CALIFORNIA CORRECTIONAL HEALTH CARE SERVICES	**Department of Corrections and Rehabilitation** **NOTICE OF CHANGE TO HEALTH CARE REGULATIONS** **Section(s): 3999.216, 3999.365, 3999.366, 3999.367, 3999.368**	**Number:** 22-03 **Publication Date:** May 6, 2022 **Effective Date:** TBA

INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendments to Sections 3999.216, 3999.365, 3999.366, 3999.367, and 3999.368 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to update provisions concerning health information and dental care.

IMPLEMENTATION: To Be Announced

PUBLIC COMMENT PERIOD
Any person may submit written comments about the proposed regulations to California Correctional Health Care Services, Health Care Regulations and Policy Section, P.O. Box 588500, Elk Grove, CA 95758, or by email to **HealthCareRegulations@cdcr.ca.gov.** All written comments must be received by the close of the public comment period, **June 21, 2022, at 5:00 p.m.**

PUBLIC HEARING INFORMATION
The California Department of Corrections and Rehabilitation will hold a virtual public hearing on June 21, 2022. Go to https://cchcs.ca.gov/health-care-regs/ for the link to join the virtual hearing, or you may call (916) 701-9994 and enter phone conference ID 442065119# to join by phone (audio only) between the hours of 1:00 p.m. and 1:30 p.m. on June 21, 2022.

POSTING
This Notice shall be posted immediately upon receipt at locations accessible to inmates, parolees, and employees in each Department facility and field office not later than five calendar days after receipt. Also, facilities shall make this Notice available for review by inmates in segregated housing who do not have access to the posted copies and shall distribute it to inmate law libraries and advisory councils. CDCR 621-HC (Rev. 07/20), Certification of Posting, shall be returned to the Health Care Regulations and Policy Section electronically. See Health Care Department Operations Manual, Section 5.1.1 for posting procedures.

CONTACT PERSON
Inquiries regarding this action may be directed to R. Hart, Associate Director (A), Risk Management Branch, California Correctional Health Care Services (CCHCS) at California Correctional Health Care Services, P.O. Box 588500, Elk Grove, CA 95758; by telephone at (916) 691-2921; or by email at **HealthCareRegulations@cdcr.ca.gov.** In the event the contact person is unavailable, inquiries should be directed to T. Adams, Staff Services Manager II, Health Care Regulations and Policy Section, CCHCS, at (916) 691-2922.

KATHLEEN ALLISON
Secretary
California Department of Corrections and Rehabilitation

J. CLARK KELSO
Receiver

Attachments

NOTICE OF PROPOSED REGULATORY ACTION

California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code (GC) section 12838.5 and Penal Code (PC) section 5055, and the rulemaking authority granted by PC section 5058, proposes to amend sections 3999.216, 3999.365, 3999.366, 3999.367, and 3999.368 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 2, concerning health information and dental care.

PUBLIC HEARING:

A virtual public hearing will be held on June 21, 2022. Go to https://cchcs.ca.gov/health-care-regs/ for the link to join the virtual hearing, or you may call (916) 701-9994 and enter phone conference ID 442065119# to join by phone (audio only) between the hours of 1:00 p.m. and 1:30 p.m. on June 21, 2022.

PUBLIC COMMENT PERIOD:

The public comment period will close on **June 21, 2022, at 5:00 p.m.** Any person may submit public comments in writing (by mail or by email) regarding the proposed changes. To be considered, comments must be submitted to California Correctional Health Care Services (CCHCS), Health Care Regulations and Policy Section, P.O. Box 588500, Elk Grove, CA, 95758, or by email to HealthCareRegulations@cdcr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

R. Hart
Associate Director (A)
Risk Management Branch
California Correctional Health Care Services
P.O. Box 588500
Elk Grove, CA 95758
(916) 691-2922

T. Adams
Staff Services Manager II
Health Care Regulations and Policy Section
California Correctional Health Care Services
(916) 691-2921

AUTHORITY AND REFERENCE:

GC section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as: Department of Corrections, Department of the Youth Authority, and Board of Corrections.

PC section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the State prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

References cited pursuant to this regulatory action are as follows: Sections 4040(a)(2), 4076, 4170 and 4171(b), Business and Professions Code; Section 1157, Evidence Code; Section 11150 Health and Safety Code; Sections 3424 and 5054, Penal Code; Perez, et al. v. Cate, et al., (No. C05-05241 JSW), U.S. District Court, Northern District of California; and Plata v. Newsom (No. C01-1351 JST), U.S. District Court, Northern District of California.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

The CDCR and CCHCS propose to amend sections 3999.216, 3999.365, 3999.366, 3999.367, and 3999.368 of the CCR, Title 15, Division 3, Chapter 2, governing health information and dental care. Sections 3999.365 through 3999.368 contain language from 24 dental care related sections of the CDCR Health Care Department Operations Manual (HCDOM). This presents a problem when trying to determine regulatory impact resulting from revisions to HCDOM sections related to dental care. Because HCDOM sections related to dental care do not directly correspond to the current regulations sections in Article 6, it can be difficult determining what parts of Article 6 are impacted by revised HCDOM dental care policies without excessive time and resources. Additionally, there is always the possibility that CDCR staff will miss the regulatory impact to Article 6 whenever HCDOM dental care policies are revised, thereby creating underground regulations as defined in Title 1, Section 250.

This action provides the following:

- Reduces the amount of staff time and resources spent conducting lengthy analyses to determine regulatory impact from changes to HCDOM dental care policies.
- Significantly reduces future chances of CDCR operating with underground regulations.
- Provides more organized dental care regulations.
- Brings provisions in-line with recent revisions to CDCR health information and dental care policies.

BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The Department anticipates the proposed regulations will benefit CDCR staff and the regulated public by decreasing the amount of staff resources needed to determine regulatory impact of revised dental policies, prevent underground regulations, promote openness and transparency by improving the organization and coherence of dental care regulations, and ensure continued consistent treatment standard for the delivery of dental services to CDCR patients.

FORMS INCORPORATED BY REFERENCE:

Not applicable

EVALUATION OF CONSISTENCY/COMPATIBILITY WITH EXISTING REGULATIONS:

Pursuant to GC section 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. Pursuant to this evaluation, the Department has determined these proposed regulations are not inconsistent or incompatible with any existing regulations within CCR, Title 15, Division 3.

LOCAL MANDATES:

The proposed regulatory action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to GC section 17500 — 17630.

FISCAL IMPACT STATEMENT:

- Cost or savings to any State agency: *None*
- Cost to any local agency or school district that is required to be reimbursed: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs because the proposed regulations will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in-line with recent revisions to CDCR health information and dental care policies; which only affects inmates and staff within CDCR.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has determined that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because the proposed action will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in-line with recent revisions to CDCR health informations and dental care policies; which only affects inmates and staff within CDCR.

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

The proposed regulatory action will reorganize and amend standards regarding the provision of dental care to patients within CDCR. The proposed changes will benefit the health and welfare of California residents incarcerated in CDCR, staff, and the general public by improving the organization and coherence of dental care regulations, and will ensure continued consistent treatment standard for the delivery of dental services to CDCR patients.

The Department has determined that the proposed action will have no impact on the creation of new or the elimination of existing jobs or businesses within California or affect the expansion of businesses currently doing business in California because the proposed action will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in-line with

recent revisions to CDCR health information and dental care policies; which only affects inmates and staff within CDCR.

BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The Department anticipates the proposed regulations will benefit CDCR staff and the regulated public by decreasing the amount of staff resources needed to determine regulatory impact of revised dental policies, prevent underground regulations, promote openness and transparency by improving the organization and coherence of dental care regulations, and ensure continued consistent treatment standard for the delivery of dental services to CDCR patients. This regulation change will not have an impact on the State's environment, as the State's environment is not impacted by the administration of the CDCR's dental program.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed action will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in-line with recent revisions to CDCR health information and dental care policies; which only affects inmates and staff within CDCR.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations will have no significant adverse economic impact on small businesses because the proposed action will reorganize and retitle existing dental care regulations, and amend some provisions to bring them in-line with recent revisions to CDCR health information and dental care policies; which only affects inmates and staff within CDCR.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony, reasonable alternative, or other evidence provided that would alter the CDCR's initial determination to proceed with this action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the proposed text and the Initial Statement of Reasons (ISOR) of the proposed regulatory action. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the contact person listed in this Notice. The proposed text, ISOR, and Notice of Proposed Action will also be made available on CCHCS's website https://cchcs.ca.gov and CDCR institution law libraries.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the contact person listed in this Notice.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 calendar days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person listed in this Notice. The Department will accept written comments on the modified regulations for 15 calendar days after the date on which they are made available.

TEXT OF PROPOSED REGULATIONS

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

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

Chapter 2. Rules and Regulations of Health Care Services

Subchapter 2. Patient's Entitlements and Responsibilities

Article 4. Access and Disclosure of Health Information

Section 3999.216 is amended to read:

3999.216. Health Information.

(a) The California Department of Corrections and Rehabilitation (CDCR) shall:

(1) Store, maintain, and destroy patient health information in a secure environment.

(2) Provide access to patient health information to the extent possible.

(3) Retain patient health information for ten years after discharge from CDCR.

(b) Health ~~care~~ records consist of paper-based records, electronic records, and other media that documents the patient's health care and provides a chronological account of a patient's examinations and treatments. Health ~~care~~ records shall be maintained in such a manner which supports the continuity of care.

(c) CDCR staff shall safeguard both the health record and its contents against loss, defacement, tampering, and from disclosure or use by unauthorized individuals.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; Plata v. Newsom (No. C01-1351 JST), U.S. District Court, Northern District of California; Clark v. California (No. C96-1486 CRB), U.S. District Court, Northern District of California; and Armstrong v. Newsom (No. C94-2307 CW), U.S. District Court, Northern District of California.

Subchapter 3. Health Care Operations

Article 6. Dental Care

Section 3999.365 is amended to read:

3999.365. Scope of Services ~~Dental Authorization Review Committee~~.

(a) Reception Centers.

(1) Within 60 calendar days of a patient's arrival at a 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 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) Patients remaining at an RC for 180 calendar days or longer and who are pending assignment to their endorsed institution shall be notified within 10 business days after completion of the 180th calendar day that they are eligible to receive an initial comprehensive dental examination performed by a dentist according to the terms described in subsection (b)(1).

(3) Dental treatment provided to RC patients shall be limited to the treatment of Emergency and Urgent Care dental conditions, as defined in sections 3999.367(b)(1) and (b)(2). Patients who remain at an RC for 90 calendar days or longer and who are pending assignment to their endorsed institution may submit a CDCR 7362, Health Care Services Request Form, to request interceptive care, as defined in section 3999.367(b)(3), excluding prosthetics. Upon receipt of a CDCR 7362, the dentist shall exercise clinical judgment in considering treatment for an Interceptive Care condition for the patient.

(b) Comprehensive Dental Examination - Endorsed Institution.

(1) Within ten business days of arrival at their endorsed institution, patients shall be notified that they are eligible to receive an initial comprehensive dental examination performed by a dentist.

(A) A dentist shall review each patient's dental health history at the time of the initial or periodic comprehensive dental examination and prior to providing treatment. The review shall consist of asking the patient a standardized series of questions to validate the patient's health history found in the health record.

(B) The dentist shall formulate and document a dental treatment plan.

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

(A) Every 2 years (biennially), up to the age of 50.

(B) Annually starting at the age of 50 or regardless of age when the patient is diagnosed with diabetes, Human Immunodeficiency Virus (HIV), or seizure(s).

(c) 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 section 3999.367(b)(2), and time remaining on their sentence as defined in sections 3999.367(b)(3) and 3999.367(b)(4).

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

(d) Periodontal Disease Program for Pregnant Patients. 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.

(e) Dental Prosthodontic Services.

(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 release or parole date.

(2) A dental prosthesis shall be constructed when all of the following conditions are met:

(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 section 3999.367(b)(3); or the patient has a Routine Rehabilitative Care prosthetic need (e.g., partial denture) pursuant to section 3999.367(b)(4). Time requirements for eligibility, pursuant to sections 3999.367(b)(3) and 3999.367(b)(4), pertaining to the patient's sentence, are calculated from the date final impressions are taken.

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

(f) Dental Restorative Services. The Department shall provide patients with dental restorative services utilizing American Dental Association (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.

(g) Oral Surgery. A full range of necessary oral surgery procedures including biopsies shall be available to patients regardless of time remaining on their sentence. Medically necessary oral surgery procedures that cannot be accomplished at the local institution shall be made available by referring the patient to contracted oral surgeons, or to outside facilities.

(h) Root Canal Therapy (Endodontics).

(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 sections 3999.367 (b)(4)(D)1. - 4.

(2) Posterior root canal therapy may be considered pursuant to section 3999.366(b) if all the following conditions are met:

(A) Conditions listed in sections 3999.367(b)(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.

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

(j) Facility Level Dental Health Orientation and Self-Care.

(1) Within 14 business days of arrival at an endorsed institution, patients shall receive information regarding dental health services.

(2) 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.

(3) 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 Special Dental Needs

Care, as these terms are described in sections 3999.367(b)(1), (b)(2), (b)(3), and (b)(6), respectively.

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

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

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

~~(1) Dental services otherwise excluded pursuant to section 3999.200(b).~~

~~(2) Deviations from treatment policy.~~

~~(3) Medically necessary treatment, that requires a contracted specialist to provide treatment at the local institution.~~

~~(4) Medically necessary treatments, diagnostic studies, or consultations, 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 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 3999.367(f)(1), or an Urgent dental condition requiring that treatment be initiated within one calendar day, as defined in section 3999.367(f)(2).~~

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

Section 3999.366 is amended to read:

3999.366. Dental Clinic Administration ~~Dental Program Health Care Review Committee~~.

(a) Dental Peer Review. The Department shall maintain oversight and coordination of the statewide professional peer review processes to achieve and maintain the highest possible standards of professional, ethical, dental health care through continuous quality review and/or peer review of services provided.

(1) Peer review information shall be kept confidential, kept from unauthorized persons and organizations, and be protected from any use other than for internal or quality improvement purposes. The proceedings and records of peer review bodies are protected pursuant to Section 1157 of the California Evidence Code.

(2) The "for cause" review process may be initiated as a result of credible information provided by any person to institution, regional, or headquarters dental or administrative staff about the

conduct, performance, or competence of dental practitioners. Anonymous referrals shall not be considered.

(b) Dental Authorization Review Committee.

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

(A) Dental services otherwise excluded pursuant to section 3999.200(b).

(B) Deviations from treatment policy.

(C) Medically necessary treatment that can only be provided by a contracted specialist.

(2) 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 health record. Cases that receive DAR Committee approval and that require Dental Program Health Care Review Committee (DPHCRC) approval pursuant to subsection (b)(4), shall be forwarded, along with all supporting documentation, to the DPHCRC. The treating dentist shall notify the patient of the DAR Committee's decision.

(3) The DAR Committee and 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 3999.367(b)(1), or an Urgent dental condition requiring that treatment be initiated within one calendar day, as defined in section 3999.367(b)(2)(A).

(a4) The ~~Dental Program Health Care Review Committee (~~DPHCRC~~)~~ shall meet as often as necessary to review cases submitted by the ~~Dental Authorization Review (~~DAR~~)~~ Committee for those dental services listed in ~~sections 3999.365~~ subsections (b~~a~~)(1)(A), (B~~2~~)~~, (4) and (5)~~, and (C). DPHCRC decisions shall be completed within 15 business days of receipt and shall be based on criteria established in section 3999.200(c).

(~~b~~5) When a dental service request is denied and treatment will not be provided, ~~T~~the treating dentist shall notify the patient of the DPHCRC's decision ~~regarding dental services~~ and document the decision in the ~~patient's~~ health record.

(c) Clinic Space, Equipment and Supplies. Examination and treatment rooms for dental care shall be large enough to accommodate the equipment and fixtures needed to deliver adequate dental services.

Note: Authority cited: Section 5058, Penal Code. Reference: Section 1157, Evidence Code; 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 Clinic Operations ~~Dental Care~~.

(a) Priority Health Care Services Ducat Utilization. The Department shall maintain and utilize a system of priority ducats to provide patients timely access to dental care, provide a system of accountability for the distribution and delivery of health care ducats, and provide a method for documenting and processing a patient's refusal or failure to report for scheduled dental appointments.

(1) A patient who wishes to refuse, cancel or reschedule a dental appointment, shall do so in person at the scheduled appointment; custody staff shall not accept refusals on behalf of the patient.

The patient's cancellation or request for rescheduling a dental appointment shall be regarded as a refusal.

(2) If a patient's scheduled appointment for Urgent Care, as defined in subsection (b)(2)(A), is cancelled or rescheduled by dental staff, or if a patient unintentionally fails to report to a dental appointment for Urgent Care as defined in subsection (b)(2)(A), the dentist shall see the patient within one calendar day. For 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 Dental Priority Classification (DPC) assigned at the date of diagnosis, whichever is shorter.

(3) 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 to appear for 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.

(4) Intentional failure to report to a dental appointment on the part of the patient shall be documented as a refusal and shall not be subject to cell extraction or use of force to gain compliance with the priority health care ducat.

(5) Staff may initiate progressive inmate disciplinary action, based on the factors of the patient's failure to report (pursuant to Chapter 1, Section 3312, "Disciplinary Methods").

(b) Dental Priority Classification (DPC). Patients shall be assigned a DPC at the Reception Center (RC) Screening, the comprehensive dental examination at their endorsed institution, and after each face-to-face triage, limited problem focused examination, and 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 medical necessity in accordance with the degree of urgency of a patient's dental needs as outlined in sections (b)(1) through (b)(6).

(1) Emergency Care. Emergency dental care shall be available 24 hours per day, 7 days per week for patients with a 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. Patients are eligible for Emergency Care regardless of time remaining on their sentence and regardless of their plaque index score.

(2) Urgent Care. Patients shall be eligible for Urgent Care regardless of time remaining on their sentence and regardless of their plaque index score. Urgent Care shall be provided when a patients meets at least one of the following criteria:

(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.

(3) Interceptive Care. Interceptive Care shall be initiated within 120 calendar days from the date of diagnosis. 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. Interceptive Care shall be provided when a patient meets at least one of the following criteria:

(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 or removable partial denture.

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

(D) Patients requiring restoration of essential physiologic relationships.

(4) Routine Rehabilitative Care. Routine Rehabilitative Care shall be initiated within 12 months from the date of diagnosis. 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, shall 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. Routine Rehabilitative Care shall be provided when a patient meets at least one of the following criteria:

(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 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; or patients requiring an occlusial guard.

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

(C) Patients with gingivitis requiring routine prophylaxis or slight 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.

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

(6) Special Dental Needs Care. Special Dental Needs Care shall be provided to patients requiring dental services otherwise excluded pursuant to section 3999.200(b), dental care that deviates from treatment policy as well as treatments that can only be performed by a contracted specialist. Patients are eligible for Special Dental Needs Care pending DAR Committee approval regardless of time remaining on patients' sentence and shall meet plaque index score eligibility requirements, if applicable.

(c) Dental Treatment Plan. Patients who receive a comprehensive dental examination by a California Department of Corrections and Rehabilitation (CDCR) dentist at their endorsed institution shall have an individual treatment plan developed in conjunction with the examination.

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

(2) The patient shall receive a Dental Materials Fact Sheet (DMFS) and sign a CDCR 7441, Patient Acknowledgement of Receipt of DMFS.

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

(e) Continuity of Care.

(1) Patients shall be provided ongoing dental care in accordance with their DPC as described in subsection (b). 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) by the dental clinic and inform patients of the result(s) within three business days of reviewing the report(s).

(2) When dental staff becomes aware that a patient has transferred to their endorsed institution, without undergoing an RC dental screening, dental staff at the receiving institution shall schedule the patient for an RC dental screening if the patient qualifies as outlined in section 3999.365. (a)(1). Dental staff shall also follow the process regarding comprehensive dental examination eligibility notification outlined in section 3999.365(b)(1).

(f) Supplemental Nutritional Support. Nourishments and supplements may be prescribed pursuant to section 3999.308(a)(4).

(g) 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.

(h) Pharmaceuticals. Medications shall be available to patients with acute dental conditions in the dental clinic when medication delivery by the Triage and Treatment Area nursing or medical staff is not possible.

(1) The dentist shall act as a dispensing dentist. A dispensing dentist shall assume the requirements and responsibilities of a dispenser of medications pursuant to California Business and Professions Code section 4170.

(2) The dispensing dentist shall provide the patient with over-the-counter consumer-ready packaged analgesic medication in solid oral dosage forms, prescription medications for patients with urgent/emergent conditions, and emergency medications for medical emergencies that occur within the dental clinic.

(i) Access to 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 or Urgent Care as defined in subsections (b)(1) and (b)(2) respectively.

(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.

(j) Dental Care. In the provision of dental treatment, Department dentists shall ensure dental recommendations and procedures do not adversely affect patient's medically complex conditions. Medically complex conditions include:

(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.

~~(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 (f)(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 (f)(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.~~

~~(b) Continuity of Care. Patients shall be provided ongoing dental care in accordance with their DPC as described in subsection (f). 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).~~

~~(c) 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.~~

~~(d) 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 shall monitor quality of care and dental program policy compliance at the institutions.~~

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

~~(f) Dental Priority Classification. Patients shall be assigned a DPC at the Reception Center Screening, at the time of their comprehensive dental examination at 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 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 or removable partial denture.
(C) Patients with moderate or advanced periodontitis requiring non-surgical periodontal treatment (scaling and 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 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.
(g) Reception Centers.
(1) Within 60 calendar days of a patient's arrival at a 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 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 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 (h)(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 (f)(1) and (f)(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 (f)(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.

(h) Endorsed Institution.

(1) Within ten business days of arrival at 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 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 (f)(1) and (gf)(2), respectively. Dental staff shall also follow the process regarding comprehensive dental examination eligibility notification outlined in subsection (h)(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 Special Dental Needs Care, as these terms are described in subsections (f)(1), (f)(2), (f)(3), and (f)(5), respectively.

(i) Re-examination. After the initial comprehensive dental examination, 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 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.

(j) 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.~~
~~(*l*) Institution Orientation and Self Care.~~
~~(1) 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.~~
~~(m) 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 (f)(2), and regardless of time remaining on their sentence.~~
~~(2) Shall consist of non-surgical scaling and root planing.~~
~~(n) 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.~~
~~(o) 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 (f)(4)(D)1.–4.~~
~~(2) Posterior root canal therapy may be considered pursuant to section 3999.365(a) if all the following conditions are met:~~
~~(A) Conditions listed in subsections (f)(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.~~
~~(p) 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 medically necessary oral surgery procedure that cannot be accomplished at the local institution shall be made available by referring the patient to contracted oral surgeons, or to outside facilities.~~
~~(q) 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 (f)(3); or the patient has a Routine Rehabilitative Care prosthetic need (e.g., partial denture) pursuant to subsection (f)(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.~~
~~(r) Removal of orthodontic bands/brackets or arch wires shall be at the discretion of the treating dentist and does not require approval by the DAR Committee.~~
~~(s) 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.~~
~~(t) 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.~~
~~(u) 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.~~
~~(v) 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 4040(a)(2), 4076, 4170 and 4171(b), Business and Professions Code; Section 11150 Health and Safety Code; Sections 3424 and 5054, Penal Code; ~~and~~ *Perez, et al. v. Cate, et al.*, (No. C05-05241 JSW), 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 3999.368 is amended to read:

3999.368. Dental Services Organization and Records Management ~~Dental Urgent/Emergent Medication Process.~~

(a) Privacy of Care. 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.

(b) 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. Regional staff shall monitor quality of care and dental program policy compliance at the institutions.

(c) Dental Holds and Patient Transport/Transfer. 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 close, i.e. remove or lift, the hold and document the incident. A dental hold shall be closed only by the treating dentist, outside specialty consultant, or SD.

~~(a) Medications shall be available to patients with acute dental conditions in the dental clinic when medication delivery by the Triage and Treatment Area nursing or medical staff is not possible.~~

~~(1) The dentist may act as a dispensing dentist. A dispensing dentist must assume all the requirements and responsibilities of a dispenser of medications pursuant to California Business and Professions Code section 4170.~~

~~(2) The dispensing dentist may provide the patient with one bottle of over-the-counter consumer-ready packaged analgesic medication in solid oral dosage forms, prescription medications for patients with urgent/emergent conditions, and emergency medications for medical emergencies that occur within the dental clinic.~~

Note: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; ~~Sections 4040(a)(2), 4076, 4170 and 4171(b), Business and Professions Code; Section 11150, Health and Safety Code; and Plata v. Newsom (No. C01-1351 JST), U.S. District Court, Northern District of California.~~ and Perez, et al. v. Cate, et al., (No. C05-05241 JSW), U.S. District Court, Northern District of California.

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend section 3999.216 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 2, Subchapter 2, Article 4 regarding health information; and sections 3999.365, 3999.366, 3999.367, and 3999.368 of the CCR, Title 15, Division 3, Chapter 2, Subchapter 3, Article 6 regarding dental care.

Summary of the Proposal

Problem Statement:

Sections 3999.365 through 3999.368 of the CCR, Title 15, Division 3, Chapter 2, Subchapter 3, Article 6, contain language from 24 dental care related sections of the CDCR Health Care Department Operations Manual (HCDOM). This presents a problem when trying to determine regulatory impact resulting from revisions to HCDOM sections related to dental care. Because HCDOM sections related to dental care do not directly correspond to the current regulations sections in Article 6, it can be difficult determining what parts of Article 6 are impacted by revised HCDOM dental care policies without excessive time and resources. Additionally, there is always the possibility that CDCR staff will miss the regulatory impact to Article 6 whenever HCDOM dental care policies are revised, thereby creating underground regulations as defined in Title 1, Section 250.

Objective:

CDCR seeks to reorganize and retitle sections 3999.365 through 3999.368 so that each section will correspond with a HCDOM section of the same subject matter. Also to amend some provisions to bring them in-line with recent revisions to CDCR health information and dental care policies.

Benefit:

The proposed regulations will:

- Reduce the amount of staff time and resources spent conducting lengthy analyses to determine regulatory impact from changes to HCDOM dental care policies.
- Significantly reduce future chances of CDCR operating with underground regulations.
- Provide for more organized dental care regulations.

ECONOMIC IMPACT ASSESSMENT

In accordance with Government Code (GC) section 11346.3(b), the Department has made the following assessments regarding the proposed regulation:

1. Creation or Elimination of Jobs within the State of California

   The Department does not expect that the proposed regulations will have an impact on the creation of new or the elimination of existing jobs within the State of California. The proposed regulations will make non-substantive changes to health information regulations, make determining the regulatory impact of future changes to dental care policies much easier, and bring dental care regulations in-line with recently revised dental care policies, which only affects staff and inmates within CDCR.

2. Creation of New or Elimination of Existing Businesses within the State of California

   The Department does not expect that the proposed regulations will have an impact on the creation of new or the elimination of existing businesses within the State of California. The proposed regulations will make non-substantive changes to health information regulations, make determining the regulatory impact of future changes to dental care policies much easier, and bring dental care regulations in-line with recently revised dental care policies, which only affects staff and inmates within CDCR.

3. Expansion of Businesses Currently Doing Business within the State of California

   The Department does not expect that the proposed regulations will have an impact on the expansion of businesses currently doing business within the State of California. The proposed regulations will make non-substantive changes to health information regulations, make determining the regulatory impact of future changes to dental care policies much easier, and bring dental care regulations in-line with recently revised dental care policies, which only affects staff and inmates within CDCR.

4. Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

   The proposed regulatory action will reorganize and amend standards regarding the provision of dental care to patients within CDCR. The proposed changes will benefit the health and welfare of California residents incarcerated in CDCR, staff, and the general public by improving the organization and coherence of dental care regulations, and will ensure continued consistent treatment standard for the delivery of dental services to CDCR patients. This regulation change will not have an impact on the State's environment, as the State's environment is not impacted by the administration of the CDCR's dental program.

Statement of Determinations

Reasonable Alternatives

In accordance with GC section 11346.5(a)(13), the Department has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

Local Mandates

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to GC sections 17500 - 17630.

Significant Adverse Economic Impact

The Department has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because this regulatory action relates strictly to reorganizing and amending standards regarding the provision of dental care to patients within CDCR.

Based on the economic impact assessment, the Department has determined that the regulation will not significantly affect the following:

1. The creation or elimination of jobs within the State of California.

2. The creation of new businesses or the elimination of existing businesses within the State of California.

3. The expansion of businesses currently doing business within the State of California.

The economic impact assessment shows that the proposed regulatory action will benefit the health and welfare of California residents, worker safety, and/or the State's environment.

Reports, Studies and Documents Relied Upon

The Department has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

SPECIFIC PURPOSE AND RATIONALE FOR EACH REGULATION PROPOSED FOR AMENDMENT, ADOPTION, OR REPEAL

Non-substantive grammar and punctuation changes are made throughout the following regulatory sections for accuracy and readability.

Chapter 2. Rules and Regulations of Health Care Services

Subchapter 2. Patient's Entitlements and Responsibilities

Article 4. Access and Disclosure of Health Information

Section 3999.216(b) is amended to change references to "health care records" to "health records." This is necessary for clarity as the change aligns with the definition for Health Record(s) in section 3999.98.

Subchapter 3. Health Care Operations

Article 6. Dental Care

Section 3999.365, heading is amended to "Scope of Service." This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New sections 3999.365(a) through 3999.365(a)(1), formerly existing sections 3999.367(g) through 3999.367(g)(1) respectively are unchanged.

New section 3999.365(a)(2), formerly section 3999.367(g)(2) is amended to replace the phrase "Inmates remaining on RC status at an RC for 180 calendar days or longer…" with "Patients remaining at an RC for 180 calendar days or longer and who are pending assignment to their endorsed institution…" and to change "180th day" to "180th calendar day". This is necessary to bring regulations in-line with the common term used for incarcerated persons receiving health care from CDCR, and to clarify the criteria and time frame for notifying RC patients of their eligibility for an initial comprehensive dental examination performed by a dentist.

New section 3999.365(a)(3), formerly section 3999.367(g)(3) is amended to update references, to replace the phrase "…on RC status in an RC for 90 calendar days or longer…" with "at an RC for 90 calendar days or longer and who are pending assignment to their endorsed institution…" and to include the full title of the CDCR 7362, Health Care Services Request Form. This is necessary to clarify the criteria for RC patients to be able to request interceptive care and method by which to submit that request. It also replaces the term "professional judgement" with "clinical judgement," which is necessary to bring this provision in-line with definitions in section 3999.98.

New section 3999.365(b), formerly section 3999.367(h) is amended to include "Comprehensive Dental Examination" in this subheading. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New section 3999.365(b)(1), formerly section 3999.367(h)(1) is amended to remove the provision that a dentist shall formulate and document a dental treatment plan. This is necessary to move the provision to new subsection (b)(1)(B) which outlines what happens at the comprehensive dental examination.

New section 3999.365(b)(1)(A), formerly section 3999.367(h)(4) is amended to establish that a dentist shall review the patient's dental health history at the time of any comprehensive dental examination, and that the review shall consist of asking the patient a standardized series of questions**.** This is necessary to ensure continuity of care and that appropriate treatment is provided for patients. It also establishes that the patient no longer has to sign the documented health history, which is necessary because health histories are captured in the Electronic Health Record System.

New section 3999.365(b)(1)(B), formerly part of section 3999.367(h)(1) is adopted to provide that a dentist shall formulate and document a dental treatment plan. This is necessary for clarity as new sections 3999.365(b)(1)(A) through 3999.365(b)(1)(B) outline what happens at a comprehensive dental examination.

New sections 3999.365(b)(2) - 3999.365(b)(2)(A), formerly sections 3999.367(i) - 3999.367(i)(1) respectively are unchanged.

New section 3999.365(b)(2)(B), formerly section 3999.367(i)(2) is amended to clarify that patients need to be at least 50 years of age or have been diagnosed with Human Immunodeficiency Virus, diabetes, or seizure(s) to receive an annual comprehensive dental examination. This is necessary to provide appropriate access to dental care to at-risk patients. It is also amended for readability by establishing the acronym "HIV" for "Human Immunodeficiency Virus." .

New section 3999.365(c), formerly section 3999.367(m) is unchanged.

New section 3999.365(c)(1), formerly section 3999.367(m)(1) is amended to update references and to provide that time remaining on their sentence as defined in sections 3999.367(b)(3) and 3999.367(b)(4), will be a factor in determining whether periodontal treatment will be available to patients. This is necessary to ensure delivery of appropriate dental care to CDCR patients as well as for patient safety as periodontal treatment that is initiated but not completed because the patient was released from CDCR custody can be detrimental to the patient.

New section 3999.365(c)(2), formerly section 3999.367(m)(2) is unchanged.

New section 3999.365(d), formerly section 3999.367(s) is amended to include the heading, "Periodontal Disease Program for Pregnant Patients." This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New section 3999.365(e), formerly section 3999.367(q) is amended to change to text from "Dental Prosthodontics" to "Dental Prosthodontics Services." This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New section 3999.365(e)(1), formerly section 3999.367(q)(1) is amended to clarify that the dentist shall inform the patient that the prosthesis may not be completed prior to the patient's release or parole date. This is necessary to keep patients informed about their eligibility for dental prosthetics.

New section 3999.365(e)(2), formerly section 3999.367(q)(2) is amended to include the stipulation, "…when all of the following conditions must be met:" This is necessary to clarify that all, not one, conditions in new sections 3999.365(e)(2)(A) through 3999.365(e)(2)(F) must be met before a dental prosthesis is constructed.

New sections 3999.365(e)(2)(A) - 3999.365(e)(2)(E), formerly sections 3999.367(q)(2)(A) - 3999.367(q)(2)(E) respectively, are unchanged.

New section 3999.365(e)(2)(F), formerly section 3999.367(q)(2)(F) is amended to update references and to clarify how time requirements for prosthetic eligibility are calculated. This is necessary to prevent wasteful spending on the fabrication of prosthetics for patients who will be released or paroled before the prosthetics are completed.

New section 3999.365(e)(3), formerly section 3999.367(q)(3) is amended with a non-substantive syntax change**.**

New section 3999.365(f), formerly section 3999.367(n) is amended to establish that the acronym "ADA" stands for "American Dental Association" and otherwise remains unchanged.

New section 3999.365(g), formerly section 3999.367(p) is amended with non-substantive syntax and grammar changes.

New section 3999.365(h), formerly section 3999.367(o) is amended to include the term "endodontics" in parenthesis. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New sections 3999.365(h)(1) - 3999.365(h)(2)(A), formerly sections 3999.367(o)(1) - 3999.367(o)(2)(A) respectively are amended to update references and otherwise remain unchanged.

New section 3999.365(h)(2)(B) - 3999.365(h)(3), formerly sections 3999.367(o)(2)(B) - 3999.367(o)(3) respectively are unchanged.

New section 3999.365(i), formerly section 3999.367(r) is amended to include the term "Orthodontics" as a heading. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New section 3999.365(j), formerly section 3999.367(l) is amended to replace the term "institution" with "Facility level dental health." This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section, and it clarifies the purpose of the orientation and self-care being referenced in sections 3999.365(j)(1) through 3999.365(j)(5).

New section 3999.365(j)(1) is adopted to provide patients with information regarding dental health service within 14 calendar days of arrival at their endorsed institution. This is necessary to optimize access to care by informing patients of dental services that are available to them.

New section 3999.365(j)(2), formerly section 3999.367(l)(1) remains unchanged.

New section 3999.365(j)(3), formerly section 3999.367(h)(5) is amended to update references and otherwise remains unchanged.

New sections 3999.365(j)(4) - 3999.365(j)(5), formerly sections 3999.367(l)(2) - 3999.367(l)(3) are amended to replace the term "inmates" with "patients." This is necessary to bring provisions in-line with terminology that is commonly understood within CDCR.

Existing sections 3999.365(a) - 3999.365(a)(3) are renumbered as new sections 3999.366(b)(1) - 3999.366(b)(1)(C) respectively.

Existing sections 3999.365(a)(4) and 3999.365(a)(5) are repealed for clarification as these provisions are covered by new sections 3999.366(b)(1)(A) – 3999.366(b)(1)(C), formerly sections 3999.365(a)(1) – 3999.365(a)(3).

Existing sections 3999.365(b) – 3999.365(c) are renumbered as new sections 3999.366(b)(2) – 3999.366(b)(3) respectively.

Section 3999.365, Note section is amended to include Penal Code Section 3424 as a reference. This is necessary as new section 3999.365(d) aligns with Penal Code 3424 in providing dental cleanings to pregnant women while in a state facility.

Section 3999.366, heading is amended to "Dental Clinic Administrative Procedures." This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New section 3999.366(a) is adopted to require CDCR to maintain oversight and coordination of the statewide professional peer review processes to achieve and maintain the highest possible standards of professional, ethical, dental health care through continuous quality review and peer review of services provided. This is necessary to improve patient care and outcomes.

New section 3999.366(a)(1) is adopted to establish that peer review information shall be kept confidential, kept from unauthorized persons or organizations, and be protected from any use other than for internal or quality improvement purposes. This is necessary to align Department practices with Section 1157 of the California Evidence Code.

New sections 3999.366(a)(2) is adopted to establish how the "for cause" review process is initiated. This is necessary to facilitate the addressing of potential health care delivery issues and mitigate risk to patients and staff.

New section 3999.366(b) is adopted to introduce regulations regarding Dental Authorization Review Committee.

New section 3999.366(b)(1), formerly 3999.365(a) is amended with a non-substantive syntax change.

New sections 3999.366(b)(1)(A) - 3999.366(b)(1)(B), formerly sections 3999.365(a)(1) - 3999.365(a)(2) respectively are unchanged.

New section 3999.366(b)(1)(C), formerly section 3999.365(a)(3) is amended to establish that the Dental Authorization Review (DAR) Committee shall review requests for medically necessary

treatment that can only be provided by a contracted specialist whether at or outside of the institution. This is necessary to clarify responsibilities of the DAR Committee.

New section 3999.366(b)(2), formerly section 3999.365(b) is amended to update references and to change the term "patient's health record" to "health record." This is necessary to bring provisions in-line with terminology that is commonly understood within CDCR.

New section 3999.366(b)(3), formerly sections 3999.365(c) is amended to update references and otherwise remains unchanged.

New section 3999.366(b)(4), formerly section 3999.366(a) is amended to use the established acronyms for "Dental Program Health Care Review Committee" and "Dental Authorization Review," for readability. Also to replace the term "cases approved" with "cases submitted," and to update references to include the reference to subsection (b)(1)(C) and exclude the references to former sections 3999.365(a)(4) and 3999.365(a)(5). This is necessary because not all cases approved by the Dental Authorization Review Committee need to be reviewed by the Dental Program Health Care Review Committee, and to make clearer, the types of dental care that require Dental Authorization Review Committee review.

New section 3999.366(b)(5), formerly section 3999.366(b) is amended to clarify that when the Dental Program Health Care Review Committee (DPHCRC) denies a dental service request and treatment will not be provided, the treating dentist shall notify the patient of the DPHCRC's decision document the decision in the health record. This is necessary to keep patients informed of their health services status. It is also amended to change the term "patient's health record" to "health record." This is necessary to bring provisions in-line with terminology that is commonly understood within CDCR.

New section 3999.366(c), formerly section 3999.367(e) is amended to include the sentence "Clinic Space, Equipment and Supplies" as a subsection heading. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

Section 3999.366, Note section is amended to include Evidence Code Section 1157 as a reference. This is necessary as new section 3999.366(a)(1) aligns with Evidence Code 1157 in protecting the proceedings and records of peer review bodies.

Section 3999.367, heading is amended to "Dental Clinic Operations." This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New section 3999.367(a) is adopted to establish that the Department shall maintain and utilize a system of priority health care ducats and a method for documenting and processing a patient's refusal or failure to report for scheduled dental appointments. This is necessary to facilitate access to dental care for all CDCR patients, and properly account for the Department's inability to deliver care due to the patient's refusal or failure to report.

New section 3999.367(a)(1) is adopted to require that patients who wish to refuse, cancel or reschedule a dental appointment, shall do so in person, and it also establishes that a cancellation or request for rescheduling a dental appointment shall be regarded as a refusal. This is necessary to ensure that patient appointments for dental care are not changed against the patient's wishes. It is also necessary to ensure that dental appointments that are refused, canceled, or rescheduled are followed-up on in order for continued access to care.

New section 3999.367(a)(2), formerly section 3999.367(a)(3) is amended with syntax changes, updates to references, and establishment of the acronym for Dental Priority Classification; all of which are non-substantive.

New section 3999.367(a)(3), formerly section 3999.367(a)(4) is amended to replace "…unintentionally fails a face-to-face triage…" with "…unintentionally fails to appear for a face-to-face triage." This is necessary to clarify conditions under which patients shall be seen by a dentist for a face-to-face triage or limited problem focused exam encounter within three business days.

New sections 3999.367(a)(4) through 3999.367(a)(5) are adopted to establish that when a patient intentionally fails to report to a dental appointment, that failure shall be documented as a refusal and shall not be subject to cell extraction or use of force. It also establishes that progressive inmate disciplinary action may be initiated, based on the factors of the patient's failure to report. This is necessary for proper follow-up in order to protect patients from poor health outcomes due to missed appointments; to preserve the patients right to refuse treatment; and to provide access to timely dental care for all patients by discouraging patients from obtaining unnecessary priority health care ducats.

New section 3999.367(b), formerly section 3999.367(f) is amended with syntax changes and to establish the acronym for "Reception Center" which are non-substantive. It also more accurately introduces sections 3999.367(b)(1) through 3999.367(b)(6) which is necessary to understand the degrees of urgency of patient's dental needs, which is a factor in prioritizing access to dental care.

New section 3999.367(b)(1), formerly section 3999.367(f)(1) is amended for readability and is otherwise substantially unchanged.

New section 3999.367(b)(2), formerly section 3999.367(f)(2) is amended to combine with former section 3999.367(f)(2)(D) for readability and both provisions are otherwise substantially unchanged. Also amended to stipulate that urgent care shall be provided when a patients meets at least one of the following criteria. This is necessary to clarify only one, not all, of the criteria listed in new sections 3999.367(b)(2)(A) through 3999.367(b)(2)C) need to be met before urgent care is provided.

New section 3999.367(b)(2)(A) through 3999.367(b)(2)(C), formerly sections 3999.367(f)(2)(A) through 3999.367(f)(2)(C) are unchanged.

New section 3999.367(b)(3), formerly section 3999.367(f)(3) is amended to combine with former sections 3999.367(f)(3)(E) through 3999.367(f)(3)(F) for readability and all provisions are otherwise substantially unchanged. Also amended to stipulate that interceptive care shall be

provided when a patients meets at least one of the following criteria. This is necessary to clarify only one, not all, of the criteria listed in new sections 3999.367(b)(3)(A) through 3999.367(b)(3)(D) need to be met before interceptive care is provided.

New section 3999.367(b)(3)(A) through 3999.367(b)(3)(D), formerly sections 3999.367(f)(3)(A) through 3999.367(f)(3)(D) are unchanged.

New section 3999.367(b)(4), formerly section 3999.367(f)(4) is amended to combine with former sections 3999.367(f)(4)(F) through 3999.367(f)(4)G) for readability and all provisions are otherwise substantially unchanged. Also amended to stipulate that routine rehabilitative care shall be provided when a patients meets at least one of the following criteria. This is necessary to clarify only one, not all, of the criteria listed in new sections 3999.367(b)(4)(A) through 3999.367(b)(4)E) need to be met before routine rehabilitative care is provided.

New section 3999.367(b)(4)(A), formerly section 3999.367(f)(4)(A) is amended to make the provision inclusive of patients requiring an occlusial guard. This is necessary to clarify the criteria for providing patients with Routine Rehabilitative Care.

New section 3999.367(b)(4)(B), formerly section 3999.367(f)(4)(B) remains unchanged.

New section 3999.367(b)(4)(C), formerly sections 3999.367(f)(4)(C) through 3999.367(f)(4)(E) is amended with a non-substantive syntax change for consistency with Department policy.

New section 3999.367(b)(4)(D) through 3999.367(b)(4)(E), formerly sections 3999.367(f)(4)(D) through 3999.367(f)(4)(E) are unchanged.

New section 3999.367(b)(5), formerly section 3999.367(f)(5) is amended to form a complete sentence and is otherwise unchanged.

New section 3999.367(b)(6), formerly section 3999.367(f)(6) is amended to more clearly define the criteria for providing patients with Special Dental Needs Care**.** This is necessary to provide patients with access to care through proper assignment of a Dental Priority Classification at the Reception Center Screening.

New section 3999.367(c) is adopted to establish that patients shall receive an individual dental treatment plan in conjunction with the comprehensive dental examination. This is necessary to ensure the patient's dental health status is evaluated and ensure any dental needs are addressed in a timely manner.

New section 3999.367(c)(1), formerly section 3999.367(h)(3) remains unchanged.

New section 3999.367(c)(2) is adopted to require that the dentist performing the comprehensive dental examination and establishing the dental treatment plan, verify that the patient received a Dental Materials Fact Sheet (DMFS), and sign a patient acknowledgement of receipt of the DMFS. This is necessary for patients to make informed decisions regarding their dental care by providing them with information regarding restorative materials used in dental clinics.

New section 3999.367(d), formerly section 3999.367(j) remains unchanged.

New section 3999.367(e) is adopted to introduce regulations regarding continuity of care.

New section 3999.367(e)(1), formerly section 3999.367(b) is amended with syntax changes and to update references, and otherwise remains unchanged.

New section 3999.367(e)(2), formerly section 3999.367(h)(2) is amended to require that when patients transfer to their endorsed institution without first receiving a Reception Center dental screening, staff at the receiving institution schedule qualifying patients for an RC dental screening. This is necessary to provide all patients at an RC with an evaluation of their dental health status and ensure any dental needs are addressed in a timely manner.

New section 3999.367(f), formerly section 3999.367(u) is amended to include "Supplemental Nutritional Support" as a subsection heading. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section. It is also amended to reference Title 15, Section 3999.308 Outpatient Dietary Intervention, rather than list patients for whom supplemental nutritional support may be prescribed. This is necessary because the current provision only lists in part, the patient for whom supplemental and nutritional support may be prescribed; while Title 15, Section 3999.308 contains the full listing.

New section 3999.367(g), formerly section 3999.367(v) is unchanged.

New section 3999.367(h), formerly section 3999.368(a) is amended to include "Pharmaceuticals" as a subsection heading. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New sections 3999.367(h)(1), formerly section 3999.368(a)(1) is amended with a non-substantive syntax changes and to replace the word "may" with "shall." This is necessary to make it mandatory rather than discretionary, that a dispensing dentist assume all the requirements and responsibilities of a dispenser of medications when medication delivery by the Triage and Treatment Area nursing or medical staff is not possible.

New sections 3999.367(h)(2), formerly section 3999.368(a)(2) is amended to replace the word "may" with "shall." This is necessary to make it mandatory rather than discretionary, that the dispensing dentist provide the patient with analgesic medication, prescription medications for urgent or emergent conditions, and emergency medications for medical emergencies that occur within the dental clinic, when medication delivery by the Triage and Treatment Area nursing or medical staff is not possible. It is also amended to remove the provision that "one bottle" of over-the-counter consumer-ready packaged analgesic medication shall be provided. This is necessary because there are cases when the dentist provides the patient with less than one bottle of packaged analgesic medication.

New section 3999.367(i), formerly section 3999.367(a) is amended to "Access to Care." This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New sections 3999.367(i)(1) - 3999.367(i)(A), formerly sections 3999.367(a)(1) - 3999.367(a)(1)(A) respectively are unchanged.

New section 3999.367(i)(1)(B), formerly section 3999.367(a)(1)(B) is amended to replace "and urgent dental services" with "or Urgent Care as defined in subsections (b)(1) and (b)(2) respectively." This is necessary to clarify the reasons for providing patients with unscheduled dental encounters.

New sections 3999.367(i)(1)(C) - 3999.367(i)(2)(B), formerly sections 3999.367(a)(1)(C) - 3999.367(a)(2)(B) respectively are unchanged.

New section 3999.367(j), formerly section 3999.367(k) is amended to include "Dental Care" as a subsection heading. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section. It is also amended to clarify that dental recommendations and proceedures shall not adversely affect patients with complex medical conditions. This is necessary to ensure the safety of patients for whom standard dental treatment may not be safe.

New sections 3999.367(j)(1) - 3999.367(j)(9), formerly sections 3999.367(k)(1) - 3999.367(k)(9) respectively remain unchanged.

Sections 3999.367(a) - 3999.367(a)(2)(B) are renumbered as new sections 3999.367(i) - 3999.367(i)(2)(B) respectively.

Sections 3999.367(a)(3) - (a)(4) are renumbered as new sections 3999.367(a)(2) - 3999.367(a)(3) respectively.

Section 3999.367(b) is renumbered as new sections 3999.367(e) - 3999.367(e)(1).

Section 3999.367(c) is renumbered as new section 3999.368(a).

Section 3999.367(d) is renumbered as new section 3999.368(b).

Section 3999.367(e) is renumbered as new section 3999.366(c).

Sections 3999.367(f) - 3999.367(f)(6) are renumbered as new sections 3999.367(b) - 3999.367(b)(6) respectively.

Sections 3999.367(g) - 3999.367(g)(3) are renumbered as new sections 3999.365(a) - 3999.365(a)(3) respectively.

Sections 3999.367(h) - 3999.367(h)(1) are renumbered as new sections 3999.365(b) - 3999.365(b)(1) respectively.

Section 3999.367(h)(2) is renumbered as new section 3999.367(e)(2).

Section 3999.367(h)(3) is renumbered as new section 3999.367(c)(1).

Section 3999.367(h)(4) is renumbered as new section 3999.365(b)(1)(A).

Section 3999.367(h)(5) is renumbered as new section 3999.365(j)(3).

Sections 3999.367(i) - 3999.367(i)(2) are renumbered as new sections 3999.365(b)(2) - 3999.367(b)(2)(B) respectively.

Section 3999.367(j) is renumbered as new section 3999.367(d).

Sections 3999.367(k) - 3999.367(k)(9) are renumbered as new sections 3999.367(j) - 3999.367(j)(9) respectively.

Section 3999.367(l) is renumbered as new section 3999.365(j)

Section 3999.367(l)(1) is renumbered as new section 3999.365(j)(2).

Sections 3999.367(l)(2) – 3999.367(l)(3) are renumbered as new sections 3999.365(j)(4) – 3999.365(j)(5) respectively.

Section 3999.367(m) – 3999.367(m)(2) are renumbered as new sections 3999.365(c) – 3999.365(c)(2).

Section 3999.367(n) is renumbered as new section 3999.365(f).

Sections 3999.367(o) – 3999.367(o)(3) are renumbered as new sections 3999.365(h) – 3999.365(h)(3).

Section 3999.367(p) is renumbered as new section 3999.365(g).

Sections 3999.367(q) – 3999.367(q)(3) are renumbered as new sections 3999.365(e) – 3999.365(e)(3).

Section 3999.367(r) is renumbered as new section 3999.365(i).

Section 3999.367(s) is renumbered as new section 3999.365(d).

Section 3999.367(t) is renumbered as new section 3999.368(c).

Section 3999.367(u) is renumbered as new section 3999.367(f).

Section 3999.367(v) is renumbered as new section 3999.367(g).

Section 3999.367, Note section is amended to include Business and Professions Code Sections 4040(a)(2), 4076, 4170 and 4171(b), Health and Safety Code Section 11150, and "Plata v. Newsom (No. C01-1351 JST), U.S. District Court, Northern District of California" as references. This is necessary to align new section 3999.367(h) regarding dispensing of pharmaceuticals, with Business and Professions Code, Health and Safety Code, and requirements of the *Plata* court.

Section 3999.368, heading is amended to "Dental Services Organization and Records Management." This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New section 3999.368(a), formerly section 3999.367(c) is amended to include "Privacy of Care" as a subsection heading. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section.

New section 3999.368(b), formerly section 3999.367(d) is amended with a non-substantive syntax change**.**

New section 3999.368(c), formerly section 3999.367(t) is amended to include "Dental Holds and Patient Transport/Transfer" as a subsection heading, to establish that "remove," "close," and "lift" are synonymous within this provision, and to provide that an outside specialty consultant can close a dental hold. This is necessary to prevent the implementation of underground regulations by making it easier to determine the regulatory impact of changes to the corresponding and similarly titled HCDOM section, to clarify procedures regarding dental holds, and to ensure that dental hold decisions are made by the most informed clinician.

Sections 3999.368(a) - 3999.368(a)(2) are renumbered as new sections 3999.367(h) – 3999.367(h)(2).

Section 3999.368, Note section is amended to remove Business and Professions Code Sections 4040(a)(2), 4076, 4170 and 4171(b), Health and Safety Code Section 11150, and "Plata v. Newsom (No. C01-1351 JST), U.S. District Court, Northern District of California" from references; and add "Perez, et al. v. Cate, et al., (No. C05-05241 JSW), U.S. District Court, Northern District of California" to references. This is necessary as sections 3999.368(a) – 3999.368(a)(2) regarding the provision of medications that implement requirements of the *Plata* court have been moved to section 3999.367; and new provisions in this section implement requirements of the *Perez* court.