



CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



December 30, 2022

NOTICE OF CHANGE TO TEXT AS ORIGINALLY PROPOSED

The California Department of Corrections and Rehabilitation (CDCR) and California Correctional Health Care Services (CCHCS) are providing notice of proposed changes to the Department's regulations concerning health care grievances, which were published in the California Regulatory Notice Register on April 15, 2022. The Department is providing notice of these proposed changes and an opportunity for public comment in accordance with Government Code section 11346.8(c) and California Code of Regulations (CCR), Title 15, section 44. You are receiving this notice because you provided written comment (including comments submitted via e-mail) or expressed an interest in receiving notice of changes regarding this rulemaking action.

Enclosed with this Notice of Change to Text as Originally Proposed, please find an Addendum to the Initial Statement of Reasons (ISOR) and revised regulatory text. The Addendum to the ISOR is added to the rulemaking record to amend necessity regarding sections 3999.99, 3999.225, 3999.226, 3999.227, 3999.228, 3999.229, 3999.230, 3999.231, 3999.233, and 3999.234 of the CCR, Title 15, Division 3, Chapter 2, Subchapter 2, Article 5, addressing changes made to the regulatory text in order to ensure health care grievances are forwarded to the appropriate authority for staff misconduct determination.

To provide notice of the proposed changes to the public, this Notice is posted on the CCHCS Internet website at: <https://cchcs.ca.gov/health-care-regs/>.

The comment period for these changes will close on January 16, 2023. Please submit comments by e-mail to HealthCareRegulations@cdcr.ca.gov or in writing to the Department's contact person at the address below before the close of the public comment period. Comments must be received no later than 5:00 p.m. on January 16, 2023. Only those comments relating directly to the amendments that are indicated by double underline or ~~double strikethrough~~ will be considered.

Inquiries regarding this notice should be directed to R. Hart, Associate Director, Risk Management Branch, CCHCS, P.O. Box 588500, Elk Grove, CA 95758, by telephone at (916) 691-2921, or e-mail at HealthCareRegulations@cdcr.ca.gov. In the event the contact person is unavailable, inquiries should be directed to S. Kloss, Staff Services Manager I, Health Care Regulations and Policy Section, CCHCS, at (916) 691-2922.

ADDENDUM – INITIAL STATEMENT OF REASONS

NCHCR 22-01 Health Care Grievances

After publication of the regulatory text and Initial Statement of Reasons (ISOR), the Department determined that amendments to the text and ISOR were necessary for corrective and clarity purposes. The Department wishes to correct and/or clarify the following language as stated in the ISOR:

Page 4, section 3999.225, “Centralized Screening Team”:

The following is added alphabetically: “Centralized Screening Team,” is adopted to define the term as it applies to Title 15, Division 3, Chapter 2. The definition is necessary to establish a common understanding of terms throughout the Department.

Page 5, section 3999.225, “Health Care Grievance Package”:

The following is added alphabetically: “Health Care Grievance Package” is amended to remove the directive that the Health Care Grievance Package shall not be filed in the central file or health record. This is necessary for clarity as this provision is being moved to section 3999.226(d) which begins explaining how a health care grievance shall be processed.

Page 6, section 3999.225, “Reviewer”:

This necessity statement, “This is necessary to provide common terminology and criteria for staff assigned to review health care grievances at either level or staff complaints” is changed to, “This is necessary to provide common terminology and criteria for staff assigned to review health care grievances at either level.”

The change is necessary as screening for staff complaints now falls under the purview of the Centralized Screening Team, and the provisions regarding staff misconduct have been adopted into Title 15, Division 3, Chapter 1.

Page 6, section 3999.225, “Staff Misconduct”:

This definition is deleted and instead, these regulations will reference the definition for staff misconduct in section 3486(c)(22). This is necessary to avoid duplication of regulations and for the common understanding of the term within the Department.

Page 6, section 3999.226(a)(2), renumbered as section 3999.226(d):

This section is amended to state, “...amended to remove unnecessary verbiage, include that health care grievances are also to be processed pursuant to section 3999.201 regarding effective communication, and to include the provision that health care grievances shall not be filed in the central file or health record. This is necessary for clarity, to ensure effective communication is achieved between grievants and staff adjudicating the grievances, the consistent filing of health

care grievances, and to limit the filing in the central file and health care record to documentation that directly impact patient care and custody decisions.”

Page 6, section 3999.226(b) is repealed:

The reference to section 3999.26(b) is a typo; this reference is changed to 3999.226(b).

Page 8, section 3999.227(i) retains its number but is moved to follow section 3999.227(k) which is renumbered as 3999.227(h)(2):

This heading is restated due to renumbering as, “Section 3999.227(i) is renumbered as new section 3999.227(h).”

Page 9, new section 3999.227(g):

This section is deleted because the box indicating that a CDCR 602 HC A is attached to the CDCR 602 HC has been removed from the CDCR 602 HC. This is necessary because the box is unnecessary and/or duplicative of what is captured in the response(s) and/or the Health Care Appeals and Risk Tracking System.

Page 9, section 3999.227(j) is renumbered as section 3999.227(h):

This heading is restated due to renumbering as, “Section 3999.227(j) is renumbered as section 3999.227(g)” and the rest of the section is otherwise unchanged.

Page 9, new section 3999.227(h)(1):

This section is deleted because the box indicating that supporting documents are attached to the CDCR 602 HC has been removed from the CDCR 602 HC. This is necessary because the box is unnecessary and/or duplicative of what is captured in the response(s) and/or the Health Care Appeals and Risk Tracking System.

Page 9, section 3999.227(k) is renumbered as new section 3999.227(h)(2):

Section 3999.227(k) has been renumbered to new section 3999.227(g)(1) and has been amended to clarify that when a grievant cannot obtain all supporting documents, the grievant shall submit the health care grievance with all available documents and an explanation of why the remaining documents are not available. This is necessary to encourage submission of as many supporting documents as possible in order to ensure that all facts are considered during the adjudication of the patient’s grievance.

Page 9, the following heading is added, “Section 3999.227(i) is renumbered as new section 3999.227(h) and is otherwise unchanged.”

Page 9, sections 3999.227(o) is renumbered as new sections 3999.227(i):

This heading is restated due to renumbering as, “Section 3999.227(o) is renumbered as section 3999.227(i)” and the rest of the section is otherwise unchanged.

Page 9, section 3999.227(p) is renumbered as new section 3999.227(k):

This heading is restated due to renumbering as, “Section 3999.227(p) is renumbered as section 3999.227(j)” and the rest of the section is otherwise unchanged.

Page 9, section 3999.227(q) is renumbered as new section 3999.227(l):

This heading is restated due to renumbering as, “Section 3999.227(q) is renumbered as section 3999.227(k)” and the rest of the section is otherwise unchanged.

Page 9, new sections 3999.227(m) through 3999.227(p):

New sections 3999.227(m) through 3999.227(p) are now renumbered as new sections 3999.227(l) through 3999.227(o) respectively.

Page 10, new section 3999.228(b)(2):

This section is revised to replace “urgent/emergent” with “urgent or emergent.” This is necessary because health care issues must be either urgent or emergent, not both, in order to be immediately referred to appropriate health care staff for care as clinically indicated.

Page 10, section 3999.228(c)(1)(A):

The reference to “or allegations of staff misconduct” is being removed from this statement as the process for adjudicating allegations of staff misconduct is currently under the purview of the Centralized Screening Team, and the provisions regarding staff misconduct have been adopted into Title 15, Division 3, Chapter 1.

Page 11, new section 3999.228(c)(2), formerly existing section 3999.228(f)(4):

This section is revised to state, “...is amended to ensure that Health Care Grievance Office (HCGO) staff shall present health care grievances to the Centralized Screening Team within three business days of receipt for review. This is necessary as the screening for staff misconduct currently falls under the purview of the Centralized Screening Team, and the provisions regarding staff misconduct have been adopted into Title 15, Division 3, Chapter 1.”

Page 11, new section 3999.228(c)(2)(A):

Added the statement, “...this section is adopted to ensure complaints determined to be staff misconduct as defined in section 3486(c)(22) by the Centralized Screening Team, shall be

processed pursuant to 3486.2. This is necessary to ensure a common understanding of what entity processes staff misconduct complaints and how those complaints are processed.”

Page 11, new section 3999.228(d) is adopted to introduce sections 3999.228(d)(1) through 3999.228(d)(3)(A):

This heading is restated due to renumbering as, “New section 3999.228(d) is adopted to introduce sections 3999.228(d)(1) through 3999.228(d)(2)(A).”

Page 11, new section 3999.228(d)(1):

This section has been deleted as identifying and processing of staff misconduct complaints currently fall under the purview of the Centralized Screening Team, and the provisions regarding staff misconduct have been adopted into Title 15, Division 3, Chapter 1.

Page 11, section 3999.228(e) is renumbered as new section 3999.228(d)(2):

This heading is restated due to renumbering as, “Section 3999.228(e) is renumbered as new section 3999.228(d)(1)” and the rest of the section is otherwise unchanged.

Page 11, new section 3999.228(d)(3):

This heading is restated due to renumbering as, “New section 3999.228(d)(2)” and the rest of the section is otherwise unchanged.

Page 12, section 3999.228(i) is renumbered as section 3999.228(f)(1)

This section has been revised to state, “...amended to clarify that responses to health care grievances shall be mailed or delivered to the grievant with the health care grievance package within 45 calendar days (not business days) of initial receipt of the health care grievance by the HCGO. This is necessary because the term “processing a health care grievance” is ambiguous and also to ensure a prompt response to the grievance.”

Page 13, new section 3999.229(a):

The statement is amended to include: “This section is also amended to provide that health care grievance packages submitted to the Health Care Correspondence and Appeals Branch (HCCAB) via the United States Postal Service, shall be received by HCCAB within 60 rather than 30 calendar days; plus 5 calendar days for mailing from the date noted in Section B, Box 17 of the CDCR 602 HC. This is necessary to bring health care grievance timeframes in line with Department’s non-health care grievance process, and reduce the potential for confusion among staff and inmates.”

Page 14, new section 3999.230(b)(2):

This section is revised to replace “urgent/emergent” with “urgent or emergent.” This is necessary to clarify that health care issues have to be either urgent or emergent, not both, in order to be immediately referred to appropriate health care staff for care as clinically indicated.

Page 14, the following is added:

New sections 3999.230(e) through 3999.230(e)(1) are adopted to establish health care grievances shall be presented to the Centralized Screening Team within three business days of receipt for review pursuant to section 3486.1; and that any complaint determined to be staff misconduct shall be processed pursuant to 3486.2. This is necessary because the identifying and processing of staff misconduct complaints currently falls under the purview of the Centralized Screening Team, and the provisions regarding staff misconduct have been adopted into Title 15, Division 3, Chapter 1.

Page 14, new section 3999.230(e) is adopted to introduce sections 3999.230(e)(1) through 3999.230(e)(3)(A):

This heading is restated due to renumbering as, “New section 3999.230(f) is adopted to introduce sections 3999.230(f)(1) through 3999.230(f)(2)(A):”

Page 14, new section 3999.230(e)(1):

This section is deleted as the identifying and processing of staff misconduct complaints currently falls under the purview of the Centralized Screening Team, and the provisions regarding staff misconduct have been adopted into Title 15, Division 3, Chapter 1.

Page 14-15, new section 3999.230(e)(2) through 3999.230(e)(2)(A):

This heading is restated due to renumbering as, “New section 3999.230(f)(1) through (f)(1)(A)” and the rest of the section is otherwise unchanged.

Page 15, new sections 3999.230(e)(3) through 3999.230(e)(3)(A):

This heading is restated due to renumbering as, “new sections 3999.230(f)(2) through 3999.230(f)(2)(A)” and the rest of the section is only amended with one non-substantive acronym change.

Page 15, new sections 3999.230(f):

This section is restated due to renumbering as, “New section 3999.230(g) is adopted to introduce section 3999.230(g)(1).”

Page 15, new sections 3999.230(g):

This section is restated due to renumbering as, “New section 3999.230(h) is adopted to introduce sections 3999.230(h)(1) through 3999.230(h)(3).”

Page 15, section 3999.230(f) is renumbered as 3999.230(g)(1):

This section has been renumbered as 3999.230(h)(1) and revised to state, “...amended to clarify that responses to health care grievance appeals shall be mailed or delivered to the grievant with the health care grievance package within 60 calendar days (not business days) of initial receipt of the health care grievance appeal by HCCAB. This is necessary because the term “processing a health care grievance appeal” is ambiguous and also to ensure a prompt response to the grievance appeal.”

Page 15, new section 3999.230(g)(3):

This heading is restated due to renumbering as, “new section 3999.230(h)(3)” and the rest of the sections is otherwise unchanged.

Page 15, new section 3999.230(h):

New section is revised as, ‘New section 3999.230(i) is adopted to introduce sections 3999.230(i)(1) through 3999.230(i)(5).

Page 16, section 3999.230(k)(1) is renumbered as new section 3999.230(h)(2):

Section 3999. 230(k)(1) is renumbered as new section 3999.230(i)(2) and is revised to state, “...is amended to clarify that the HCGO is required to prepare a response pursuant to section 3999.228 to complete an amendment requested by HCCAB. This is necessary to ensure that responses to amendment requests are prepared uniformly. This amendment also clarifies that the HCGO shall mail or deliver grievance packages along with responses to grievants within 45 rather than 30 calendar days of initial receipt by the HCGO. This is necessary to establish timeframes for returning amended responses to the grievant, return the response with the pertinent grievance package, and account for additional time needed when the HCGO is asked to amend a rejection notice in which case the health care grievance has to be reopened and processed and a response sent to the grievant; as opposed to simply amending an Institutional Level Response and returning it to the grievant.”

Page 16, new section 3999.230(i) is adopted to introduce sections 3999.230(i)(1) through 3999.230(i)(2):

This heading is restated due to renumbering as, “New section 3999.230(j) is adopted to introduce sections 3999.230(j)(1) through 3999.230(j)(2)” and the rest of the section is otherwise unchanged.

Page 16, new sections 3999.230(i)(1) through 3999.230(i)(2) are adopted:

This heading is restated due to renumbering as, “New sections 3999.230(j)(1) through 3999.230(j)(2)” and the rest of the section is otherwise unchanged.

Pages 16 through 19, section 3999.231. Staff Complaints:

Section 3999.231 is now repealed. This is necessary as these provision concern staff complaints, also referred to as “staff misconduct,” currently fall under the purview of the Centralized Screening Team, and the provisions regarding staff misconduct have been adopted into Title 15, Division 3, Chapter 1.

Sections 3999.231(a) through 3999.231(k), and the corresponding “Note” section are deleted.

Page 20, new section 3999.233(a):

The first purpose and rationale statement for this section on this page is deleted, as a purpose and rationale is stated later in the page and in the appropriate order.

Page 23, CDCR 602 HC, Health Care Grievance, and CDCR 602 HC A, Health Care Grievance Attachment:

The purpose and rationale statement is amended to, “...to clarify the functional relationship between the CDCR 602 HC and CDCR 602 HC A, make the forms consistent with health care grievance operations, allow grievants to more clearly explain their complaint to health care grievance staff, replace unnecessary fields with more relevant ones, eliminate duplicative tasks for CDCR staff, and simplify instruction language. This is necessary to ensure the accurate relaying of information between health care grievance staff, the reporting of the most relevant information, timely, relevant, adequate responses to health care grievances, consistent filing requirements between custody and health care grievances, and comports instruction language with the average reading level of incarcerated people who will be using the form.

NOTICE OF CHANGE TO TEXT AS ORIGINALLY PROPOSED

In the following regulations text and forms, double underline indicates text added and ~~double strikethrough~~ indicates text deleted since the original Notice of Change to Health Care Regulations.

The single underline and ~~single strike through~~ formatting from the original proposed text noticed to the public has been retained.

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

Chapter 2. Rules and Regulations of Health Care Services

Article 2. Health Care Forms

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 602 HC (Rev. 5/23 ~~10/2010/18~~), Health Care Grievance

CDCR 602 HC A (Rev. 5/23 ~~10/2010/18~~), Health Care Grievance Attachment

Subchapter 2. Patient's Entitlements and Responsibilities

Article 5. Health Care Grievances

Section 3999.225 is amended to read:

3999.225. Definitions.

For the purpose of Subchapter 2, Article 5 only, the following definitions apply:

Abuse means repeated submittal of non-compliant health care grievances.

~~(a)~~ Accepted means that the health care grievance qualified for processing at the level submitted.

~~(b)~~ Administrative ~~Remedy~~ means the non-judicial process provided to address patient health care grievances in which a grievant may allege an issue and seek a remedy and the Health Care Grievance Office and Health Care Correspondence and Appeals Branch (~~HCCAB~~) have an opportunity to intervene and respond. A headquarters ~~headquarters'~~ level ~~health care grievance appeal~~ disposition exhausts administrative remedies.

~~(c)~~ Amendment means a headquarters ~~headquarters'~~ instruction to the institution to revise a previously written institutional level health care grievance response which requires correction or clarification prior to conducting a headquarters ~~headquarters'~~ level ~~grievance appeal~~ review.

~~(d)~~ Appeal means a grievant's submission of a health care grievance to the headquarters ~~headquarters'~~ level for review of the institutional level disposition.

~~(e)~~ Business day means Monday through Friday excluding State holidays.

~~(f)~~ Chief Executive Officer (health care) means the highest level health care executive assigned to a CDCR institution.

Centralized Screening Team means the entity responsible for reviewing documentation to determine if it contains an allegation of staff misconduct as defined in section 3486(c)(22).

~~(g) Disposition means the outcome of the health care grievance review at the level submitted.~~

(1) Intervention means available administrative action or redress deemed necessary by staff to address health care grievance issues.

(2) No Intervention means administrative action or redress is not warranted.

~~(h) Expedited health care grievance means a health care grievance determined by clinical staff to require expeditious handling.~~

(i) Grievant means a patient who submits for review a CDCR 602 HC, Health Care Grievance, as provided in section 3999.99.

(j) Headquarters' Level 4 Directive means a written mandate by the headquarters' level Health Care reviewing Authority to the institutional level Health Care reviewing Authority requiring the action as identified in the directive, after conducting a headquarters level review of a health care grievance appeal.

Health Care Authority means staff authorized to approve and sign responses to ensure procedural due process. The Health Care Authority shall not be the reviewer or an individual who participated in the event or decision being grieved.

(1) The Chief Executive Officer or designee is the institutional level Health Care Authority. Circumstances may warrant the headquarters level Health Care Authority to assign a designee.

(2) The Deputy Director, Policy and Risk Management Services, or designee is the headquarters level Health Care Authority.

Health Care Correspondence and Appeals Branch means the office responsible for statewide oversight of the grievance program and the headquarters level review.

~~(k) Health care discipline means medical, dental, or mental health.~~

~~(l) Health Care Correspondence and Appeals Branch (HCCAB) means the office responsible for statewide oversight of the grievance program and the headquarters' level health care grievance appeal review.~~

~~(m) Health eCare gGrievance~~ means a written complaint submitted by a patient on the patient's own behalf using a CDCR 602 HC, pursuant to section 3999.226(a).

~~(n) Health Care Grievance Office (HCGO)~~ means the office responsible for coordinating the institutional level health care grievance review.

~~(o) Health eCare gGrievance pPackage~~ means the CDCR 602 HC and the CDCR 602 HC A, Health Care Grievance Attachment, as provided in section 3999.99, and all supporting documents. A health care grievance is not a record of care and treatment rendered and shall not be filed in the central file or health record.

~~(p) Health eCare gGrievance pProcess~~ means all steps involving grievant preparation and health care staff receipt, review, disposition, and exhaustion of submitted health care grievances.

~~(q) Health care staff means any administrative and/or clinical staff involved in the health care grievance process under health care's reviewing authority.~~

~~(r) Intervention means available administrative action or redress deemed necessary by health care staff to address an identified health care grievance.~~

~~(s) Material aAdverse eEffect~~ means harm or injury that is measurable or demonstrable (even if that measurement or demonstration is subjective for the patient) or the reasonable likelihood of such harm or injury due to a health care policy, decision, action, condition, or omission.

(t) Multiple ~~h~~Health ~~e~~Care ~~g~~Grievances means health care grievances received from more than one grievant on an identical issue.

Non-Compliant Health Care Grievance means a health care grievance submitted contrary to Article 5.

~~(u) Patient means an inmate who is seeking or receiving health care services.~~

~~(v) Rejected means that the submitted health care grievance is non-compliant and or appeal of grievance disposition did not qualify for processing for the reasons stated in the Rejection Notice rejection.~~

~~(w) Response means the written notification provided to the grievant relative to the disposition or; rejection; or withdrawal of a health care grievance appeal.~~

(1) Institutional Level Response means written notification relative to the institutional level disposition.

(2) Headquarters Level Response means written notification relative to the headquarters level disposition.

(3) Rejection Notice means written notification relative to a non-compliant grievance submittal which includes instruction regarding further action the grievant must take to qualify the health care grievance for processing. The notice shall also notify the grievant of a 30 calendar day timeframe, unless the grievant is outside health care jurisdiction, to correct and resubmit the health care grievance to the identified office. A health care grievance rejection does not exhaust administrative remedies.

~~(x) Reviewing authority means health care staff authorized to approve and sign health care grievance responses to ensure procedural due process. The reviewing authority does not conduct a clinical review.~~

~~(1) The reviewing authority shall not be an individual who participated in the event or decision being grieved.~~

~~(2) Health care grievances and staff complaints submitted at the institutional level are approved and signed by the Chief Executive Officer (health care) or designee. Circumstances may warrant the headquarters' level reviewing authority to assign a designee.~~

~~(3) Health care grievances and staff complaints submitted at contracted, community correctional, or out of state facilities are approved and signed by an executive level designee. Circumstances may warrant the headquarters' level reviewing authority to assign a designee.~~

~~(4) Health care grievance appeals and staff complaints submitted at the headquarters' level are approved and signed by the Deputy Director, Policy and Risk Management Services, or designee.~~

Reviewer means staff assigned to conduct a review pursuant to sections 3999.228(d) and 3999.230(fe), and 3999.231(a)(3). The reviewer shall not be an individual who participated in the event or decision being grieved.

~~(y) Staff ~~m~~Misconduct means health care staff behavior or activity that results in a violates a violation of law, regulation, policy, or procedure, or actions is contrary to an ethical or professional standard.~~

~~(z) Supporting ~~d~~Documents means any document the grievant may need to substantiate allegations made including, but not limited to, property inventory sheets, property receipts, trust account statements, and written requests for interviews, items, or health care services. Supporting documents do not include documents that only restate the issue(s) grieved, argue its merits, or introduce new issues not identified in the current health care grievance form(s), or documents accessible to health care staff, such as patient health records.~~

(1) If submitting a health care grievance concerning ~~related to~~ a reasonable accommodation decision, supporting documents include the reasonable accommodation request package and response.

(2) If submitting a health care grievance appeal, supporting documents include the original ~~institutional level health care grievance response(s)~~.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; *Coleman v. Newsom* (No. S90-0520 LKK JFM P) U.S. District Court, Eastern District of California; *Armstrong v. Newsom* (No. C-94-2307-CW), U.S. District Court, Northern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Section 3999.226 is amended to read:

3999.226. Right to Grieve.

(a) The health care grievance process provides an administrative remedy to patients under health care's jurisdiction for review of complaints of applied health care policies, decisions, actions, conditions, or omissions that have a material adverse effect on their health or welfare.

~~(1) Health care grievances are subject to an institutional level review and may receive a headquarters' level grievance appeal review, if requested by the grievant.~~

(b) Patients shall not use the health care grievance process to request health care services.

(c) Patients shall attempt to address health care issues pursuant to section 3999.303 prior to submitting a health care grievance.

~~(d2) Health care grievances shall be processed pursuant to the provisions of Subchapter 2, Article 5, Health Care Grievances; this article and section 3999.201 unless exempt from its provisions pursuant to court order or superseded by law or other regulations and shall not be filed in the central file or health record.~~

~~(3) Patients shall not use the health care grievance process to request health care services without a previous attempt to seek health care assistance through approved processes.~~

~~(4) The grievant shall not submit a health care grievance for issues outside the health care jurisdiction.~~

~~(b) Health care staff shall ensure effective communication is achieved and documented when there is an exchange of health care information involving patients with a hearing, vision, and/or speech impairment; developmental disability and/or learning disability; Test of Adult Basic Education (TABE) reading score of 4.0 or less, which includes zero or no TABE score; and/or Limited English Proficiency, and in health care grievance communications with such patients.~~

~~(ee) The grievant~~ A patient has the right to submit one health care grievance every 14 calendar days, ~~unless it is accepted as an expedited grievance.~~ The 14 calendar day period shall commence on the calendar day following the date the grievant's last ~~accepted~~ health care grievance was accepted.

~~(d) Health care grievance forms shall be available to all inmates.~~

~~(e) Staff shall not take reprisal against the grievant for filing a health care grievance.~~

~~(f) A grievant who abuses the health care grievance process may be subject to health care grievance restriction pursuant to section 3999.236.~~

(f) Health care grievances shall be subject to an institutional level disposition before a headquarters level review.

(g) Health care grievances are subject to a ~~headquarters~~ headquarters' level disposition before administrative remedies are deemed exhausted, ~~pursuant to section 3999.230. A health care grievance or health care grievance appeal rejection or withdrawal does not exhaust administrative remedies.~~

(h) Staff shall ensure health care grievance forms are available to all inmates.

(i) Staff shall not take reprisal against a grievant for filing a health care grievance.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act, Title 42 U.S.C. Section 1997 ~~et seq.~~ et seq., Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; *Armstrong v. Newsom* (No. C-94-2307-CW), U.S. District Court, Northern District of California; Clark Remedial Plan, *Clark v. California* 123 F.3d 1267 (9th Cir. 1997); *Coleman v. Newsom* (No. S90-0520 LKK JFM P) U.S. District Court, Eastern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Section 3999.227 is amended to read:

3999.227. Preparation and Submittal of a Health Care Grievance.

(a) The grievant is limited to the use of Section A of one CDCR 602 HC, as provided in section 3999.99, to describe the specific complaint that relates to their health care which they believe has a material adverse effect on their health or welfare, and Section A of one CDCR 602 HC A, as provided in section 3999.99, if additional space is needed.

~~(b) The grievant shall complete Section A of the CDCR 602 HC and submit to the HCGO where the grievant is housed within 30 calendar days of:~~

~~(1) The action or decision being grieved, or;~~

~~(2) Initial knowledge of the action or decision being grieved.~~

~~(be) An individual may help the grievant prepare the~~ A patient may obtain assistance in preparing a health care grievance unless the act of providing such assistance results in any of, but not limited to, the following:

(1) Acting contrary to the provisions pursuant to sections 3163 and 3270.

(2) Allowing an individual to exercise unlawful influence or assume control over another.

(3) Unlawful access to the grievant's protected health information or personally identifiable information.

~~(d) An individual may not submit a health care grievance on behalf of another person.~~

~~(ce) The grievant is limited~~ shall limit the health care grievance to one issue or set of issues related to a single health care discipline that can reasonably be addressed in a single health care grievance response.

~~(df) The grievant shall write printlegibly or type in a standard font on the lines provided on the CDCR 602 HC and CDCR 602 HC A health care grievance form(s). There shall be only one line of text on each line provided on the health care grievance form(s).~~

~~(eg) The grievant shall document clearly and coherently all information known and available to him or her regarding the issue.~~

(1) The grievant shall not use threatening, obscene, demeaning, or abusive language, unless doing so is necessary to quote language used by staff or others.

(21) The grievant shall include any involved staff member's last name, first initial, title or position, and the date(s) and description of their involvement.

(32) If the grievant does not have information to identify involved staff member(s), the grievant shall provide any other available information that may assist in processing the health care grievance.

(fh) The grievant may request an interview by marking ~~initialing~~ the appropriate box on the CDCR 602 HC.

~~(i) The grievant shall sign and date an original CDCR 602 HC. If the original health care grievance is not available, the grievant may obtain a copy stamped "treat as original" from the HCGO for submission.~~

~~(g) The grievant shall mark the appropriate box on the CDCR 602 HC if a CDCR 602 HC A is attached.~~

~~(ghj) The grievant shall include supporting documents necessary for the clarification and/or resolution of the issue(s) prior to submitting the health care grievance pursuant to section 3999.225(z).~~

~~(1) The grievant shall mark the appropriate box on the CDCR 602 HC if supporting documents are attached.~~

(12k) If unable to obtain ~~some~~all supporting documents, the grievant shall submit the health care grievance with all available documents and an explanation of why the remaining documents are not available.

~~(hi) The grievant shall sign and date an original CDCR 602 HC. If the original health care grievance is not available, the grievant may obtain a copy stamped "treat as original" from the Health Care Grievance Office (HCGO) for submission.~~

~~(l) The grievant shall present their health care grievance in a single submission.~~

~~(m) The grievant shall submit the institutional level health care grievance for processing to the HCGO where the grievant is housed.~~

~~(n) The grievant may not use threatening, obscene, demeaning, or abusive language, except if the grievant alleges health care staff used such language.~~

~~(i) (e) The grievant shall not deface the health care grievance package.~~

~~(j) (p) The grievant shall not contaminate the health care grievance or attach physical, organic or inorganic objects, particles, other materials, or samples. Examples of contaminants or attachments include, but are not limited to, food, medication, clothing, razor blades, needles, human hair, tissue, and/or bodily fluids such as blood, saliva, or excrement. Health care grievances received that are suspected to contain hazardous or toxic material that may present a threat to the safety and security of staff, inmates, or the institution shall be referred to custody staff for potential disciplinary sanctions.~~

~~(k) (q) The grievant shall not submit a health care grievance which includes information or accusations the grievant knows to be false or makes a deliberate attempt to distort the facts.~~

~~(l) (r) The grievant shall not submit a health care grievance that concerns an anticipated action or decision.~~

~~(m) (s) The grievant shall not submit a health care grievance for issues outside health care jurisdiction.~~

~~(n) (t) The grievant shall not submit a health care grievance for issues that have been grieved in a previously submitted grievance for which a disposition was rendered or is pending.~~

(op) The grievant shall submit the health care grievance in a single submission to the HCGO where the grievant is housed within 60 calendar days of:

- (1) The action or decision being grieved; or,
- (2) Initial knowledge of the action or decision being grieved.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Civil Rights of Institutionalized Persons Act, Title 42 U.S.C. Section 1997 ~~et seq.~~, Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; *Armstrong v. Newsom* (No. C-94-2307-CW); *Coleman v. Newsom* (No. S90-0520 LKK JFM P) U.S. District Court, Eastern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Section 3999.228 is amended to read:

3999.228. Institutional Level ~~Health Care Grievance Review.~~

- (a) The institutional level is for initial ~~clinical/administrative~~ review of health care grievances.
- (b) Clinical triage.
 - (1b) Health care staff at a level no less than a Registered Nurse, utilizing clinical expertise within the scope of ~~their~~ his or her licensure, shall triage each health care grievance within one business day of receipt ~~and: to determine if the grievant described a health care need that may require prompt medical attention.~~
 - (2) Identified urgent or emergent health care issues shall be immediately referred to appropriate health care staff for care as clinically indicated.
 - ~~(1) Determine if the health care grievance identifies a health care issue that may require clinical intervention.~~
 - ~~(2) Determine if the health care grievance warrants expedited processing.~~
 - ~~(3) Determine if the health care grievance is administrative or clinical.~~
- (c) Screening.
 - (1e) All submitted health care grievances shall be screened to identify: ~~whether the submitted health care grievance complies with the requirements under section 3999.227 and may be rejected pursuant to section 3999.234.~~
 - ~~(A) Administrative issues, or clinical issues, or allegations of staff misconduct.~~
 - (B) Whether the health care grievance has been prepared and submitted in compliance with the provisions of this article. At the discretion of headquarters level Health Care Authority, non-compliant health care grievances may be subject to rejection and lead to restriction pursuant to section 3999.234.
 - (2) Health Care Grievance Office (HCGO) staff shall present health care grievances ~~that contain allegations of staff misconduct to the institutional level Health Care Authority within five business days of identification to determine if the health care grievance will be categorized as a staff complaint~~ to the Centralized Screening Team within three business days of receipt for review pursuant to section 3486.1.
 - (A) Any complaint determined to be staff misconduct as defined in section 3486(c)(22) by the Centralized Screening Team, shall be processed pursuant to 3486.2.

~~(d) Any health care grievance received outside the time limits pursuant to section 3999.227 may be accepted at the discretion of the HCGO if it is determined that the health care grievance should be subject to further review for reasons including, but not limited to:~~

~~(1) Good cause exists for untimely submission of the health care grievance.~~

~~(2) Issues stated in the health care grievance allege facts that warrant further inquiry.~~

~~(d) Review.~~

~~(1) Accepted health care grievances categorized as a staff complaint shall be addressed pursuant to 3999.231.~~

~~(1e)~~ Accepted health ~~Health~~ care grievances categorized ~~accepted~~ as clinical in nature shall receive a clinical review by health care staff of the appropriate health care discipline ~~as determined during the triage.~~

(A) Utilizing clinical expertise within the scope of their licensure, the reviewer shall conduct a focused review of the grievant's health record, applicable regulatory and departmental directives, and available resources relative to the health care grievance issues and facilitate any necessary intervention on outstanding clinical issues related to the health care grievance.

~~(2)~~ Accepted health care grievances categorized as administrative shall receive an administrative review by the supervisory staff or designee of the impacted health care area or function.

(A) The reviewer shall conduct a focused review of the grievant's health record, applicable regulatory and departmental directives, and available resources relative to the health care grievance issues and facilitate any necessary intervention on outstanding administrative issues related to the health care grievance.

(e) Interview.

(1f) The reviewer shall conduct an ~~An~~ interview with the grievant ~~shall be conducted~~ in any of the following circumstances:

(A4) The grievant requested an interview by ~~marking~~ initialing the appropriate box on the CDCR 602 HC.

(B2) The reviewer ~~Health care staff~~ has determined an interview is necessary.

(C3) The grievant has been identified as the first grievant to submit an accepted health care grievance that has been designated as a multiple health care grievance pursuant to section 3999.232.

~~(4) The health care grievance is deemed a health care staff complaint and in such case, health care staff shall conduct the interview pursuant to section 3999.231.~~

(2) The reviewer shall not conduct an interview with the grievant in any of the following circumstances:

(Ag) If ~~the~~ the grievant refuses the health care grievance interview, ~~the HCGO shall complete the health care grievance without grievant input.~~

(B) The grievant is temporarily outside health care jurisdiction for an indeterminate amount of time and not expected to return before the time limits for responding to the health care grievance have expired.

~~(h) Health care staff who participated in the event or decision being grieved may not interview the grievant.~~

(f) Response.

(1i) Responses to health care grievances shall be mailed or delivered to the grievant with the health care grievance package within 45 calendar days of initial receipt of the health care grievance

~~by the HCGO. Time limits for processing a health care grievance commence on the day it is received by the HCGO and shall be completed and returned to the grievant with a response within 45 business days, unless processed as an expedited health care grievance pursuant to section 3999.233(b).~~

~~(2) If the grievant is paroled, discharged, or deceased before the health care grievance review is completed, a response will not be prepared.~~

~~(j) Health care grievance responses shall be approved and signed pursuant to section 3999.225(x).~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act, Title 42 U.S.C. Section 1997 ~~et seq.~~ ~~et seq.~~, Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; *Armstrong v. Newsom* (No. C-94-2307-CW), U.S. District Court, Northern District of California; *Coleman v. Newsom* (No. S90-0520 LKK JFM P) U.S. District Court, Eastern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Section 3999.229 is amended to read:

3999.229. Preparation and Submittal of a Health Care Grievance Appeal.

(a) If dissatisfied with the institutional level ~~health care grievance~~ disposition, the grievant may appeal the disposition by completing and signing Section ~~CB~~ of the CDCR 602 HC, as provided in section 3999.99, and submitting the health care grievance package to the Health Care Correspondence and Appeals Branch HCCAB via the United States Postal Service within ~~360~~ 60 calendar days plus ~~five~~ five calendar days for mailing from the date noted in Section B, Box 17 of the CDCR 602 HC, in the “Date closed and mailed/delivered to grievant” section on page 1 of 2.

(1) The requirements of sections 3999.227(~~be~~) through (~~eg~~) and (~~gj~~) through (~~neq~~) apply to this section.

(2) The health care grievance package shall include the original Institutional Level Response and, if applicable, any Rejection Notices ~~institutional level grievance response~~.

(3) The grievant shall not include new issues that were not included in the original health care grievance.

~~(4) For appeals of health care grievances processed on an expedited basis at the institutional level, the grievant shall forward the health care grievance package to the HCGO where the grievant is housed if continued expedited processing is requested.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Civil Rights of Institutionalized Persons Act, Title 42 U.S.C. Section 1997 ~~et seq.~~ ~~et seq.~~, Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; Section 1013(a), California Code of Civil Procedure; *Armstrong v. Newsom* (No. C-94-2307-CW), U.S. District Court, Northern District of California; *Coleman v. Newsom* (No. S90-0520 LKK JFM P) U.S. District Court, Eastern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Section 3999.230 is amended to read:

3999.230. Headquarters ~~Headquarters' Level~~ Health Care Grievance Appeal Review.

(a) ~~The headquarters~~ headquarters' level is for review of appeals of institutional level ~~health care grievance~~ dispositions.

(b) Clinical triage.

~~(1b)~~ Health care staff at a level no less than a Registered Nurse, utilizing clinical expertise within the scope of their licensure, shall triage each health care grievance within one business day of receipt to determine if the grievant described a health care need that may require prompt medical attention. his or her licensure, shall:

~~(1) Triage each health care grievance appeal within one business day of receipt and:~~

~~(A) Determine if the health care grievance appeal identifies a health care issue that may require clinical intervention.~~

~~(B) Determine if the health care grievance appeal warrants continued expedited processing as requested by the grievant pursuant to section 3999.229(a)(4).~~

~~(2) Determine if a clinical review is warranted.~~

(2) Identified urgent or emergent health care issues shall be immediately referred to appropriate health care staff for care as clinically indicated.

~~(3) Review the grievant's health record and applicable clinical and/or custodial information, as necessary, to aid in drafting the headquarters' level response and coordinate with the appropriate health care discipline as necessary, when an accepted health care grievance appeal is determined to warrant a clinical review.~~

(c) Clinical screening.

(1) Health care staff at a level no less than a Registered Nurse, utilizing clinical expertise within the scope of their licensure, shall clinically screen each health care grievance to identify administrative issues, clinical issues, allegations of staff misconduct, Americans with Disabilities Act issues, and Prison Rape Elimination Act issues and determine if a clinical review is warranted.

(d) Administrative screening.

~~(1e)~~ Each All submitted health care grievance appeals shall be administratively screened to identify whether the health care grievance appeal complies with the requirements under this article sections 3999.227 and 3999.229 and may be rejected pursuant to section 3999.234.

(e) Health Care Correspondence and Appeals Branch (HCCAB) staff shall present health care grievances to the Centralized Screening Team within three business days of receipt for review pursuant to section 3486.1.

(1) Any complaint determined to be staff misconduct as defined in section 3486(c)(22) by the Centralized Screening Team, shall be processed pursuant to 3486.2.

~~(d) Any health care grievance appeal received outside the time limits pursuant to sections 3999.227 and 3999.229 may be accepted at the discretion of the HCCAB if it is determined that the health care grievance appeal should be subject to further review for reasons including, but not limited to:~~

~~(1) Good cause exists for untimely submission of the health care grievance appeal.~~

~~(2) Issues stated in the health care grievance appeal allege facts that warrant further inquiry.~~

(fe) Review.

~~(1) Accepted health care grievances categorized as a staff complaint shall be addressed pursuant to section 3999.231.~~

(21) Accepted health care grievances categorized as clinical shall receive a clinical review by health care staff at a level no less than a Registered Nurse when determined to warrant a clinical review pursuant to subsection (c)(1).

(A) Utilizing clinical expertise within the scope of their licensure, the reviewer shall conduct a focused review of the grievant's health record, applicable regulatory and departmental directives, and available resources relative to the health care grievance issues and facilitate any necessary intervention on outstanding clinical issues related to the health care grievance.

(32) Accepted health care grievances categorized as administrative or determined to not warrant a clinical review shall receive an administrative review by ~~Health Care Correspondence and Appeals Branch (HCCAB)~~ staff.

(A) The reviewer shall conduct a focused review of the grievant's health record, applicable regulatory and departmental directives, and available resources relative to the health care grievance issues and facilitate any necessary intervention on outstanding administrative issues related to the health care grievance.

(g~~f~~) Interview.

(1e) ~~An~~ If determined to be necessary by HCCAB staff, an interview with the grievant may be conducted if determined to be necessary by HCCAB staff.

(h~~e~~) Response.

(1f) Responses to health care grievance appeals shall be mailed or delivered to the grievant with the health care grievance package within 60 calendar days of initial receipt of the health care grievance appeal by HCCAB. ~~Time limits for processing a health care grievance appeal commence on the day it is received by the HCCAB and shall be completed and returned to the grievant with a response within 60 business days, unless processed as an expedited health care grievance appeal pursuant to section 3999.233(b).~~

(g) Headquarters' level health care grievance appeal responses shall be approved and signed pursuant to section 3999.225(x).

(h) The headquarters' level review constitutes the final disposition on a health care grievance and exhausts administrative remedies but does not preclude amending a response previously made at the headquarters' level.

(2i) At its sole discretion, HCCAB may address new issues not previously submitted or included in the original health care grievance.

(A~~j~~) A headquarters' level disposition addressing new issues exhausts administrative remedies.

(3) If the grievant is paroled, discharged, or deceased before the health care grievance review is completed, a response will not be prepared.

(i~~h~~) Amendments.

(1k) ~~Amendments.~~ HCCAB shall notify the Health Care Grievance Office (HCGO) and grievant when it is determined a health care grievance response issued by the HCGO requires amendment.

(2l) The HCGO shall prepare a response pursuant to section 3999.228 to complete the amendment; ~~amended response and return~~ the health care grievance package and response shall be mailed or delivered to the grievant within 3045 calendar days of initial receipt by the HCGO. ~~notice issuance or earlier as determined by HCCAB.~~

(2) The grievant shall have 30 calendar days plus five calendar days for mailing from the amended health care grievance response issue date to resubmit the entire original health care grievance package for a headquarters' level grievance appeal review.

(3) If dissatisfied with the amended response, the grievant ~~shall~~ may resubmit the health care grievance to the appropriate level of review within regular submittal timeframes pursuant to sections 3999.228 or 3999.230.

(4) Exhaustion of administrative remedies does not preclude amending a Headquarters Level Response.

(5) Upon identification of a Headquarters Level Response requiring amendment, HCCAB shall complete the amendment and return the health care grievance package to the grievant within ~~a timeframe of no more than~~ 30 calendar days.

~~(f) Headquarters' level directive. When it is determined intervention is appropriate, HCCAB may issue a headquarters' level directive to the institutional level reviewing authority; the headquarters' level directive shall be completed within 60 calendar days of the health care grievance appeal disposition. The 60 calendar day period may be extended by HCCAB after notification from the HCGO that there is a delay in the completion of a headquarters' level directive and the estimated completion date.~~

~~(j)~~ Headquarters level directive.

(1) HCCAB may issue a headquarters level directive to the institutional level Health Care Authority when it is determined intervention is appropriate.

(2) The HCGO shall complete the headquarters level directive within ~~the timeframe specified by HCCAB of no more than~~ 60 calendar days from receipt of the directive.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act, Title 42 U.S.C. Section 1997 *et seq.* ~~et seq.~~, Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; Section 1013(a), California Code of Civil Procedure; *Armstrong v. Newsom* (No. C-94-2307-CW), U.S. District Court, Northern District of California; *Coleman v. Newsom* (No. S90-0520 LKK JFM P) U.S. District Court, Eastern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Section 3999.231 is ~~amended to read~~ repealed:

~~3999.231. Health Care Staff Complaints.~~

~~(a) Institutional level.~~

~~—(1a) A Health care grievance determined to be health care grievance categorized as a staff complaint complaints after receiving a clinical triage shall be processed pursuant to this section Subchapter 2, Article 5, and not as a citizen's complaint.~~

~~—(2) The staff complaint process is for review of health care grievances with identified allegations of staff misconduct that are not subject to a separate administrative review process. The Health Care Authority shall refer allegations of staff misconduct that are exempt from the provisions of this section to the applicable investigating authority.~~

~~—(b) The HCGO shall present health care grievances alleging health care staff misconduct to the reviewing authority within five business days of receipt. The reviewing authority shall review the complaint and determine if:~~

~~—(1) The allegation will be addressed as a health care grievance or as a health care staff complaint.~~

- ~~—(2) The allegation will be processed as a health care complaint but does not warrant referral for an allegation inquiry or investigation, or the request for an investigation has been declined, in which case a confidential inquiry report shall be completed pursuant to section 3999.231(f).~~
- ~~—(3) The allegation will be processed as a health care staff complaint and warrants referral to the applicable authority for an allegation inquiry or investigation.~~
- ~~—(Ae) A health care staff complaint alleging excessive or inappropriate use of force shall be addressed pursuant to the procedures described in sections 3268 through 3268.2.~~
- ~~—(Bd) A health care staff complaint alleging staff sexual misconduct shall be processed pursuant to the procedures described in section 3084.9.~~
- ~~—(C) A staff complaint that contains staff misconduct allegations accepted by the Office of Internal Affairs for an allegation inquiry or investigation shall not be processed pursuant to this section.~~
- ~~—(e) If the health care staff complaint alleges health care or other issues unrelated to the allegation of health care staff misconduct, the HCGO shall notify the grievant that those unrelated issues shall be grieved separately and within 30 calendar days plus five calendar days for mailing from the date noted on the written notification.~~
- ~~—(3f) Confidential inquiry Report. Health care sStaff with supervisory authority over the subject of the health care staff complaint shall:~~
 - ~~—(A1) Conduct an inquiry to determine if health care staff behavior or activity violated a law, regulation, policy, or procedure, or was contrary to an ethical or professional standard, even if the grievant has paroled, discharged, or is deceased.~~
 - ~~—(B)(2) Interview the following to reach a determination concerning the allegation(s):~~
 - ~~—1.(A) The grievant.~~
 - ~~—2.(B) All necessary witnesses.~~
 - ~~—3.(C) The subject of the health care staff complaint, unless no longer employed by the Department CDCR or on a leave of absence. The subject of the staff complaint shall be given notice of the interview at least 24 hours prior to the interview. If the subject chooses to waive the 24-hour requirement, the subject must indicate this at the time they are given notice. If waived, the subject may be interviewed immediately.~~
 - ~~—1. The subject of the health care staff complaint will be given notice of the interview at least 24 hours prior to the interview. If the subject chooses to waive the 24-hour requirement, he or she must indicate this at the time they are given notice. If waived, the subject may be interviewed immediately.~~
 - ~~—(C3) Prepare a eConfidential iInquiry rReport and include evidence to support a determination of the findings concerning the allegation(s).~~
 - ~~—(4) Response:~~
 - ~~—(A) The Institutional Level Response to a staff complaint shall inform the grievant of either:~~
 - ~~—1. The decision to conduct a confidential inquiry and the outcome.~~
 - ~~—2. The decision to refer allegation(s) to the applicable investigating authority.~~
 - ~~—(b) Headquarters level. The headquarters level shall:~~
 - ~~—(1) Provide administrative review of the Institutional Level Response of a staff complaint for which the grievant is dissatisfied with the institutional level disposition.~~
 - ~~—(2) Review allegations of headquarters staff misconduct. The provisions of subsections (a)(3) through (a)(3)(C) shall apply.~~
 - ~~—(c) Confidential records.~~

- ~~—(1)(4) The Health Care Grievance Office (HCGO) shall maintain the original and any redacted versions of the eConfidential iInquiry rReport.~~
- ~~—(2A) The eConfidential iInquiry rReport shall not be released to inmates under any circumstances.~~
- ~~—(3B) The subject of the health care staff complaint is entitled to know whether or not they he or she violated policy and may view the eConfidential iInquiry rReport and health care grievance package in the HCGO with under the following conditions: redaction of information related to other staff including, but not limited to, identity, interview content, potential discipline, or inquiry findings. Copies shall not be provided.~~
- ~~—1. With approval from the institutional litigation coordinator.~~
- ~~—2. With redaction of other staffs' information including, but not limited to, identity, interview content, potential discipline, or inquiry findings.~~
- ~~—(4C) Requests for release of a eConfidential iInquiry rReport relating to litigation shall be forwarded to the headquartersheadquarters' health care Litigation Coordinator for review and approval to release.~~
- ~~—(g) The institutional level response to a health care staff complaint shall inform the grievant of either:~~
- ~~—(1) The decision to conduct a confidential inquiry and the outcome.~~
- ~~—(2) The decision to refer the matter to the applicable investigating authority.~~
- ~~—(h) Time limits for processing health care staff complaints shall be completed and returned to the grievant pursuant to sections 3999.228(i) or 3999.230(f).~~
- ~~—(i) Institutional level health care staff complaint responses shall be approved and signed pursuant to section 3999.225(x).~~
- ~~—(j) The headquarters' level is for administrative review of the institutional level response of a health care staff complaint for which the grievant is dissatisfied with the institutional level disposition or if the grievant alleges headquarters' health care staff misconduct.~~
- ~~—(k) Headquarters' level health care staff complaint responses shall be approved and signed pursuant to section 3999.225(x).~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act, Title 42 U.S.C. Section 1997 *et seq.* et seq., Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; Section 1013(a), California Code of Civil Procedure; *Armstrong v. Newsom* (No. C-94-2307-CW), U.S. District Court, Northern District of California; *Coleman v. Newsom* (No. S90-0520 LKK-JFM-P) U.S. District Court, Eastern District of California; and *Plata v. Newsom* (No. C01-1351-JST), U.S. District Court, Northern District of California.~~

Section 3999.233 is amended to read:

3999.233. Exceptions to Health Care Grievance Process Time Limits.

(a) Exceptions to health care grievance process time limits pursuant to sections 3999.228(f)(1i) and 3999.230(hg)(1f) shall be permitted only when:

(1) Grievant, staff, or witnesses are not available prior to the expiration of the response time limits to provide information to prepare the ~~health care grievance or health care grievance appeal~~ response.

(2) The complexity of the decision, action, or policy requires additional research.

(3) Involvement of other departments, agencies, or jurisdictions is necessary.

(4) A state of emergency requires the postponement of nonessential administrative decisions and actions pursuant to ~~section 3383(a)~~ issued orders, memoranda, and directions.

~~(b) Expedited health care grievances and health care grievance appeals identified pursuant to sections 3999.228(b)(2) or 3999.230(b)(1)(B) shall be processed and returned to the grievant within five business days from the date of receipt.~~

~~(c) Headquarters' level directives shall specify the timeframe for completion for expedited health care grievance appeals.~~

~~(d) The HCGO shall notify the grievant and HCCAB if there is a delay in the completion of a headquarters' level directive and the estimated completion date.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act, Title 42 U.S.C. Section 1997 ~~et seq.~~ ~~et seq.~~, Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; *Armstrong v. Newsom* (No. C-94-2307-CW), U.S. District Court, Northern District of California; *Coleman v. Newsom* (No. S90-0520 LKK JFM P) U.S. District Court, Eastern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Section 3999.234 is amended to read:

3999.234. Health Care Grievance Process Non-Compliance and ~~Health Care Grievance Appeal Rejection.~~

(a) If a health care grievance is not prepared and submitted in compliance with the provisions of this article, the health care grievance shall be considered non-compliant and, at the discretion of the Headquarters Level Health Care Authority, may:

(1) Be subject to rejection.

~~(2a) Subject the grievant to A~~ health care grievance appeal may be rejected for reasons, which include, but are not limited to: restriction.

~~(1) The grievant did not submit the health care grievance or health care grievance appeal pursuant to Subchapter 2, Article 5.~~

~~(2) The health care grievance concerns an anticipated action or decision.~~

~~(3) The grievant submitted the health care grievance without a prior attempt to obtain health care services through approved processes. In this case, HCGO staff shall submit a request for health care services, if medically necessary, to the appropriate facility clinic on behalf of the grievant.~~

~~(4) An individual submitted a health care grievance or health care grievance appeal on behalf of another person.~~

~~(5) The grievant is temporarily outside health care jurisdiction for an indeterminate amount of time, including, but not limited to, out to court or at an offsite hospital, and not expected to return before the time limits for responding to the health care grievance or health care grievance appeal have expired.~~

~~(6) The health care grievance duplicates the grievant's previous health care grievance upon which a decision was rendered or is pending and the grievant has not provided any new information that would indicate additional review is warranted.~~

~~(7) A health care grievance is submitted as a group grievance by more than one grievant related to a policy, decision, action, condition, or omission affecting all members of the group.~~

~~(b) When a health care grievance or health care grievance appeal is rejected, a response to the grievant shall provide written instruction regarding further action the grievant must take to qualify the health care grievance or health care grievance appeal for processing and the timeframe necessary, as determined by the HCGO or HCCAB, to correct and resubmit the health care grievance or health care grievance appeal to the identified office.~~

~~(1) If the grievant submits a health care grievance or health care grievance appeal more than twice without complying with the written instruction, the health care grievance or health care grievance appeal will be adjudicated based on available information. Adjudication of a health care grievance or health care grievance appeal without complying with written instruction to correct submission does not preclude consideration for abuse pursuant to section 3999.236(a)(2).~~

~~(b) Rejection Notices shall be issued pursuant to sections 3999.230(hg)(1) and 3999.230(hg)(3).~~

~~(c) If the grievant resubmits a health care grievance without complying with the written instruction in the Rejection Notice, the non-compliant health care grievance shall be adjudicated based on available information.~~

~~(1) Reviews and interviews pursuant to sections 3999.228 and 3999.230 shall be conducted at the discretion of the headquarters level Health Care Authority.~~

~~(2) Adjudication of a non-compliant health care grievance does not preclude consideration for restriction pursuant to this section.~~

~~(d) The Health Care Grievance Office or Health Care Correspondence and Appeals Branch must provide a written and verbal warning to a grievant prior to noticing the grievant of any restriction on the basis of health care grievance process abuse.~~

~~(1) Following a written and verbal warning, the headquarters level Health Care Authority shall have the discretion to authorize preparation and issuance of a notice restricting the grievant to one health care grievance submittal every 30 calendar days for a period of up to one year.~~

~~(2) Any subsequent violation of the health care grievance restriction may result in an extension of the restriction for up to an additional one-year period upon approval by the headquarters level Health Care Authority.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 328; Civil Rights of Institutionalized Persons Act, Title 42 U.S.C. Section 1997 *et seq.*, Public Law 96-247, 94 Stat. 349; Section 35.107, Title 28, Code of Federal Regulations; *Armstrong v. Newsom* (No. C-94-2307-CW), U.S. District Court, Northern District of California; *Coleman v. Newsom* (No. S90-0520 LKK JFM P) U.S. District Court, Eastern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

Tracking #:

Notify staff immediately if you have a ~~medical, mental health, or dental~~ health care emergency.

Health care grievances shall be processed pursuant to California Code of Regulations (CCR), Title 15, Chapter 2, Subchapter 2, Article 5. ~~The institutional level is for initial review of health care grievances. The headquarters level is for review of appeals of institutional level dispositions, constitutes the final disposition on a health care grievance, and exhausts administrative remedies.~~

SECTION A: TO BE COMPLETED BY GRIEVANT

NAME OF GRIEVANT (Last, First, MI)

CDCR NUMBER

HEALTH CARE GRIEVANCE.

Clearly describe the specific complaint about your health care that you believe has had a negative effect upon your health or well-being. Include dates, times, places, and names. Use Section A of one CDCR 602 HC A, Health Care Grievance Attachment, if you need additional space.

Adopt

CHECK APPLICABLE BOXES

☐ Interview Requested

☐ One CDCR 602 HC A Attached

☐ Supporting Documents Attached (CCR 3999.227)

SIGNATURE OF GRIEVANT

DATE SUBMITTED

Submit to the Health Care Grievance Office (HCGO) ~~for an institutional level review.~~

SECTION B - INSTITUTIONAL LEVEL: STAFF USE ONLY

1.1.a. DATE RECEIVED

1.1.b. DATE RECEIVED (resubmission)

CLINICAL TRIAGE

2.1.a. NAME/TITLE OF HCARN OR DESIGNEE

2.2.a. SIGNATURE OF HCARN OR DESIGNEE

2.3.a. DATE TRIAGED

2.1.b. NAME/TITLE OF HCARN OR DESIGNEE (resubmission)

2.2.b. SIGNATURE OF HCARN OR DESIGNEE (resubmission)

2.3.b. DATE TRIAGED (resubmission)

SCREENING

3.1.a. OUTCOME

3.1.b. OUTCOME (resubmission)

3.2.a. DATE REJECTION NOTICE MAILED/DELIVERED

☐ Accepted

☐ Accepted

3.2.b. DATE ACCEPTED

☒ Accepted/Non-Compliant

☒ Accepted/Non-Compliant

☐ Rejected

☒ Rejected

REVIEW

4.1. HEALTH CARE DISCIPLINE <input type="checkbox"/> Medical <input type="checkbox"/> Mental Health <input type="checkbox"/> Dental	4.2. REVIEW TYPE <input type="checkbox"/> Clinical <input type="checkbox"/> Administrative <input type="checkbox"/> Staff Complaint	4.3. NAME/TITLE OF REVIEWER	4.4. DATE ASSIGNED
		4.5. SIGNATURE OF REVIEWER	4.6. DATE GRIEVANT INTERVIEWED (if applicable)
INSTITUTIONAL LEVEL RESPONSE			
6.1. NAME/TITLE OF HEALTH CARE AUTHORITY OR DESIGNEE		6.2. SIGNATURE OF HEALTH CARE AUTHORITY OR DESIGNEE	6.3. DATE ILR REVIEWED AND SIGNED
4.15.4. DISPOSITION <input type="checkbox"/> No Intervention <input type="checkbox"/> Intervention			4.25.5. DATE CLOSED AND ILR MAILED/DELIVERED

Tracking #:

SECTION C: TO BE COMPLETED BY GRIEVANT AFTER RECEIVING AN INSTITUTIONAL LEVEL RESPONSE

NAME OF GRIEVANT (Last, First, MI)	CDCR NUMBER
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HEALTH CARE GRIEVANCE APPEAL. Clearly explain the reason you are dissatisfied with the institutional level disposition. Use Section C of one CDCR 602 HC A, Health Care Grievance Attachment, if you need additional space.

Adopt

CHECK APPLICABLE BOXES	
<input type="checkbox"/> One CDCR 602 HC A Attached	<input type="checkbox"/> Supporting Documents Attached (CCR 3999.227)
SIGNATURE OF GRIEVANT	DATE SUBMITTED

~~Submit the entire health care grievance package by mail for a headquarters level review.~~
Mail to: Health Care Correspondence and Appeals Branch, P.O. Box 588500, Elk Grove, CA 95758.

SECTION D - HEADQUARTERS LEVEL: STAFF USE ONLY	
1.1.a. DATE RECEIVED	1.1.b. DATE RECEIVED (resubmission)
CLINICAL TRIAGE	

2.1.a. NAME/TITLE OF HCARN OR DESIGNEE	2.2.a. SIGNATURE OF HCARN OR DESIGNEE	2.3.a. DATE TRIAGED
2.1.b. NAME/TITLE OF HCARN OR DESIGNEE (resubmission)	2.2.b. SIGNATURE OF HCARN OR DESIGNEE (resubmission)	2.3.b. DATE TRIAGED (resubmission)
SCREENING		
23.1.a. OUTCOME <input type="checkbox"/> Accepted <input checked="" type="checkbox"/> Accepted/Non-Compliant <input type="checkbox"/> Rejected <input type="checkbox"/> Amendment	23.1.b. OUTCOME (resubmission) <input type="checkbox"/> Accepted <input checked="" type="checkbox"/> Accepted/Non-Compliant	23.2.a. DATE <u>REJECTION OR AMENDMENT NOTICE</u> MAILED/ DELIVERED 2.2.b. DATE ACCEPTED
REVIEW		
4.1. HEALTH CARE DISCIPLINE <input checked="" type="checkbox"/> Medical <input type="checkbox"/> Mental Health <input type="checkbox"/> Dental	4.2. REVIEW TYPE <input checked="" type="checkbox"/> Clinical <input type="checkbox"/> Administrative <input type="checkbox"/> Staff Complaint	4.3. DATE OF REVIEW
HEADQUARTERS LEVEL RESPONSE		
5.1. SIGNATURE OF HEALTH CARE AUTHORITY OR DESIGNEE		5.2. DATE HLR REVIEWED AND SIGNED
3.16.3. DISPOSITION <input type="checkbox"/> No Intervention <input type="checkbox"/> Intervention		3.26.4. DATE CLOSED AND HLR MAILED/ DELIVERED

Distribution: **Original** - Returned to grievant after completed; **Scanned Copy** - Health Care Appeals and Risk Tracking System (Do not place in central file or health record)

Unauthorized collection, creation, use, disclosure, modification, or destruction of personally identifiable information and/or protected health information may subject individuals to civil liability under applicable federal and state laws.

Adopt

Page 1 of 2

Tracking #:

SECTION A - CDCR 602 HC CONTINUATION: TO BE COMPLETED BY GRIEVANT

CDCR NUMBER

HEALTH CARE GRIEVANCE. Continue to clearly describe the specific complaint about your health care that you believe has had a negative effect upon your health or well-being. Include dates, times, places, and names.

Adopt

DATE SUBMITTED

Tracking #: _____

SECTION C - CDCR 602 HC CONTINUATION: TO BE COMPLETED BY GRIEVANT

NAME OF GRIEVANT (Last, First, MI)

CDCR NUMBER

HEALTH CARE GRIEVANCE APPEAL. Continue to clearly explain the reason you are dissatisfied with the institutional level disposition.

Adopt

SIGNATURE OF GRIEVANT

DATE SUBMITTED

Distribution: **Original** - Returned to grievant after completed; **Scanned Copy** - Health Care Appeals and Risk Tracking System (Do not place in central file or health record)

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