



Department of Corrections and Rehabilitation

**NOTICE OF CHANGE TO
HEALTH CARE REGULATIONS**

Section(s): 3000, 3095, 3999.98, 3999.396



CALIFORNIA CORRECTIONAL
HEALTH CARE SERVICES

Number:

22-04

Publication Date:

May 6, 2022

Effective Date:

To Be Announced

INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendments to Sections 3000, 3095, 3999.98, and 3999.396 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, to update provisions concerning Reading Glasses.

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 876715426# to join by phone (audio only) between the hours of 10:30 a.m. and 11:00 a.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, Policy and Risk Management Services, 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 3000 and 3095 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 1 and sections 3999.98 and 3999.396 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 2, concerning Reading Glasses.

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 876715426# to join by phone (audio only) between the hours of 10:30 a.m. and 11:00 a.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: Reference: Section 5054, Penal Code; Armstrong Remedial Plan. *Armstrong v. Newsom* (No. C94-2307 CW), U.S. District Court, Northern District of California; and *Plata v. Newsom* (No. C01-1351 JST), U.S. District Court, Northern District of California.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

The CDCR and CCHCS propose to amend sections 3000 and 3095 of the CCR, Title 15, Division 3, Chapter 1 and sections 3999.98 and 3999.396 of the CCR, Title 15, Division 3, Chapter 2, concerning Reading Glasses. Existing regulations lack the clarity on specific processes required for providing reading glasses to patients. For example, no specific quantity or frequency is currently outlined, or the circumstances under which a replacement pair of reading glasses should be provided. There is no current language to clarify that patients are provided the opportunity to self-identify which strength of reading glasses are needed. In addition, the existing canteen privilege language does not appropriately reflect that a patient may still lose canteen privileges for a non-serious disciplinary hearing, but that reading glasses must still be provided.

This action will:

- Provide a consistent standard for the distribution of reading glasses within CDCR institutions.
- Clarify certain patient rights and responsibilities related to reading glasses.

BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The Department anticipates the proposed regulations will benefit the CDCR staff and inmates by creating a consistent standard for the distribution of reading glasses within CDCR institutions. It shall also clarify certain patient rights and responsibilities related to reading glasses.

DOCUMENTS 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 action will clarify the distribution of reading glasses in CDCR institutions, which only affects patients 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 clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR.

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

CDCR has determined the proposed regulations may have a positive impact on public safety, the health and welfare of California’s residents, worker safety, and on inmates by ensuring a consistent standard for the distribution of reading glasses to CDCR patients and clarifying certain patient rights and responsibilities related to reading glasses.

The Department has determined that the proposed regulations 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 clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR.

BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS:

The Department anticipates the proposed regulations will benefit the CDCR staff and inmates by creating a consistent standard for the distribution of reading glasses within CDCR institutions. It will also clarify certain patient rights and responsibilities related to reading glasses.

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 clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR. This regulation change will not have an impact on the State’s environment, as the State’s environment is not impacted by processes for providing reading glasses to CDCR patients.

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 clarify the distribution of reading glasses in CDCR institutions, which only affects patients 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 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

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

Section 3000. Definitions

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

Subchapter 2. Inmate Resources

Article 1. Canteens

Section 3095. is amended to read:

Section 3095. Nonroutine Canteen Draws

(a) A newly arrived inmate may within 30 days of arrival be permitted to make purchases at the canteen during any scheduled draw. Such exceptions shall not be made for the inmate's subsequent draws. Inmates unable to make purchases during the first canteen draw shall be allowed to make purchases during canteen open line of the current month.

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

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

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

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

Chapter 2. Rules and Regulations of Health Care Services

Article 1. Health Care Definitions

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

Section 3999.98. Definitions.

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

Subchapter 3. Health Care Operations

Article 9. Durable Medical Equipment/Supplies and Accommodations

Section 3999.396 is renumbered and amended to read:

3999.396 3999.208. Reading Glasses.

(a) ~~The Department shall provide and distribute~~ Patients shall be allowed to acquire one pair of approved reading glasses every 12 months through the inmate canteen services system process without cost to the patient or a need for a health care providers' prescription. A replacement pair of reading glasses shall be provided if loss or damage was not the fault of the patient.

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

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

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

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

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

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

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

~~(fg)~~ Custody staff shall not confiscate reading glasses within the allowable limitations without a legitimate custodial safety and security concern, which shall be documented in the Strategic Offender Management System a CDC 115, Rules Violation Report, and if custody places a restriction for safety and security reasons it must be supported by a guilty finding in a disciplinary hearing for a serious rule violation involving the misuse of reading glasses.

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

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend section 3000 of the California Code of Regulations (CCR), Title 15, Division 3, Chapter 1, Article 1, definitions; section 3095 of Title 15, Division 3, Chapter 1, Subchapter 2, Article 1, regarding nonroutine canteen draws; and sections 3999.98 and 3999.396 of the CCR, Title 15, Division 3, Chapter 2, Subchapter 3, Article 9, regarding reading glasses.

Summary of the Proposal

Problem Statement:

Existing regulations lack the clarity on specific processes required for providing reading glasses to patients. For example, no specific quantity or frequency is currently outlined, or the circumstances under which a replacement pair of reading glasses should be provided, and no clarity when referencing the canteen open line process. There is no current language to clarify that patients are provided the opportunity to self-identify which strength of reading glasses are needed. In addition, the existing canteen privilege language does not appropriately reflect that a patient may still lose canteen privileges for a non-serious disciplinary hearing, but that reading glasses must still be provided.

Objective:

This regulatory action standardizes the distribution process for reading glasses in CDCR institutions, specifying quantity and frequency and ensuring no lapse in the provision of reading glasses.

Benefit:

The proposed regulations will:

- Provide a consistent standard for the distribution of reading glasses within CDCR institutions.
- Clarify certain patient rights and responsibilities related to reading glasses.
- Clarify the canteen open line process.

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 clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCDR.

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 clarify the distribution of reading glasses in CDCR institutions, which only affects patients 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 clarify the distribution of reading glasses in CDCR institutions, which only affects patients within CDCR.
4. Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment The proposed changes will benefit the health and welfare of CDCR patients, staff, and the general public by ensuring a consistent standard for the distribution of reading glasses to CDCR patients and clarifying certain patient rights and responsibilities related to reading glasses. This regulation change will not have an impact on the State's environment, as the State's environment is not impacted by processes for providing reading glasses to CDCR patients.

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 clarifies the distribution of reading glasses in CDCR institutions, which only affects 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 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

Section 3000. Definitions.

Section 3000 is amended to include a definition for the following terms:

The definition for the term "Canteen Open Line." This is necessary to ensure a standard definition of the term "Canteen Open Line" for the purposes of Title 15, Division 3, Chapter 1, Rules and Regulations of Adult Operations and Programs.

Subchapter 2. Inmate Resources

Article 1. Canteens

Section 3095. Nonroutine Canteen Draws

Section 3095(a) is amended to outline the canteen open line process. This is necessary to clarify the process for inmates who are unable to make purchases during the first canteen draw.

Chapter 2. Rules and Regulations of Health Care Services

Article 1. Health Care Definitions

Section 3999.98. Definitions.

Section 3999.98 is amended to include a definition for the following terms:

The definition for the term “Reading Glasses.” This is necessary to ensure a standard definition of the term “Reading Glasses” for the purposes of Title 15, Division 3, Chapter 2, Rules and Regulations of Health Care Services.

Subchapter 3. Health Care Operations

Article 9. Durable Medical Equipment/Supplies and Accommodations

Section 3999.396 Reading Glasses

Section 3999.396(a) is renumbered to section 3999.208(a) and amended to specify the quantity and frequency in which patients are allowed to acquire reading glasses. This is necessary to ensure sufficient supply of reading glasses for patients and standardize the distribution process for the Department. In addition, to clarify that patients are to be given a replacement pair of reading glasses if loss or damage was not the fault of the patient. This is necessary to ensure no lapse in the provision of reading glasses to patients.

New section 3999.208(b) is adopted to require the Department to make an eye chart available next to the canteen to allow patients to self-identify needed reading glass strength. This is necessary to allow patient autonomy and input in the selection process.

New section 3999.208(b)(1) is adopted to specify how patients in a restricted housing unit are able to request an eye chart for self-identifying reading glass strength. This is necessary to allow patients in restricted housing the autonomy and input in the selection process.

Sections 3999.396(b) is renumbered to 3999.208(c) and is otherwise unchanged.

Section 3999.396(c) is renumbered to 3999.208(d) and amended to add “canteen,” to open line. This is necessary to specify reference to the canteen open line process.

Subsection 3999.396(c)(1) is renumbered to 3999.208(d)(1) and amended to remove the term “serious,” before the phrase “disciplinary hearing.” This is necessary as privileges may also be removed for an administrative rule violation and not only serious disciplinary hearings.

Section 3999.396(d) is renumbered to 3999.208(e) and amended to add “quantity,” along with volume. This is necessary to specify each program and privilege group have the correct amount of reading glasses. In addition, added the word “as,” for grammatical accuracy.

Section 3999.396(e) is renumbered to 3999.208(f) and amended to add “licensed health care,” before clinician. This is necessary to clarify the clinician making the determination must be properly credentialed. In addition, the words “responsibly and/or,” were deleted. This is necessary to clarify that the patient must only possess the reading glasses safely and allows less restriction on obtaining reading glasses.

Section 3999.396(f) is renumbered to 3999.208(g) and amended to add language clarifying that custody staff shall not confiscate reading glasses within the allowable limitations without a legitimate custodial safety and security concern, which shall be documented in the Strategic Offender Management System This is necessary to ensure reading glasses are not confiscated without sufficient reasoning related to safety and security and to ensure the reason for confiscation is appropriately documented. In addition, the term “serious,” before the phrase “rule violation” is removed. This is necessary as privileges may also be removed for an administrative rule violation and not only serious rule violation.