



# CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES



February 28, 2023

## 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 reading glasses, which were published in the California Regulatory Notice Register on May 6, 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 1, 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 CCR, Title 15, Chapter 1, section 3000 and 3095; Chapter 2, section 3999.98, 3999.205, and 3999.208, addressing changes made to the regulatory text in order to clarify the reading glasses process.

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 March 15, 2023. Please submit comments by email to [HealthCareRegulations@cdcr.ca.gov](mailto: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 March 15, 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 email at [HealthCareRegulations@cdcr.ca.gov](mailto: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 22-04 Reading Glasses**

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:

#### **Chapter 1. Rules and Regulations of Adult Operations and Programs**

##### **Subchapter 2. Inmate Resources**

##### **Article 1. Canteens**

##### **Section 3095. Nonroutine Canteen Draws**

##### **Page 3. New sections 3095(a)-3095(e):**

3095(a) was amended to add “their scheduled.” This is necessary to allow an inmate to make purchases in the canteen if they were unable to do so during their scheduled draw of the current month. New subsection 3095(b) was added for reorganization and clarity. 3095(b) was renumbered to 3095(c). 3095(c) was renumbered to 3095(d). 3095(d) was renumbered to 3095(e).

#### **Chapter 2. Rules and Regulations of Health Care Services**

##### **Article 1. Provisions of Health Care Services**

##### **3999.205 Over-the-Counter Products**

##### **Page 4. New Section 3999.205(g)**

This section is amended to add “scheduled” and “canteen”. This is necessary to clarify when a patient is unable to receive their OTC products during their scheduled draw. Also, “first canteen” is removed. This is necessary to align with the language throughout.

##### **Subchapter 3. Health Care Operations**

##### **Article 9. Durable Medical Equipment/Supplies and Accommodations**

##### **Page 4. Section 3999.396(a) is renumbered to section 3999.208(a) and amended**

Section 3999.396(a) was renumbered due to reading glasses not being classified as durable medical equipment. The quantity of 1 pair of reading glasses every 12 months is necessary in order to provide California Department of Corrections and Rehabilitation patients of varying ages the ability to obtain the appropriate level of reading glasses for their changing eye conditions. This is

based on community standards for recommendations for patients to receive reading glasses. This section is amended to add “at no cost.” This is necessary to specify that a patient does not need to pay for the reading glasses if loss or damage was not the fault of the patient.

**Page 4, New Section 3999.208(b)(1)**

This section is amended to add “and it shall be provided.” This is necessary to specify the eye chart being requested will be provided.

**Page 4, Section 3999.396(c) is renumbered to 3999.208(d) and amended**

This section is amended to add “scheduled” and remove “canteen”. This is necessary to align with the language throughout.

## 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.

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 and Programs

##### Article 1. Behavior

Section 3000 is amended to incorporate in alphabetical order the following, and all other text within this section remains the same:

##### Section 3000. Definitions

Canteen Open Line means affording ~~inmates~~ ~~patients~~ access to canteen services outside of their scheduled draw each month.

Note: Authority cited: Sections 243(f)(4), 2717.3, 3000.03, 5058, 5058.3 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 600, 646.9, 653, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2084, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3007.05, 3020, 3450, 3550, 4570, 4576, 5005, 5009, 5050, 5054, 5068, 7000 et seq., 11180, ~~and~~ 11191, and 1203(b)(1), Penal Code; Sections 1132.4 and 1132.8 ~~and 1203(b)(1)~~, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Section 11007, Health and Safety Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; In re Bittaker, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; Madrid v. Cate (USDC ND Cal. C90-3094 TEH); Sassman v. Brown (E.D. Cal. 2015) 99 F.Supp.3d 1223; Mitchell v. Cate, USDC ED 2:08-CV-01196-TLN-EFB; In re Garcia (2012) 202 Cal.App.4th 892; and Quine v. Beard, No. C 14-02726 JST.

#### Subchapter 2. Inmate Resources

##### Article 1. Canteens

Section 3095. is amended to read:

##### Section 3095. Nonroutine Canteen Draws

(a) Inmates unable to make purchases during their scheduled ~~the first canteen~~ draw shall be allowed to make purchases during canteen open line of the current month.

(b) ~~(a)~~ A newly arrived inmate may within 30 days of arrival be permitted to make purchases at the canteen during any scheduled draw. Such exceptions shall not be made for the inmate's subsequent draws.

(c) ~~(b)~~ Conservation camp inmates shall submit their request for canteen draw to the camp lieutenant or designee.

(d) ~~(c)~~ Segregated inmates shall not be permitted to go to the canteen and shall submit their canteen shopping list to the segregation unit staff.

(e) ~~(d)~~ Infirmary patients shall submit their requests for canteen purchases to the infirmary unit staff.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5005 and 5054, 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.**

Reading Glasses means ready-made, single-vision glasses that are designed to lessen the focusing burden during up close activities, such as reading.

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.

### **Subchapter 2. Patients Entitlements and Responsibilities**

#### **Article 1. Provisions of Health Care Services**

##### **3999.205 Over-the-Counter Products**

**Subsections (a) through (f)(1) remain unchanged.**

(g) Patients unable to receive their OTC products during their scheduled ~~first canteen~~ draw shall be allowed to receive their OTC products during canteen open line of the current month.

**Subsections (h) through (h)(2) remain unchanged.**

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.

### **Subchapter 3. Health Care Operations**

#### **Article 9. Durable Medical Equipment/Supplies and Accommodations**

**Section 3999.396 is renumbered and moved to Subchapter 2, Patients Entitlements and Responsibilities, Article 1, Provisions of Health Care Services, and amended to read:**

**3999.396 3999.208. Reading Glasses.**

(a) ~~The Department shall provide and distribute~~ Patients shall be allowed to acquire one pair of approved reading glasses every 12 months through the inmate canteen services system process without cost to the patient or a need for a health care providers' prescription. A replacement pair of reading glasses shall be provided at no cost if loss or damage was not the fault of the patient.

(b) An eye chart shall be available next to the canteen to allow patients to self-identify which strength of reading glasses is most suitable.

(1) Patients in a restricted housing unit (e.g., Administrative Segregation Unit, Security Housing Unit, Psychiatric Services Unit, Mental Health Crisis Bed, Psychiatric Inpatient Unit Program, etc.) can request an eye chart from their respective housing unit custody staff to self-identify which strength of reading glasses is most suitable and it shall be provided.

~~(bc)~~ Patients in the Reception Center shall have access to reading glasses through the canteen within 30 calendar days of arrival.

~~(ed)~~ Patients unable to receive their reading glasses during the first ~~scheduled canteen~~ draw shall be allowed to receive their reading glasses during canteen open line of the current month.

(1) If a patient loses canteen privileges as the result of a ~~serious~~ disciplinary hearing, the patient shall not be excluded from obtaining reading glasses.

~~(de)~~ Reading glasses shall be considered a portion of each patient's personal property and shall not be exempted from the property quantity and volume restrictions as specified in the Authorized Personal Property Schedule.

~~(ef)~~ If a licensed health care clinician determines that a specific patient does not possess the ability to utilize reading glasses ~~responsibly or safely~~, the patient shall be restricted from access to any reading glasses deemed unsafe in their professional opinion.

~~(fg)~~ Custody staff shall not confiscate reading glasses within the allowable limitations, as specified in the Authorized Personal Property Schedule, without a legitimate custodial safety and security concern, which shall be documented in the Strategic Offender Management System, and if ~~eustody places a restriction for safety and security reasons it must be~~ supported by a guilty finding in a disciplinary hearing for a ~~serious~~ rule violation involving the misuse of reading glasses.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Armstrong Remedial Plan. *Armstrong v. Newsom* (No. C94-2307 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.