

**State of California  
Office of Administrative Law**

**In re:**  
Department of Corrections and  
Rehabilitation

**Regulatory Action:**

**Title 15, California Code of Regulations**

**Adopt sections:**

**Amend sections:** 3000, 3341.3, 3341.5,  
3377.1, 3999.98, 3999.99,  
3999.364, 3999.365,  
3999.367

**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

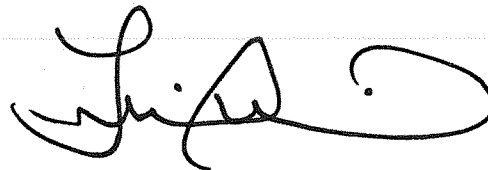
**OAL Matter Number: 2021-0519-06**

**OAL Matter Type: Regular (S)**

This rulemaking action by the Department of Corrections and Rehabilitation updates existing terminology to utilize the terms "medically necessary" and "endorsed institutions."

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/1/2022.

**Date:** October 28, 2021



**Lindsey S. McNeill  
Senior Attorney**

**For: Kenneth J. Pogue  
Director**

**Original: Kathleen Allison, Secretary  
Copy: Justin McCall**

## NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2020-0914-02</b>	REGULATORY ACTION NUMBER <b>2021-0519-065</b>	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY

California Department of Corrections and Rehabilitation

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

OCT. 28 2021

1:47 PM

AGENCY FILE NUMBER (if any)  
NCHCR 20-03**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 <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Health Care Definitions	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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## 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.)	ADOPT 3. AMEND 3341.3, 3341.5, 3377.1, 3999.98, 3999.99, 3999.364, 3999.365, 3999.367
TITLE(S) 15	REPEAL

LM  
per agency  
request  
10/28/21

## 3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> 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.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify)		

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request  
10/28/21

## 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)

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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## 6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

LM  
per agency  
request  
10/28/21

## 7. CONTACT PERSON

SIGNATURE <b>Justin McCall</b>	TELEPHONE NUMBER <b>(916) 691-3325</b>	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) <b>Justin.McCall@cdcr.ca.gov</b>
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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 <b>Kathleen Allison</b>	DATE <b>4/27/2021</b>
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TYPED NAME  
Kathleen Allison, Secretary, California Department of Corrections and Rehabilitation

Kathleen Allison, Secretary, California Department of Corrections and Rehabilitation

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 28 2021

Office of Administrative Law

## **FINAL TEXT OF REGULATIONS**

**In the following, ~~striketrough~~ indicates deleted text and underline indicates added 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:**

##### **3000. Definitions.**

Medically Necessary means health care services that are determined by the attending or primary medical, mental health, or dental care provider(s) to be needed to protect life, prevent significant illness or disability, or alleviate severe pain, and are supported by health outcome data or clinical evidence as being an effective health care service for the purpose intended or in the absence of available health outcome data is judged to be necessary and is supported by diagnostic information or specialty consultation.

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, 653m, 832.5, 1170.05, 1203.8, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3020, 3450, 3550, 4570, 4576, 5007.7, 5009, 5050, 5054, 5068, 7000 et seq., 11180 and 11191, Penal Code; Sections 1132.4, 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; 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; Section 11007, Health and Safety Code; *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 4. General Institution Regulations**

##### **Article 7. Segregated Housing**

**Section 3341.3 is amended to read:**

**Section 3341.3. Security Housing Unit.**

**Introductory text and sections (a) through (c)(3)(A)2. remain unchanged.**

(d) SHU terms shall be served in a departmentally approved SHU, or a facility specifically designated for that purpose, except under those circumstances where the term may be served in ASU or PSU. SHU terms may also be served in secure inpatient medical or mental health settings, when deemed ~~clinically~~medically necessary. Inmates who are serving a SHU term in ASU shall be reviewed by a classification committee pursuant to section 3341.8.

**Section (e) remains unchanged.**

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.*, (N.D. Cal., No. C94-2847).

**Section 3341.5 is amended to read:**

**Section 3341.5. Suspending Security Housing Unit Terms.**

(a) Determinate SHU Terms.

(1) ICC may commute or suspend any portion of a Determinate SHU term. Once commuted, the term shall not be re-imposed. ICC may suspend a Determinate SHU term any time it is determined an inmate no longer poses a threat to the safety of any person or the security of the institution. Additionally, ICC may suspend a Determinate SHU term for purposes of inpatient medical or mental health treatment when deemed ~~clinically~~medically necessary. Any ICC action to suspend or commute a Determinate SHU term shall clearly articulate substantive justification for the decision on the CDC Form 128-G (Rev. 10/89) Classification Chrono.

**Sections (a)(1)(A) through (a)(3) remain unchanged.**

(b) Administrative SHU terms.

(1) ICC may end an Administrative SHU term for purposes of inpatient medical or mental health treatment when deemed ~~clinically~~medically necessary.

**Sections (b)(2) through (b)(4) remain unchanged.**

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; and *Coleman v. Wilson* 912 F. Supp. 1282 (E.D. Cal. 1995).

## **Article 10. Classification**

**Sections 3377.1 is amended to read:**

### **Section 3377.1. Inmate Custody Designations.**

**Sections (a) through (c) remain unchanged.**

(d) A “D” suffix may be affixed by an Institutional Classification Committee (ICC) to a male inmate's Close Custody designation to indicate the inmate may be housed within a dormitory environment. A mental health clinician or physician shall be present during the ICC classification hearing for placement or removal of a D Suffix to an inmate-patient's custody designation.

(1) A “D” suffix shall only be affixed by ICC if the inmate meets one of the following criteria and the ICC determines the inmate can safely program in dormitory housing based on a review of the inmate's case factors:

(A) Inpatient mental health treatment is deemed ~~clinically~~medically necessary and health care staff have determined that required care cannot be provided in a celled environment.

(B) Placement in a specialized medical bed has been deemed ~~clinically~~medically necessary and the Health Care Placement Oversight Program staff have determined the required care cannot be provided in a celled environment.

**Sections (d)(2) through (d)(3)(B) remain unchanged.**

NOTE: Authority cited: Section 5058, Penal Code, Reference: Sections 290, 4852.01, 5054 and 5068, Penal Code; *Americans With Disability Act (ADA)*, 42 U.S.C. § 12131, et seq.; and *Pennsylvania Department of Corrections v. Yeskey* (1998) 524 U.S. 206.

## **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:**

#### **3999.98. Definitions.**

Health Record(s) means paper-based records, electronic records, and other media that document the patient's health care and provide a chronological account of a patient's examinations and treatments. Health records shall be maintained in a manner that supports continuity of care.

Medically Necessary means health care services that are determined by the attending or primary medical, mental health, or dental care provider(s) to be needed to protect life, prevent significant illness or disability, or alleviate severe pain, and are supported by health outcome data or clinical evidence as being an effective health care service for the purpose intended or in the absence of

available health outcome data is judged to be necessary and is supported by diagnostic information or specialty consultation.

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.

## **Article 2. Health Care Forms**

### **Section 3999.99 is amended to read:**

#### **3999.99. Forms.**

The following forms, referred to in this chapter, are hereby incorporated by reference:

CDCR 602 HC (Rev. 7/18), Health Care Grievance

CDCR 602 HC A (Rev. 12/17), Health Care Grievance Attachment

CDCR 1824 (Rev. 09/17), Reasonable Accommodation Request ~~(Rev. 09/17)~~

CDCR 7225 (Rev. 03/19), Refusal of Examination and/or Treatment ~~(Rev. 03/19)~~

CDCR 7362 (Rev. 03/19), Health Care Services Request Form

CDCR 7421 (Rev. 06/18), Advance Directive for Health Care ~~(Rev. 06/18)~~

CDCR 7465 (Rev. 08/16), Physician Orders for Life-Sustaining Treatment ~~(Rev. 08/16)~~

CDCR 7536 (Rev. 05/17), Durable Medical Equipment and Medical Supply Receipt ~~(Rev. 05/17)~~

CDCR 7551 (01/16), Administration or Declination of Coccidioidomycosis Screening ~~(01/16)~~

CDCR 7701 (Rev. 10/20), Penal Code 2604 Rights

CDCR 7702 (Rev. 01/21), Petition for Capacity Determination

CDCR 7702-A (Rev. 10/20), Petition for Capacity Determination-Additional Page

CDCR 7703 (Rev. 01/21), Renewal Petition for Capacity Determination

CDCR 7704 (Rev. 10/20), Penal Code 2604 Reconsideration

CDCR 7705 (Rev. 10/20), Confidential Surrogate Decisionmaker Screening

CDCR 7706 (Rev. 10/20), Notice of Revocation or Termination of Penal Code 2604 Order

CDCR MH-7363 (Rev. 01/15), Involuntary Medication Notice

CDCR MH-7363-B (01/15), Involuntary Medication Notice: ADD-A-PAGE ~~(01/15)~~

CDCR MH-7366 (Rev. 01/15), Inmate Rights Notice -Involuntary Medication

CDCR MH-7368 (01/15), Renewal of Involuntary Medication Notice

CDCR MH-7368-B (01/15), Renewal of Involuntary Medication Notice: ADD-A-PAGE ~~(01/15)~~

CDCR MH-7369 (01/15), Penal Code Section 2602 Reconsideration

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

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

### **Article 6. Dental Care**

**Section 3999.364 is amended to delete some definitions and incorporate in alphabetical order the following terms formerly included in section 3999.367.**

#### **3999.364. Dental Definitions.**

For the purposes of this Article, the following definitions apply:

~~Clinically Necessary means health care services or supplies that are determined by health care staff to be needed to diagnose or treat an illness, injury, condition, disease, or its symptoms.~~

~~Health Record(s) means paper-based records, electronic records, and other media that document the patient's health care and provide a chronological account of a patient's examinations and treatments. Health care records shall be maintained in a manner that supports continuity of care.~~

~~Patient means an inmate who is seeking or receiving health care services or who is assigned to a care team.~~

Dental Priority Classification means a numerical or alphanumerical code associated with a dental diagnosis and assigned by a dentist. It is the objective expression of the degree of urgency of a patient's dental needs, providing the timeframe within which treatment must be initiated subsequent to the date of diagnosis.

Face-to-Face Triage Encounter means a planned visit to assess and diagnose a patient's chief complaint and to provide necessary treatment following submittal of a CDCR 7362, Health Care Services Request Form, by a patient or when dental staff issues a ducat to a patient after performing a health record review.

Limited Problem Focused Exam Encounter means an unplanned visit to assess and diagnose a patient's chief complaint and to provide treatment if necessary for a patient with a dental emergency who arrives at the dental clinic unannounced without an appointment or who is referred to the dental clinic by health care or custody staff and dental staff has not issued a ducat to the patient and there is also no record of recently receiving a CDCR 7362, Health Care Services Request Form, from the patient addressing the emergent condition.

Plaque Index Score means a measurement used to determine a patient's level of oral hygiene.

Root Canal Therapy means a dental procedure in which the pulp chamber and canal(s) of a tooth are cleaned, shaped, and filled.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Perez, et al. v. Cate, et al.*, (No. C05-05241 JSW), U.S. District Court, Northern District of California.

### **Section 3999.365 is amended to read:**

#### **3999.365. Dental Authorization Review Committee.**

(a) Each institution shall maintain a Dental Authorization Review (DAR) Committee. The DAR Committee shall approve or disapprove requests for:

- (1) ~~Dental services otherwise~~Otherwise excluded dental services pursuant to section 3999.200(b).
- (2) Deviations from treatment policy.
- (3) ~~Clinically~~Medically necessary treatment, ~~as determined by health care staff,~~ that requires a contracted specialist to provide treatment at the local institution.
- (4) ~~Clinically~~Medically necessary treatments, diagnostic studies, or consultations, ~~as determined by health care staff,~~ that cannot be accomplished at the local institution.
- (5) Treatment recommendations for special dental care needs.

(b) DAR Committee requests at the institution level shall be reviewed and either approved or disapproved within 15 business days of receipt by the DAR Committee and shall be based on criteria established in section 3999.200(c). DAR Committee decisions shall be documented in the patient's health record. Cases that receive DAR Committee approval and that require Dental Program Health Care Review Committee (DPHCRC) approval pursuant to section 3999.366(a),

shall be forwarded, along with all supporting documentation, to the DPHCRC. The treating dentist shall notify the patient of the DAR Committee's decision.

(c) The DAR Committee and/or DPHCRC approval process may be bypassed if the Supervising Dentist determines that the specialty services or consultation are required because of an Emergency dental condition, as defined in section ~~3355.1~~ 3999.367(gf)(1), or an Urgent dental condition requiring that treatment be initiated within one calendar day, as defined in section ~~3355.1~~ 3999.367(gf)(2).

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and *Perez, et al. v. Cate, et al.*, (No. C05-05241 JSW), U.S. District Court, Northern District of California.

### **Section 3999.367 is amended to read:**

#### **3999.367. Dental Care.**

~~(a) For the purposes of this section, the definitions pursuant to sections 3352.2(a)(1)-(5) and the following definitions apply:~~

~~(1) Dental Priority Classification means a numerical or alphanumeric code associated with a dental diagnosis and assigned by a dentist. It is the objective expression of the degree of urgency of a patient's dental needs, providing the timeframe within which treatment must be initiated subsequent to the date of diagnosis.~~

~~(2) Face to face triage encounter means a planned visit to assess and diagnose a patient's chief complaint and to provide necessary treatment following submittal of a CDCR 7362, Health Care Services Request Form, by a patient or when dental staff issues a ducat to a patient after performing a health record review.~~

~~(3) Limited problem focused exam encounter means an unplanned visit to assess and diagnose a patient's chief complaint and to provide treatment if necessary for a patient with a dental emergency who arrives at the dental clinic unannounced without an appointment or who is referred to the dental clinic by health care or custody staff and dental staff has not issued a ducat to the patient and there is also no record of recently receiving a CDCR 7362 from the patient addressing the emergent condition.~~

~~(4) Mainline facility means a CDCR facility where a patient is housed and assigned after completing the reception center initial intake process.~~

~~(5) Plaque index score means a measurement used to determine a patient's level of oral hygiene.~~

~~(6) Root canal therapy means a dental procedure in which the pulp chamber and canal(s) of a tooth are cleaned, shaped and filled.~~

~~(b)~~ a Access to Dental Care.

(1) Patients shall have equal access to dental services by:



(A) Submitting a CDCR 7362, Health Care Services Request Form, requesting dental care for which ducated face-to-face triage encounters shall be scheduled to have specific complaints addressed.

(B) Unscheduled dental encounters for emergency and urgent dental services.

(C) Referral from other health care providers, ancillary, and custodial staff.

(D) Receiving a Dental Priority Classification (DPC) based on clinical findings and radiographs.

(2) During a facility lockdown or modified program, dental staff shall coordinate with the clinic Registered Nurse, patient appointment schedulers, and custody staff to facilitate continuity of care.

(A) A lockdown or modified program shall not prevent the completion of scheduled dental encounters, and custody personnel shall escort the patient to the dental clinic, subject to security concerns.

(B) In facilities or housing units on modified program or lockdown status, a system shall be maintained to provide patients access to health care services.

(3) If a patient's scheduled appointment for Urgent Care, as defined in subsection (gf)(2)(A), is cancelled or rescheduled by dental staff or if a patient unintentionally fails a dental appointment for Urgent Care as defined in subsection (gf)(2)(A), the dentist shall see the patient within one calendar day. For all other dental care needs, the dentist shall see the patient within 35 calendar days of the cancelled appointment or unintentional failure, or consistent with the timeframe associated with the original DPC assigned at the date of diagnosis, whichever is shorter.

(4) If a patient's appointment for a face-to-face triage or limited problem focused exam encounter is cancelled or rescheduled by the dental clinic, or if a patient unintentionally fails a face-to-face triage or limited problem focused exam encounter, then the patient shall be seen by a dentist for a face-to-face triage or limited problem focused exam encounter within three business days.

(eb) Continuity of Care. Patients shall be provided ongoing dental care in accordance with their DPC as described in subsection (gf). Dentists shall review internal consultation reports, medical and oral pathology lab reports, and reports from outside the facility that are the outcome of a Department or contracted dentist ordering the analysis within seven business days of receipt of the report(s) from the dental clinic and inform patients of the result(s) within three business days of reviewing the report(s).

(dc) The Department shall operate in accordance with the California Dental Practice Act, division 2, chapter 4 of the Business and Professions Code (commencing with section 1600), and ensure that all patient protection provisions of the Act are in force.

(ed) Dental Program Organizational Structure. The dental program shall maintain a regional administrative structure organized into four regions which shall include a Regional Dental Director and program compliance staff consisting of clinical and non-clinical reviewers. Each ~~Region~~region shall monitor quality of care and dental program policy compliance at the institutions.

(fe) Examination and treatment rooms for dental care shall be large enough to accommodate the equipment and fixtures needed to deliver adequate dental services.

(gf) Dental Priority Classification. Patients shall be assigned a DPC at the Reception Center Screening, at the time of their comprehensive dental examination at ~~a Mainline Facility~~ their endorsed institution, and after each face-to-face triage, limited problem focused exam, or treatment encounter. This DPC shall be reviewed and appropriately modified after each dental encounter. Patients shall be provided equal access to dental services based upon the occurrence of disease, significant malfunction, or injury and ~~clinical~~ medical necessity in accordance with the degree of urgency of a patient's dental needs.

(1) Emergency Care. Any dental condition for which evaluation and treatment are immediately necessary, as determined by health care staff, to prevent death, severe or permanent disability, or to alleviate or lessen disabling pain. Emergency dental treatment shall be available on a 24 hour, seven day per week basis. Patients are eligible for Emergency Care regardless of time remaining on their sentence and regardless of their plaque index score.

(2) Urgent Care.

(A) Patients with a dental condition of sudden onset or in severe pain which prevents the patient from carrying out essential activities of daily living. Treatment shall be initiated within one calendar day from the date of diagnosis.

(B) Patients requiring treatment for a sub-acute hard or soft tissue condition that is likely to become acute without early intervention. Treatment shall be initiated within 30 calendar days from the date of diagnosis.

(C) Patients requiring early treatment for any unusual hard or soft tissue pathology. Treatment shall be initiated within 60 calendar days from the date of diagnosis.

(D) Patients are eligible for Urgent Care regardless of time remaining on their sentence and regardless of their plaque index score.

(3) Interceptive Care.

(A) Patients with advanced caries or advanced periodontal pathology requiring the use of intermediate therapeutic or palliative agents or restorative materials, mechanical debridement, or surgical intervention.

(B) Patients who are edentulous or essentially edentulous, or who have no posterior teeth in occlusion, requiring a complete ~~and/or~~ removable partial denture.

(C) Patients with moderate or advanced periodontitis requiring non-surgical periodontal treatment (scaling and ~~or~~ root planing).

(D) Patients requiring restoration of essential physiologic relationships.

(E) Treatment shall be initiated within 120 calendar days from the date of diagnosis.

(F) Patients must have over six months remaining on their sentence within the Department at the time Interceptive Care is initiated and are eligible regardless of their plaque index score.

(4) Routine Rehabilitative Care.

(A) Patients with an insufficient number of posterior teeth to masticate a regular diet (seven or fewer occluding natural or artificial teeth), requiring a maxillary ~~and~~/or mandibular partial denture, or with one or more missing anterior teeth resulting in the loss of anterior dental arch integrity, requiring an anterior partial denture.

(B) Patients with carious or fractured dentition requiring restoration with definitive restorative materials or transitional crowns.

(C) Patients with gingivitis requiring routine prophylaxis or mild periodontitis requiring scaling and root planing.

(D) Patients requiring definitive root canal treatment for anterior teeth, which are restorable with available restorative materials. The patient's overall dentition must fit the following conditions:

1. The retention of the tooth is necessary to maintain the integrity of the dentition.
2. The tooth has adequate periodontal support and a good prognosis for long-term retention and restorability.
3. The tooth is restorable using American Dental Association (ADA) and Department approved methods and materials and does not require extensive restoration including either a pin or post retained core build up.
4. There is adequate posterior occlusion, either from natural dentition or a dental prosthesis, to provide protection against traumatic occlusal forces.

(E) Patients with non-vital, non-restorable erupted teeth requiring extraction.

(F) Treatment shall be initiated within one year from the date of diagnosis.

(G) Patients must have at least 12 months remaining on their sentence within the Department at the time Routine Rehabilitative Care is initiated and, with the exception of treatment for periodontal pathology, must maintain an acceptable level of oral hygiene which shall be measured and evaluated by the use of the plaque index score. A plaque index score of 20 percent or less represents an acceptable level of oral hygiene.

(5) No dental care needed. Patients not appropriate for inclusion in Emergency, Urgent, Interceptive, Routine Rehabilitative, or Special Dental Needs Care.

(6) Special Dental Needs Care. Patients with special dental needs including patients requiring dental care that is a deviation from treatment policy as well as treatments that may require a contracted specialist or that cannot be accomplished at the institution.

(hg) Reception Centers.

(1) ~~Newly arriving inmates at a reception center (RC), including new commitments and parole violators, shall receive an initial health screening by a licensed health care provider to identify urgent/emergent dental needs.~~ Within 60 calendar days of a patient's arrival at an Reception Center (RC), a dentist shall perform a dental screening for patients who qualify. Patients who received a dental screening at an RC or a comprehensive dental examination at ~~a mainline facility~~ their endorsed institution within the past six months need not receive a new RC dental screening except as determined by the treating dentist. This includes patients who have paroled and are rearrested as well as those who transfer from one RC to another.

(2) Inmates remaining on RC status at an RC for 180 calendar days or longer shall be notified within ~~ten~~ 10 business days after completion of the 180th day that they are eligible to receive an initial comprehensive dental examination performed by a dentist according to the terms described in subsection (ih)(1).

(3) Dental treatment provided to RC patients shall be limited to the treatment of Emergency and Urgent Care dental conditions, as defined in subsections (gf)(1) and (gf)(2). Patients who remain on RC status in an RC for 90 calendar days or longer may submit a CDCR 7362 to request Interceptive Care, as defined in subsection (gf)(3), excluding prosthetics. Upon receipt of a CDCR 7362, the dentist shall exercise professional judgment in considering treatment for an Interceptive Care condition for the patient.

(ih) ~~Mainline Facility~~ Endorsed Institution.

(1) Within ~~ten~~ 10 business days of arrival at ~~a mainline facility~~ their endorsed institution, all patients shall be notified that they are eligible to receive an initial comprehensive dental examination performed by a dentist who shall formulate and document a dental treatment plan.

(2) When dental staff becomes aware that a patient has transferred to ~~a mainline facility~~ their endorsed institution, without undergoing an RC dental screening, dental staff at the receiving institution shall schedule the patient for a face-to-face triage encounter to see if the patient has any Emergency or Urgent Care dental conditions, as defined in subsections (gf)(1) and (gf)(2), respectively. Dental staff shall also follow the process regarding comprehensive dental examination eligibility notification outlined in subsection (ih)(1).

(3) When a treatment plan is proposed, the patient shall be provided an explanation of its advantages and disadvantages.

(4) Each patient's dental health history shall be documented at the time of the initial comprehensive dental examination, signed by the patient, and witnessed by the dentist. Such history shall be available and reviewed at each dental visit.

(5) Patients with a plaque index score above 20 percent or who refuse oral hygiene instruction shall receive only Emergency Care, Urgent Care, Interceptive Care, and ~~or~~ Special Dental Needs Care, as these terms are described in subsections (gf)(1), (gf)(2), (gf)(3), and (gf)(5), respectively.

(j) Re-examination. After the initial comprehensive dental examination, ~~mainline facility~~ patients at their endorsed institution shall be notified that they are eligible to receive a periodic comprehensive dental examination by a dentist as follows:

(1) Every ~~two~~ 2 years (biennially), up to the age of 50.

(2) Annually starting at the age of 50 and regardless of age if the patient is diagnosed with diabetes, HIV, or seizure disorder.

(k) Medical Emergencies in the Dental Clinic. The Department shall ensure that emergency medical services are provided in the dental clinic as necessary.

(~~k~~) In the provision of dental treatment, Department dentists shall monitor patients with the following conditions and shall adhere to the appropriate protocols.

(1) Hypertension.

(2) Anticoagulant therapy.

(3) Infective endocarditis risk.

(4) Prosthetic cardiac valve.

(5) Total joint replacement.

(6) HIV/AIDS.

(7) Bisphosphonate therapy.

(8) Diabetes.

(9) Pregnancy.

(~~m~~) Institution Orientation and Self Care.

(1) ~~Mainline facility patients~~ Patients at an endorsed institution shall receive a baseline plaque index score as well as oral hygiene instruction at the time of their comprehensive dental examination and treatment plan formulation.

(2) Inmates shall be allowed to brush their teeth at least once a day within the facility's security guidelines and encouraged to brush after meals.

(3) Inmates shall be allowed to use dental floss or flossers once a day within the facility's security guidelines.

(~~n~~) Periodontal Disease Program. The Department shall maintain a periodontal disease program for the diagnosis and treatment of periodontal disease. Periodontal treatment:

(1) Shall be available to patients based on the presence of a comprehensive dental examination with a treatment plan, prior completion of Urgent Care dental treatment as defined in subsection (g)(2), and regardless of time remaining on their sentence.

(2) Shall consist of non-surgical scaling and/or root planing.

(en) Dental Restorative Services. The Department shall provide patients with dental restorative services utilizing ADA and Department approved dental restorative materials. Dental restorative services shall be limited to the restoration of carious teeth with enough structural integrity to provide long-term stability.

(po) Root Canal Therapy.

(1) Endodontics, or root canal therapy, shall only be performed on the upper and lower six anterior teeth for a patient who meets the criteria pursuant to subsection (g)(4)(D)1.- 4.

(2) Posterior root canal therapy may be considered pursuant to section 3352.2(b)3999.365(a) if all the following conditions are met:

(A) Conditions listed in subsections (g)(4)(D)1.- 4.

(B) The tooth in question is vital to the patient's chewing ability.

(C) The tooth in question is essential as a support tooth for an existing removable cast partial denture or is necessary as a support tooth on a proposed removable cast partial denture for that arch.

(D) Treatment must be approved by the Dental Authorization Review (DAR) Committee and the Dental Program Health Care Review Committee prior to initiating the procedure.

(3) Root canal therapy shall not be performed when extraction of the tooth is appropriate due to non-restorability, periodontal involvement, or when the tooth can easily be replaced by an addition to an existing or proposed prosthesis in the same arch.

(qp) Oral Surgery. A full range of necessary oral surgery procedures including biopsies shall be available to patients regardless of time remaining on their sentence. Any ~~clinically~~medically necessary oral surgery procedure, ~~as determined by health care staff~~, that cannot be accomplished at the local institution shall be made available by referring the patient to contracted oral surgeons, or to outside facilities.

(rg) Dental Prosthodontics.

(1) When a patient's treatment plan includes a dental prosthesis, the treating dentist shall inform the patient that the prosthesis may not be completed prior to the patient's parole date.

(2) A dental prosthesis shall be constructed only when:

(A) The dentist believes the patient can tolerate it and can be expected to use it on a regular basis.

(B) A patient is edentulous, is missing an anterior tooth, or has seven or fewer upper and lower posterior teeth in occlusion.

(C) All diagnosed preventive, restorative, endodontic, and oral surgery procedures have been completed.

(D) The active therapy phase of periodontal therapy has been completed and the patient is free of periodontal disease or is in periodontal maintenance.

(E) Clinically adequate and diagnostic radiographs are present in the health record prior to initiating dental prosthodontic services.

(F) The patient has an Interceptive Care prosthetic need (e.g., complete denture) and is eligible pursuant to subsection (g)(3); or the patient has a Routine Rehabilitative Care prosthetic need (e.g., partial denture) pursuant to subsection (g)(4). Time requirements are calculated from the date final impressions are taken.

(3) All dental prostheses which are fabricated for patients shall have the patient's last name and CDCR number embedded into the prosthesis for identification purposes.

(s) Removal of orthodontic bands/brackets and/or arch wires shall be at the discretion of the treating dentist and does not require approval by the DAR Committee.

(t) Within the second trimester of gestation and regardless of their plaque index score, pregnant patients shall receive a comprehensive dental examination, periodontal examination, oral hygiene instruction, and the necessary periodontal treatment in order to maintain periodontal health during the gestation period.

(u) The Department shall utilize a dental hold process when the transfer or transport of a patient is not clinically appropriate. The treating dentist in conjunction with the Supervising Dentist (SD) shall determine if a dental hold should be placed on a patient. When a dental hold has been placed and the patient refuses treatment of the condition that prompted placement of the hold, the SD or treating dentist shall remove the hold and document the incident. A dental hold shall be removed or lifted only by the treating dentist or SD.

(v) Nourishments and supplements may be prescribed for patients who are pregnant, diabetic, immunocompromised, malnourished, or those with dental or oropharyngeal conditions causing difficulty eating regular diets.

(w) Restraints. If a patient requiring dental treatment also requires use of restraint gear, such restraints shall be selected to enable sitting in a dental chair and shall remain in place during the treatment. Exceptions require concurrence of the treating dentist, the escorting officer, and a lieutenant. For pregnant patients, the rules provided in sections 3268.2(b), (d), and (e) concerning the use of restraints shall be followed.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 3424 and 5054, Penal Code; and *Perez, et al. v. Cate, et al.*, USDC no. 3:05-cv-05241-JSW (No. Cal.) (No. C05-05241 JSW), U.S. District Court, Northern District of California.