief Medical Executive do not concur with the physician's prognosis, the recall of commitment process shall be terminated.~~

~~(c) The C&PR shall review the CDC Form 128-C and the incarcerated person's central file.~~

~~(1) If the incarcerated person is sentenced to death or to life without the possibility of parole, the Classification and Parole Representative (C&PR) shall document the reason for the ineligibility on a CDC Form 128-B (Rev. 04/74), General Chrono, and file the original in the incarcerated person's central file. A copy of the CDC Form 128-B excluding any confidential information, as defined in section 3321, shall be sent to the incarcerated person and the incarcerated person's physician.~~

~~(2) If the incarcerated person is not sentenced to death or to life without the possibility of parole, medical staff shall explain the recall of commitment process to the incarcerated person within 48 hours of notification and arrange for the incarcerated person to designate a family member or other outside agent on CDCR Form 7385 (Rev. 09/09), Authorization for Release of Information, which is incorporated by reference. The incarcerated person's designee shall be informed about the recall of commitment process and the incarcerated person's medical condition. If the incarcerated person is mentally unfit to designate a family member or other outside agent, medical staff shall contact the incarcerated person's emergency contact listed on the Notification in Case of Death, Serious Injury, or Serious Illness of an Incarcerated Person (see section 3999.417) and advise them of the recall process.~~

~~(d) The C&PR shall submit the CDC Form 128-C to the incarcerated person's caseworker. The incarcerated person's caseworker shall have five working days to prepare an evaluation report noting the incarcerated person's case factors as listed in section 3076.3, which consists of the following information and attachments:~~

~~(1) CDC Form 128-C.~~

~~(2) The incarcerated person's cumulative case summary, including, but not limited to the following information:~~

~~(A) Incarcerated person's name and CDCR number.~~

~~(B) Current commitment offense, brief description of the crime, and sentence.~~

~~(C) County of commitment.~~

~~(D) Prior juvenile and adult criminal history.~~

~~(E) Active or potential holds, warrants, detainers.~~

~~(F) Institutional adjustment, including rules violation reports, counseling chronos, pending disciplinary actions, gang/disruptive group information, placement score, current housing assignment, work and education assignments, and participation in self-help activities.~~

~~(G) Mental health and developmental disability status.~~

~~(3) A list of any victim notification or other special notification or registration requirements.~~

~~(4) The incarcerated person's post-release plan.~~

~~(5) CDCR Form 7385 (Rev. 09/09), Authorization for Release of Information.~~

~~(6) CDCR Form 3038 (12/10) Notification to Inmate/Inmate Designee Recall and Re-sentencing Procedure, which is incorporated by reference.~~

~~(7) CDCR Form 3039 (12/10), Waiver of Defendant's Personal Presence at the Recall and Resentencing Hearing, which is incorporated by reference.~~

~~(8) Abstract of Judgment for the incarcerated person's current commitment offense.~~

~~(9) Probation Officer's Report for the incarcerated person's current commitment offense.~~

~~(10) Institutional Staff Recommendation Summary.~~

~~(11) Legal Status Summary.~~

~~(12) CDC Form 112 (Rev. 09/83) Chronological History.~~

~~(13) The incarcerated person's most recent Board of Parole Hearings Parole Consideration Report with the Life Sentence Parole Hearing Decision Face Sheet containing the Board of Parole Hearings' disposition (applies only to incarcerated persons who are sentenced to an indeterminate term).~~

~~(e) The C&PR shall review and forward the evaluation report to the warden or chief deputy warden within three working days.~~

~~(f) The warden or chief deputy warden shall review and sign the evaluation report and ensure it is forwarded to CDCR headquarters within three working days.~~

~~(g) The evaluation report for a PC section 1170(e) recall shall be referred to the Secretary, or designee, for review and consideration.~~

~~(1) If a positive recommendation for recall is made, and the incarcerated person is sentenced to a determinate term, the recommendation shall be referred directly to the sentencing court and shall include one or more medical evaluations, the findings of which must determine the incarcerated person meets the criteria set forth in PC section 1170(e)(2), and a post-release plan.~~

~~(h) Pursuant to PC section 1170(e)(9), if the sentencing court grants the recall and resentencing application, the incarcerated person shall be released by the department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the incarcerated person or ordered by the court. If the incarcerated person has agreed to waive the 48-hour release requirement, the department shall request the sentencing court include in its order that the incarcerated person shall be released within 30 calendar days to allow for the coordination of their housing and medical needs in the community to a location where access to care is available.~~

~~(i) If the Division of Adult Parole Operations (DAPO) is coordinating the incarcerated person's placement within the community, the C&PR shall provide a copy of the release order to DAPO upon receipt from the sentencing court.~~

~~(j) At the time of release, medical staff shall ensure the incarcerated person has each of the following in their possession; a discharge medical summary, full medical records, State identification, parole medication, and all property belonging to the incarcerated person. After discharge, any additional records shall be sent to the incarcerated person's forwarding address.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 1170(e), 3043 and 5054, Penal Code; and Martinez v. Board of Parole Hearings (2010) 183 Cal.App.4th 578.~~

Section 3076.5 is renumbered to 3076.3 and amended to read:

Section 3076.53. Victim Notifications.

(a) Recommendation pursuant to subdivision (a)(1) of Section 11702.031 of the Penal Code.

(1) No more than 10 business days after the Office of Victim and Survivor Rights and Services has been notified of a referral by the Department to the sentencing court pursuant to subdivision (a)(1) of Section 11702.031 of the Penal Code, based on exceptional conduct as described in subsection 3076.1(a)(1) or a law enforcement, prosecutorial, or judicial referral as described in subsection 3076.2, that office shall notify all victims registered with the Department pursuant to subdivision (b) of Section 679.03 of the Penal Code of the Department's action.

(2) No more than 10 business days after the Office of Victim and Survivor Rights and Services has been notified that the sentencing court has scheduled a hearing on a referral pursuant to subdivision (a)(1) of Section 11702.031 of the Penal Code, based on the substantial likelihood of a sentencing discrepancy as described in subsection 3076.1(a)(2) or a change in sentencing law as described in subsection 3076.1(a)(3), that office shall notify all victims registered with the Department pursuant to subdivision (b) of Section 679.03 of the Penal Code of the Department's action.

~~(b) Recommendation pursuant to subdivision (e) of Section 1170 of the Penal Code. No more than 10 business days after the Office of Victim and Survivor Rights and Services has been notified of a referral by the Department to the sentencing court pursuant to subdivision (e) of Section 1170 of the Penal Code, that office shall notify all victims registered with the Department pursuant to subdivision (b) of Section 679.03 of the Penal Code of the Department's action.~~

~~(e)~~(b) All notifications made pursuant to this section shall include the name and the address of the court that will consider the recall of the incarcerated person's commitment.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 679.03, 1170~~2.03~~¹, 1170~~(e)~~, 2085.5, 3003, 3043, 3043.1, 3043.2, 3043.25, 3043.3, 3053.2, 3058.8, 3605, 5054 and 5065.5, Penal Code.

Chapter 2. Rules and Regulations of Health Care Services

Article 1. Health Care Definitions

Section 3999.98 is amended to incorporate in alphabetical order the following, and all other text within this section remains the same:

Section 3999.98. Definitions.

Compassionate Release means the court recall and resentencing of a patient in accordance with the process set forth in Title 15 section 3999.209 and California Penal Code section 1172.2.

Director of Health Care Services means the Statewide Chief Medical Executive.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Section 3999.99 is amended to incorporate in alpha-numerical order the following, and all other text within this section remains the same:

Section 3999.99. Forms.

CDCR 128-C (Rev. 03/25), Medical-Psychiatric-Dental (Chrono)

CDCR 3038 (Rev. 03/25), Notification and Authorization to Incarcerated Person Regarding Compassionate Release

CDCR 3039 (Rev. 03/25), Waiver of Defendant's Physical or Remote Presence at Compassionate Release Hearing

CDCR 7385 (Rev. 01/25), Authorization for Release of Protected Health Information

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.

Section 3999.209 is adopted to read.

Section 3999.209. Compassionate Release.

(a) California Department of Corrections and Rehabilitation (CDCR) shall refer to the court a patient who meets the criteria for Compassionate Release and follow the processes set forth in Penal Code (PC) 1172.2.

(b) The Primary Care Provider (PCP) shall identify patients who meet the medical criteria for compassionate release set forth in PC section 1172.2(b), which is either:

(1) The patient has a serious and advanced illness with end-of-life trajectory; or

(2) The patient is permanently medically incapacitated with a medical condition or functional impairment that renders them permanently unable to complete basic activities of daily living, including but not limited to, bathing, eating, dressing, toileting, transferring, and ambulation, or has progressive end-stage dementia and that incapacitation did not exist at the time of the original sentencing.

(c) A patient, family member, or designee may independently request consideration of a patient for compassionate release by providing a written request to the institution Chief Medical Executive (CME).

(d) If the PCP determines a patient meets the medical criteria for compassionate release, and the patient is statutorily eligible pursuant to PC 1170.02 and PC 1172.2(o), the PCP, in consultation with the institution CME or designee, shall initiate the referral to the Director of Health Care Services. This begins the 45-calendar day window permitted by law within which a patient who meets the requirements of the law shall be referred to the court. The referral shall include the following:

(1) CDCR 128-C, Medical-Psychiatric-Dental (Chrono) and

(2) CDCR 7385, Authorization for Release of Protected Health Information.

(e) Director of Health Care Services Review.

(1) If the Director of Health Care Services does not concur that the patient meets the medical criteria for compassionate release, the Director, or designee, shall document the reason(s) for the decision and notify the PCP, institution CME, patient, and designee via a denial letter.

(2) If the Director of Health Care Services concurs that the patient meets the medical criteria for compassionate release, the Director, or designee, shall notify the Warden, Classification Services Unit (CSU), and Classification and Parole Representative (C&PR) office to process the referral.

(f) Upon receipt of the Director's notification, if the patient is found eligible, the C&PR, or designee, shall notify the patient within 48 hours and do the following:

(1) Explain the process, and offer the patient the opportunity to complete a CDCR 3038, Notification and Authorization to Incarcerated Person Regarding Compassionate Release, whereby they may designate a family member or other outside agent to be notified of their medical condition and prognosis and to inform that person regarding the compassionate release process. If the patient lacks capacity to consent, the patient's emergency contact shall be notified and informed of the compassionate release referral and process.

(2) If the patient has the capacity to consent, offer the patient an opportunity to complete a CDCR 3039, Waiver of Defendant's Physical or Remote Presence at Compassionate Release Hearing. If the patient lacks capacity to consent, the C&PR, or designee, shall indicate on the CDCR 3039

that, due to patient's medical condition, the patient lacks capacity to waive their right to personally appear.

(g) The C&PR, or designee, shall prepare a referral packet which shall include, at a minimum, the following:

(1) A Case Factor Summary in which the Correctional Counselor shall review and summarize relevant information from documents in the individual's central file including, without limitation, information regarding the current commitment offense, prior criminal history, institutional behavior, work and education assignments, participation in self-help activities, victim notifications, registration requirements, and known parole residency restrictions.

(2) CDCR 3038

(3) CDCR 3039

(4) CDCR 128-C

(5) CDCR 7385

(h) The C&PR, or designee, shall obtain the Warden's signature and submit the compassionate release referral packet to CSU.

(i) CSU shall submit the approved packet to the appropriate court, the District Attorney's office, and the Public Defender's office. CSU shall also notify responsible parties at CDCR, including the Office of Victim and Survivor Rights and Services (OVSRS).

(1) OVSRS shall notify all victims registered with the Department pursuant to subdivision (b) of Section 679.03 of the PC of the Department's action.

(j) Pursuant to PC section 1172.2(c), within 10 days of receiving a referral for compassionate release, the sentencing court shall hold a hearing. CDCR shall facilitate a patient's or the legal representative's timely request to attend the hearing remotely.

(k) The C&PR, or designee, shall notify the patient of the court's decision.

(l) Pursuant to PC section 1172.2(l), if the sentencing court grants the recall and resentencing application, the patient shall be released by the Department within 48 hours of receipt of the court's order, unless a longer time period is agreed to by the patient or ordered by the court. If the patient has agreed to waive the 48-hour release requirement, the Department shall request the sentencing court include in its order that the patient shall be released within 30 calendar days to allow for the coordination of their housing and medical needs in the community to a location where access to care is available.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 28(b), California Constitution; Sections 5054, 1170, 1170.18(c), 1172, and 1172.2, Penal Code; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

NAME and NUMBER

CDCR-128-C (Rev. 03/25)

DATE

MEDICAL-PSYCHIATRIC-DENTAL

NAME and NUMBER

CDCR-128-C (Rev. 03/25)

DATE

MEDICAL-PSYCHIATRIC-DENTAL

NAME and NUMBER

CDCR-128-C (Rev. 03/25)

DATE

MEDICAL-PSYCHIATRIC-DENTAL

NOTIFICATION AND AUTHORIZATION TO INCARCERATED PERSON REGARDING COMPASSIONATE RELEASE

CDCR 3038 (Rev. 03/25)

To: _____

CDCR#: _____

Institution: _____

Date: _____

Notice of Compassionate Release Process:

Pursuant to California Penal Code Section 1172.2, your Primary Care Provider (PCP) referred you for compassionate release consideration. The California Department of Corrections and Rehabilitation (CDCR) will submit the referral to the sentencing court within 45 days of the Chief Medical Executive's receipt of the initial referral from your PCP. Once received, the sentencing court is expected to hold a hearing within ten days. If the sentencing court grants you compassionate release, CDCR is required to release you within 48 hours of the court's order unless a longer time is agreed to by you and is ordered by the court, in which case, you shall be released within 30 days. CDCR will provide you with updates about the status of your referral.

Patient Action Required:

- 1) **Name Additional Person to Receive Status Updates.** Would you like to identify another person (for example, a family member) to receive updates regarding the status of your referral?

☐ Yes. Name of person and contact information: _____

Note: If you would like CDCR to release any protected health information to this person, please attach CDCR Form 7385, Authorization for Release of Protected Health Information, naming this person.

☐ No. I decline to designate a contact person at this time.

- 2) **Waive the 48-hour Release Rule.** Arrangements to release an incarcerated person to a location where access to care is available can sometimes take longer than 48 hours to coordinate. If the sentencing court grants you compassionate release, but a location where you would have access to care has not been identified, do you agree to waive your right to be released within 48 hours to allow CDCR time to make arrangements for your care, but in no case longer than 30 days of the court's order?

☐ Yes

☐ No. I decline to waive the 48-hour release rule at this time.

Incarcerated Person Lacks Capacity:

☐ Due to the incarcerated person's medical condition, it has been determined the incarcerated person lacks capacity to waive their right to 48-hour release. Note the emergency contact name notified as outlined in Penal Code Section 1172.2(d) and (f).

Name of emergency contact: _____

Incarcerated Person's Name (Print or Type)	Date Notice Provided:	Notice Provided by (Print or Type Counselor's Name)
_____	_____	_____
Incarcerated Person's Signature		Counselor's Signature
_____		_____
Incarcerated Person's Designee, if applicable (Print or Type)	Date Notice Provided:	Notice Provided by (Print or Type Counselor's Name)
_____	_____	_____

Effective Communication:

When required per policy, the Correctional Counselor shall document the provision of effective communication within SOMS (Offender Assessments>Effective Communication History). The assistance provided shall be consistent with the incarcerated person's disability. Additionally, the primary method of communication (if assigned) shall be used and documented, or the Correctional Counselor shall document the reason for not using the primary method of communication.

**WAIVER OF DEFENDANT'S PHYSICAL OR REMOTE PRESENCE
AT COMPASSIONATE RELEASE HEARING
CDCR 3039 (Rev. 03/25)**

Page 1 of 1

For the Superior Court of California County of

(Print or Type County of Commitment)

The undersigned defendant, having been advised of their right to be present at all stages of the proceedings, including, but not limited to, presentation of and arguments on questions of fact and law, and to be confronted by and cross-examine all witnesses, hereby knowingly, intelligently, and voluntarily waives the right to be physically or remotely present at the hearing of any motion or other proceeding in this cause. The undersigned defendant hereby requests the court to proceed during every absence of the defendant that the court may permit pursuant to this waiver, and hereby agrees that their interest is represented at all times by the presence of their attorney the same as if the defendant were physically or remotely present in court, and further agrees that notice to their attorney that their physical or remote presence in court on a particular day at a particular time is required is notice to the defendant of the requirement of their physical or remote appearance at that time and place.

	Incarcerated person physically unable to sign however, communicated to staff listed below they understand their right to appear and agree to waive that right.
	Incarcerated person elects to waive.
	Incarcerated person elects <u>not</u> to waive and therefore did not sign this form.
	Due to patient's medical condition, patient lacks capacity to waive their right to personally appear.

Incarcerated Person's Name (Print)

Staff Name/Title (Print)

Incarcerated Person's Signature

Staff Signature

CDCR Number

Date

Date

Effective Communication:

When required per policy, the Correctional Counselor shall document the provision of effective communication within SOMS (Offender Assessments>Effective Communication History). The assistance provided shall be consistent with the incarcerated person's disability. Additionally, the primary method of communication (if assigned) shall be used and documented, or the Correctional Counselor shall document the reason for not using the primary method of communication.

DISTRIBUTION: **Original:** Sentencing Court **Copies:** Incarcerated Person, C-File, Public Defender, District Attorney, DAI

AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

Page 1 of 2

1. PATIENT INFORMATION

Patient Name (Last, First)

Date of Birth

CDCR #

2. PARTIES TO RECEIVE INFORMATION (SELECT ONE)

☐ Patient ☐ Person or Organization Name

Address: _____ City/State/Zip: _____

Email Address/Fax: _____ Phone Number: _____

☐ Federal, state, county, and community-based organizations (including service providers, care coordinators, and case management staff) coordinating pre-release, transition, and post-release services of patient care.

3. PARTY TO RELEASE INFORMATION (SELECT ONE)

☐ CDCR

☐ Organization Name _____

4. PURPOSE

☐ Continuity of
Care

☐ Personal Use

☐ Friends or
Family

☐ Legal

☐ Other
(specify) _____

5. INFORMATION TO BE RELEASED

A. Protected Health Information (select only 1, 2, or 3)

☐ 1. All information related to my care

☐ 2. The following information

☐ Mental health information

☐ Dental information

☐ Medical information

☐ Other information (specify) _____

☐ 3. Only HIV test results. I understand that HIV test results are released separate from other health care records. **I agree that by checking this HIV test results box, I authorize the release of specially protected health information. A new authorization will be required for subsequent disclosures.**

B. Specially Protected Health Information (select if applicable)

I understand the types of information below have extra confidentiality protections required by law. I would like the following specially protected health information released if it is in my record:

☐ Regional center developmental disability service records for care provided outside CDCR ("DDS Services")

AUTHORIZATION FOR RELEASE OF PROTECTED HEALTH INFORMATION

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- ☐ Substance use treatment service records for care provided outside CDCR, including any services provided by a Narcotic Treatment Program ("Part 2 Program Services").

C. Dates of Service (select one)

- ☐ All dates of service
- ☐ Only dates of service from (insert dates) _____ - _____

6. METHOD OF RELEASE OF INFORMATION (SELECT ALL THAT APPLY)

- ☐ Written or electronic records (e.g., facsimile, mail, CD)
- ☐ Verbal correspondence

7. EXPIRATION DATE

This authorization will remain in effect as follows (select one):

- ☐ This authorization shall remain in effect until revoked by the patient
- ☐ This authorization expires one year from the date signed below
- ☐ This authorization expires on the following date: _____.

8. RIGHTS

I understand:

- I may refuse to sign this authorization; refusal will not affect my ability to obtain treatment.
- I may revoke this authorization at any time by providing written notification to California Correctional Health Care Services, Health Information Management Services.
- If I revoke this authorization, my revocation will be effective upon receipt but will have no impact on uses or disclosures made while my authorization was valid.
- I may request a copy of this signed form.
- Information disclosed pursuant to this authorization may be subject to redisclosure by recipient and may no longer be subject to federal and state privacy law protection.
- Even if I do not authorize a release of health information, CDCR may share my confidential information for treatment, payment, and health care operations and other purposes required or permitted by law.

9. SIGNATURES

Signature of Patient/Agent	Date
Print Name of Patient/Agent	Relationship to Patient (if applicable)

If you are the Agent, you must attach documentation of your authority to act on behalf of the patient.