



**Department of Corrections and Rehabilitation**  
**NOTICE OF CHANGE TO REGULATIONS**

<b>Section:</b> 3270.4	<b>NCR Number:</b> 23-02	<b>Publication Date:</b> March 24, 2023
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**INSTITUTION POSTING AND CERTIFICATION REQUIRED**

This Notice announces the proposed adoption of Section 3270.4 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, Chapter 1, regarding the temporary installation of cameras in outside hospital rooms.

**PUBLIC COMMENT PERIOD**

The public comment period will close on May 10, 2023. Any person may submit written comments about the proposed regulations by mail to the California Department of Corrections and Rehabilitation (CDCR), Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, or by e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). All written comments must be received or postmarked no later than May 10, 2023.

**PUBLIC HEARING INFORMATION**

A public hearing regarding these proposed regulations will be held May 10, 2023, from 10:00 a.m. to 11:00 a.m. in the Sequoia Conference Room 150, located at 1515 S Street, Sacramento, CA 95811.

The purpose of the hearing is to receive comments about the proposed regulations. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

**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, institutions and 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 Form 621-A (Rev. 05/19), Certification of Posting, shall be returned to RPMB by mail or email. See Department Operations Manual Section 12010.6.7 for posting and certification of posting procedures.

**CONTACT PERSON**

Inquiries regarding this Notice should be directed to Josh Jugum, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2266, or e-mail to [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov). Inquiries regarding the subject matter of these regulations should be directed to Tabor Ramsey, Division of Adult Institutions, at (916) 445-8282.

*Original Signed By:*

JEFF MACOMBER  
Secretary  
California Department of Corrections and Rehabilitation

Attachment

**NOTICE OF PROPOSED REGULATIONS**  
**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 or Department), proposes to adopt new Section 3270.4 into Title 15, Division 3, Chapter 1, regarding the temporary installation of cameras in outside hospital rooms.

**PUBLIC HEARING**

Date and Time: **May 10, 2023 – 10:00am to 11:00am**

Place: Department of Corrections and Rehabilitation  
Sequoia Conference Room 150  
1515 S Street – North Building  
Sacramento, CA 95811

Purpose: To receive comments about this action.

**PUBLIC COMMENT PERIOD**

The public comment period begins **March 24, 2023** and closes on **May 10, 2023**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to [rpmb@cdcr.ca.gov](mailto:rpmb@cdcr.ca.gov), before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

**CONTACT PERSONS**

<u>Primary Contact</u>	<u>Back-Up</u>	<u>Program Contact</u>
Josh Jugum	Y. Sun	Tabor Ramsey
Telephone: (916) 445-2266	Telephone: (916) 445-2269	Telephone: (916) 445-8282
Regulation and Policy Management Branch	Regulation and Policy Management Branch	Division of Adult Institutions
P.O. Box 942883	P.O. Box 942883	
Sacramento, CA 94283-0001	Sacramento, CA 94283-0001	

**AUTHORITY AND REFERENCE**

**Government Code 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.

**Penal Code (PC) Section 5000** provides that commencing July 1, 2005, any reference to 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 5055** provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for the administration of prisons and for the administration of the parole of persons.

## **INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW**

These newly adopted regulations will authorize the use of camera equipment to monitor an inmate while at an outside (non-CDCR) hospital when custody staff should not be in the room with the inmate due to the inmate's clinical condition, as determined by medical staff (e.g., a patient with a contagious condition, or a patient with a compromised immune system), and no viewing window is available to maintain a direct and constant view of the inmate.

### **This action will:**

- Establish that camera equipment shall be utilized in an outside (non-CDCR) hospital setting when an inmate is placed in a room with no viewing window into the room and staff should not be in the room due to the inmate's clinical condition. This measure will help maintain a direct view of the inmate for safety and security.

## **SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS**

The department anticipates the proposed regulations will help to protect the health and welfare of California residents by limiting the exposure of department staff to potentially contagious medical conditions while at a hospital to observe an inmate.

## **DOCUMENTS INCORPORATED BY REFERENCE**

None

## **EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING LAWS AND REGULATIONS**

Pursuant to Government Code 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations that concern cameras in hospital rooms.

## **LOCAL MANDATES**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

## **FISCAL IMPACT STATEMENT**

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| • Cost or savings to any state agency:   | <i>Cost of \$84,238 in current Fiscal Year</i> |
| • Cost to any local agency or school district that is required to be reimbursed: | <i>None</i>                                    |
| • Other nondiscretionary cost or savings imposed on local agencies:              | <i>None</i>                                    |
| • Cost or savings in federal funding to the state:                               | <i>None</i>                                    |

## **EFFECT ON HOUSING COSTS**

The department has made an initial determination that the proposed action will have no significant effect on housing costs.

## **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.

## **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS**

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 the proposed regulations place no obligations or requirements on any business.

## **EFFECT ON SMALL BUSINESSES**

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small business because they place no obligations or requirements on any business.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

The department has determined that the proposed regulations will have no effect on the creation of new, or the elimination of existing, jobs or businesses within California, or effect the expansion of businesses currently doing business in California. The department has determined that the proposed regulation will have no effect on the state's environment. The proposed regulations may benefit worker safety and the welfare of California residents by helping to ensure the safety of department and hospital staff, as well as the safety of hospital patients and visitors, when CDCR inmates are hospitalized at outside (non-CDCR) hospitals.

## **CONSIDERATION OF ALTERNATIVES**

The department must determine that no reasonable alternative considered by the department 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 the action is proposed, would be as effective and less burdensome to affected private persons than the proposed regulatory action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law. Interested persons are invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

## **AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS**

The department has prepared and will make available the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. 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 department's contact person. The proposed text, ISOR, and Notice of Proposed Regulations will also be made available on the department's website: [www.cdcr.ca.gov](http://www.cdcr.ca.gov).

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the department's contact person.

## **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 days before the department adopts, amends or repeals the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

## **TEXT OF PROPOSED REGULATIONS**

In the following text, underline indicates newly adopted text.

**California Code of Regulations, Title 15, Crime Prevention and Corrections**

**Division 3. Adult Institutions, Programs, and Parole**

**Subchapter 4. General Institution Regulations.**

**Article 2. Security**

**New Section 3270.4 is adopted to read:**

**3270.4        Camera Monitoring in a Hospital Setting**

When assigned to a hospital setting, custody staff shall maintain a direct and constant view of the inmate from within the room. However, when medical staff determine that custody staff should not be in the room with the inmate due to the inmate's clinical condition, custody staff shall maintain a direct and constant view of the inmate through a viewing window. If a viewing window is not available, camera equipment shall be utilized to maintain a direct and constant view of the inmate. This equipment shall provide live audio and video monitoring and shall not have recording capability.

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

## **INITIAL STATEMENT OF REASONS**

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to adopt new Section 3270.4, regarding camera monitoring in a hospital setting, into the California Code of Regulations, Title 15, Division 3.

These new regulations will establish that camera equipment shall be utilized in an outside (non-CDCR) hospital setting when an inmate is placed in a room with no viewing window into the room and staff should not be in the room due to the inmate's clinical condition. This measure will help maintain a direct view of the inmate for safety and security.

## **CONSIDERATION OF ALTERNATIVES:**

The department must determine that no reasonable alternatives considered, or that have otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed, or 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 provision of law.

Currently, no reasonable alternatives have been brought to the attention of CDCR that would alter CDCR's initial determination.

## **ECONOMIC IMPACT ASSESSMENT:**

In accordance with Government Code Section 11346.3, subdivision (b), CDCR has made the following assessments regarding the proposed regulations:

### **Significant Adverse Economic Impact on Business**

The department has made an initial determination the proposed regulations will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the department's initial determination. The proposed regulations affect the internal management of CDCR only, and place no requirements or restrictions on businesses.

### **Creation of New Jobs or the Expansion or Elimination of Existing Jobs within the State of California**

The department has determined that the proposed regulations will not have an impact on the creation of new jobs or elimination of existing jobs within California as the proposed regulations affect the internal management of prisons only.

### **Creation of New Businesses or Elimination or Expansion of Existing Businesses within the State of California**

The department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing businesses within California, or affect the

expansion of businesses currently doing business in California as the proposed regulations affect the internal management of prisons only.

**BENEFITS OF THE REGULATIONS:**

The department anticipates the proposed regulations will help to protect the health and welfare of California residents and worker safety by limiting the exposure of department staff to potentially contagious medical conditions while at a hospital to observe an inmate.

The proposed regulations will not affect the state's environment.

**DOCUMENTS RELIED UPON:**

In proposing additions and/or amendments to these regulations, the department has neither identified nor relied upon any technical, theoretical, or empirical study, report, or similar document.

**SPECIFIC PURPOSE AND RATIONALE FOR EACH SECTION, PER GOVERNMENT CODE SECTION 11346.2(B)(1):**

**New Section 3270.4 is adopted** to authorize the use of camera equipment to monitor an inmate while at an outside (non-CDCR) hospital when custody staff should not be in the room with the inmate due to the inmate's clinical condition, as determined by medical staff (e.g., a patient with a contagious condition, or a patient with a compromised immune system), and no viewing window is available to maintain a direct and constant view of the inmate.

This is necessary to ensure the safety and security of hospital staff and patients, as well as department employees assigned to monitor inmates, by maintaining a constant view of the inmate when they are placed in a room where custody staff should not be present due to the inmate's clinical condition, and a window to maintain a direct and constant view of the inmate is unavailable.

The camera equipment shall provide live audio and video monitoring only and shall not have the ability to record. This is necessary to ensure appropriate privacy for the inmate while receiving medical care.