

**State of California  
Office of Administrative Law**

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

**Regulatory Action:**

**Title 15, California Code of Regulations**

**Adopt sections:** 3270.4

**Amend sections:**

**Repeal sections:**

**NOTICE OF APPROVAL OF REGULATORY  
ACTION**

**Government Code Section 11349.3**

**OAL Matter Number: 2023-0705-02**

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

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This action adopts a requirement to use camera equipment to monitor an inmate while at a 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, and no viewing window is available.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 10/1/2023.

**Date:** August 16, 2023



Digitally signed by Mark  
Storm  
Date: 2023.08.16 12:05:53  
-07'00'

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**Mark Storm  
Senior Attorney**

**For: Kenneth J. Pogue  
Director**

**Original: Jeffrey Macomber, Secretary  
Copy: Josh Jugum**

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NOTICE PUBLICATION/REGULATION SUBMISSION

STD. 400 (REV. 10/2019)

REGULAR

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2023-0314-04</b>	REGULATORY ACTION NUMBER <b>2023-0705-025</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Corrections and Rehabilitation			AGENCY FILE NUMBER (If any) 22-49

ENDORSED - FILED  
In the office of the Secretary of State  
of the State of California

AUG 16 2023  
1:55 PM

OFFICE OF ADMIN. LAW  
2023 JUL 5 4:42

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER <b>2023, 12-2</b>	PUBLICATION DATE <b>3/24/23</b>	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Temporary Cameras in Inmate Hospital Rooms	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 3270.4
TITLE(S)	AMEND
15	REPEAL

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmission of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmission of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d), Cal. Code Regs., title 1, §100)

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

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

7. CONTACT PERSON Josh Jugum	TELEPHONE NUMBER (916) 445-2266	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Joshua.Jugum@cdcr.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Tammy FoSS</i>	DATE 6/2/2023
TYPED NAME AND TITLE OF SIGNATORY TAMMY FOSS, Undersecretary, Operations	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

AUG 16 2023

Office of Administrative Law

## **TEXT OF ADOPTED 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.

## **FINAL STATEMENT OF REASONS**

The Initial Statement of Reasons is incorporated by reference.

### **DETERMINATIONS, ASSESSMENTS, MANDATES, AND FISCAL IMPACT:**

The California Department of Corrections and Rehabilitation (CDCR or the department) has determined that no alternative considered would be more effective in carrying out the purpose for which this regulation is proposed, or would be as effective and less burdensome to affected private persons, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law, than the action proposed. No such alternatives were proposed or brought to the department's attention during the adoption of this rulemaking action.

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 or other evidence provided that would alter the department's initial determination.

The department has determined that this action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4 of the Government Code.

The department has determined that no reasonable alternatives to the regulation have been identified or brought to the attention of the department that would lessen any adverse impact on affected private persons or small businesses than the action planned.

The department has relied upon the results of the Economic Impact Assessment, which can be found in the Notice of Proposed Regulations and is available for review as part of the rulemaking file.

### **SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS RECEIVED DURING THE PUBLIC COMMENT PERIOD:**

#### **Commenter #1:**

**Comment 1:** Commenter states that a loved one is a CDCR inmate who has been hospitalized frequently and who has been treated poorly while in the hospital. Commenter supports the proposed regulations and hopes they will improve the treatment their loved one receives while in the hospital.

**Response:** The department acknowledges the commenter's support for the proposed regulations. The remainder of the comment regarding their loved one's treatment while in the hospital is outside the scope of these regulations.

#### **Commenter #2:**

**Comment 1:** Commenter opposes the proposed regulations due to concerns about the inmate's privacy.

**Response:** The proposed regulations specify that the camera equipment will not have the ability to record. The equipment will be utilized in place of a custody officer in the room with the inmate only when medical staff determine that custody staff should not be in the room due to the inmate's clinical condition.

### **PUBLIC HEARING:**

A public hearing regarding this proposed rulemaking action was held on May 10<sup>th</sup>, 2023. No comments were received at the hearing.

## **ADDENDUM TO THE FINAL STATEMENT OF REASONS**

For additional clarity, the department is adding the following statement to the rulemaking file:

Although the department provides medical care inside CDCR prisons to inmates in the custody of the department, the proposed regulations apply only to “hospital settings” outside of department facilities, as medical care inside prisons takes place in secure facilities. Therefore, the security precautions established by the proposed regulations are irrelevant to in-prison medical facilities.