

**State of California  
DEPARTMENT OF DEVELOPMENTAL SERVICES**

**FINAL STATEMENT OF REASONS,  
Including Summary of Comments and Agency Response  
[Government Code 11346.9(a)]**

**Special Incident Reporting**

Public Hearing Date: **November 13, 2024**

**UPDATE TO INITIAL STATEMENT OF REASONS**

On September 20, 2024, the Department of Developmental Services (Department) released the 45-Day Notice for Proposed Regulations, proposed amendments to title 17, California Code of Regulations, sections 54327, 54327.1, 56002, 56026, 56038, 56059 and 56093 (Proposed Regulation Text), and the Initial Statement of Reasons for Rulemaking (ISOR) which contained a detailed description of the problem that the proposed amendments are intended to address, and the rationale for the proposed amendments, which are incorporated by reference herein. Furthermore, on September 20, 2024, all references relied upon and identified in the ISOR were made available for public review. On November 13, 2024, the Department held a public hearing. The Department filed the final rulemaking package with the Office of Administrative Law (OAL) on February 11, 2025, but then withdrew the submission on March 21, 2025 and released for a 15-Day public comment and review period the 15-Day Notice of Public Availability of Modified Text for Proposed Amendments to the Regulations for Special Incident Reporting and the 15-Day Modified Text on April 7, 2025.

**LOCAL MANDATE DETERMINATION**

The Department has determined that this regulatory action will not result in a mandate to any local agency or school district.

**ALTERNATIVES DETERMINATION**

As required by Government Code section 11346.9(a)(4), the Department reviewed all comments received and 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 the regulations are 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 provisions of law, than the action taken by the Department.

Alternatives that would lessen the adverse economic impact on small business  
The Department did not reject any alternatives proposed that would lessen any adverse economic impact on small business.

The Department collaborated with community partners for input on how to best amend regulations to ensure the health and safety of individuals served, along with the delivery of quality services and supports, while remaining cost neutral. During the written comment period, the Department invited interested persons to present statements or arguments regarding alternatives to the proposed regulation. The alternatives evaluated by the Department are discussed in the "Summary of Comments and Agency Response" section of this document.

### **15 DAY MODIFICATIONS MADE TO THE ORIGINAL PROPOSAL**

On April 7, 2025, the department released the 15-Day Notice of Public Availability of Modified Text for the Special Incident Reporting Regulations and the Modified Text to address clarifications needed within the regulatory text that were discovered from the review of comments received during the 45-Day comment period and the November 13, 2024 Public Hearing.

### **PURPOSE AND RATIONALE FOR THE 15-DAY MODIFIED TEXT**

The following is the purpose and rationale for the changes that were made to the originally proposed text and made available to the public for a 15-day comment period.

#### **Section 54327(a)(13)**

This nonsubstantive amendment corrects the typo "Identify" to "Identity" which is necessary for accuracy. This modification does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

#### **Section 54327(b)**

This nonsubstantive amendment updates "individuals vendored" to "individuals served who are vendored" and is necessary for the consistency of terminology as adopted and defined in subsection (a)(14). This modification does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

#### **Section 54327(d)(4)(K)**

##### Purpose

This amendment adds "regardless of size" to further clarify that the bruising, contusions or hematomas to the areas identified in subsection (d)(4)(K)1. & 2. must always be reported.

### Rationale

The addition of this language is in response to a comment received that someone may misinterpret the reporting requirements for bruising in these areas if it is smaller in diameter than 2 inches as per subsection (d)(4)(L). This amendment is necessary to ensure the intent of the regulation is clear when reporting bruising.

### **Section 54327(i)**

#### Purpose

This amendment adds “learning of” to clarify the 48-hour reporting timeline. This amendment also makes the nonsubstantive change to update “electronic mail” to “electronic submission” as indicated above.

### Rationale

This amendment is necessary to address a discrepancy of clarity between this subsection and subsection (h). This amendment was made in response to comments received regarding the reporting timelines for special incidents that occur outside of the time when services are being provided. This modification does not change current reporting practice or requirements of reporting.

### **NONSUBSTANTIVE CHANGES MADE AFTER THE 15-DAY COMMENT PERIOD**

The Department made additional, nonsubstantive modifications to the regulatory text that was noticed to the public on April 7, 2025, which includes minor technical edits and the following:

### **Section 54327(g)(6)**

This nonsubstantive amendment removes “(s).” This amendment is necessary because each incident report must be submitted for each individual served. Including the option of plurality could create confusion that a single SIR could be submitted on behalf of more than one client. This modification does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

### **Section 54327(h), (i), (j) & (k)**

This nonsubstantive amendment replaces “electronic mail” with “electronic submission” This amendment was made in response to a comment received during the 15-Day Notice Period and is necessary to allow SIRs to be submitted through electronic means, which may evolve over time. This modification does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of any CCR provision.

## SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING 45-DAY COMMENT PERIOD

Written and oral comments were received during the 45-day comment period from September 20, 2024 – November 13, 2024, in response to the notice of proposed rulemaking published on September 20, 2024. Comments were also received at the public hearing on November 13, 2024 and during the 15-Day comment period from April 7, 2025 - April 22, 2025.

Listed below are the organizations and individuals that provided comments during the **45-day comment period and public hearing**:

| Commenter/Affiliation – date received   | Submission Type | Comment Code |
|---|-----------------|--------------|
| Jolie Kanat – 9/20/2024   | Written         | JK           |
| Jocelyn Santella, Bright Home Board & Care/<br>Sweet Angels Board & Care – 9/23/2024                      | Written         | JS           |
| Shelly Briggs, North Los Angeles County Regional Center (NLACRC) – 9/26/2024                              | Written         | SB           |
| Nancy R. Bissonette-Andrew – 10/13/2024   | Written         | NB           |
| Amy Westling, Association of Regional Center Agencies (ARCA) – 10/28/2024                                 | Written         | AW           |
| Adeyinka Glover, Disability Rights California (DRC) – – 11/5/2024   | Written         | AG           |
| Shella Comin-DuMong, Coalition for Housing Accessibility, Needs, Choices & Equality (CHANCE) – 11/11/2024 | Written         | SC           |
| Janelle Ditommaso, CVRC – 11/12/2024  | Written         | JD           |
| Sara Spencer, Enriching Lives – 11/12/2024  | Written         | SS           |
| Westside Regional Center (WRC) – 11/13/2024   | Written         | WRC          |
| Katina Richison, Valley Mountain Regional Center (VMRC) – 11/13/2024                                      | Written         | KR           |
| Adeyinka Glover, Disability Rights California (DRC) – 11/13/2024  | Oral            | AG-2         |
| Shella Comin-DuMong, (CHANCE) – 11/13/2024  | Oral            | SC-2         |
| Tracey Tindle – 11/13/2024  | Oral            | TT           |
| Rubi Saldana – 11/13/2024   | Oral            | RS           |
| Marty Omoto, California Disability Action Network (CDCAN) – 11/13/2024                                    | Oral            | MO           |
| Mark Melanson, California Community Living Network – 11/13/2024   | Oral            | MM           |
| Tamara Degner, Guiding Hands – 11/13/2024   | Oral            | TD           |
| Delia Valenzuela, Ability First – 11/13/2024  | Oral            | DV           |

|   |           |      |
|---|-----------|------|
| Mark Melanson, California Community Living Network – 11/13/2024 | Zoom Chat | MM-2 |
| Delia Valenzuela, Ability First – 11/13/2024                    | Zoom Chat | DV-2 |
| Justin Trott – 11/13/2024                                       | Zoom Chat | JT   |
| Matthew Alabi – 11/13/2024                                      | Zoom Chat | MA   |
| Rubi Saldana – 11/13/2024                                       | Zoom Q&A  | RS-2 |

Below is a summary of each objection or recommendation made regarding specific regulatory actions proposed, including an explanation of how the proposed action was changed to accommodate each objection or recommendation, or the reasons for making no change.

The comments are grouped by topic where possible and exclude any objections or recommendations not specifically directed at the Department's proposed action nor to the procedures followed by the Department through this rulemaking action.

#### **45-DAY COMMENTS**

1. Comment: The SIR is vital, but the administrative duties outweigh the 15% funding allocation. (JK)

Agency Response: The Department did not make any changes to the regulation in response to this comment as it was not sufficiently related to the proposed amendments.

2. Comment: Use a simple online form, have a clear review and resolution process, and include all reports into all service referral packets. (JK)

Agency Response: The Department did not make any changes to the regulation in response to this comment. We did not alter the manner in which SIRs are submitted, as outlined in sections 54327 and 54327.1. The proposed changes only reordered the text, and the regional centers must ensure timely follow up with SIRs. In addition, the process for services referral is not addressed in the special incident reporting regulations.

3. Comment: There should be only one (1) SIR form used for both Community Care Licensing (CCL) and Regional Center. (JS)(TT)

Agency Response: The Department did not make any changes to the regulation in response to this comment as it was not sufficiently related to the proposed amendments. Per section 54327(e)(9), Community Care Licensing is one of the designated agencies to be notified of Special Incident Reports. Partnering agencies are included in the list of required entities to which SIRs are reported. It is important to clarify that not all vendors fall under the purview of

Community Care Licensing and that the Department lacks the authority pertaining to Community Care Licensing requirements or process and therefore cannot require a shared reporting form.

4. Comment: The SIR reportable incidents should be the same for both the Regional Center and CCL. The report should be emailed with a cc to all people necessary for faster delivery. (JS)

Agency Response: The Department did not make any changes to the regulation in response to this comment as it was not sufficiently related to the proposed amendments. The Department lacks the authority to impose special incident reporting requirements and processes for Community Care Licensing requirements. In addition, section 54327(h)-(k) outlines the method of reporting for all designated reporting agencies, including but not limited to Community Care Licensing.

5. Comment: Add clarity to existing section 54327(b)(1). (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The referenced subsection "54327(b)(1)" cited the regulation text in the current California Code of Regulations and did not correspond with the proposed changes that move and combine the original subsections 54327(b) and (b)(1) to clarify that all vendors and long-term health care facilities shall report to the regional center the subsequent special incidents if they occurred during the time the individual was receiving services and supports from any vendor or long-term health care facility. The Department believes that the proposed regulatory text already addresses the clarity concern.

6. Comment: Add clarity to existing section 54327(b)(1)(A). (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The referenced section 54327(b)(1)(A) is not present in the proposed regulatory text. The referenced subsection was moved from the original subsection (b)(1)(A) to subsection (d)(1) to provide a clear understanding that an SIR is required when an individual is receiving services and supports from a vendor/ long-term health care facility and a missing persons' report has been filed with a law enforcement agency. The Department believes that the proposed regulatory text already addresses the clarity concern.

7. Comment: Mention social media under the reasonably suspected abuse/exploitation examples in existing section 54327(b)(1)(B)2. & 4. (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. Sections 54327(b)(1)(B)2. & 4. are not present in the proposed regulation text. The information in those original subsections were moved to subsection (d)(2)(B) and (D). Section 54327(a)(7) of the proposed regulation text defines “exploitation” in a manner that includes live performance or other depiction involving sexual conduct which is based on the definition found in Penal Code section 11165.1(c). The Department believes this definition includes any exploitive or abusive use of social media.

8. Comment: Clarify reporting reasonably suspected abuse with regards to behavior plans and specific facilities under existing section 54327(b)(1)(B)5. (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This regulatory action moves “physical and/or chemical restraint” from the original subsection (b)(1)(B)(5) to (d)(2)(H) and adds mechanical restraint. In addition, section 54327(d)(2)(H)(3) adds clarifying language that physical, mechanical, or chemical restraint used outside of an approved intervention in the individual’s plan must be reported. Lastly, the adoption of section 54327(d)(2)(H)(4) clarifies that physical, mechanical, or chemical restraint is reportable when the restraint is inconsistent with the physician’s order. The Department believes the proposed regulatory text already addresses the comment regarding behavior plans. Further, the Department did not specify information regarding specific facility setting since the regulations are applicable to all vendors, regional centers, and long-term care facilities.

9. Comment: Provide clarification on automobile accidents under existing section 54327(b)(1)(D). (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed regulation text already moved the information under section 54327(b)(1)(D) to section 54327(d)(4) and listed additional examples of injury under section 54327(d)(4)(A)-(O). If a reportable injury occurs as the result of a car accident, a SIR would be required. The Department believes that specifying various ways in which the reportable injuries could potentially occur would create more confusion than merely identifying what injuries are reportable.

10. Comment: Clarify medication refusal under existing section 54327(b)(1)(D)7. (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. Section 54327(b)(1)(D)7 was not

included in the proposed regulation text as the information in that subsection was moved to (d)(4)(G) as a nonsubstantive change.

11. Comment: Clarify diagnosis by medical professional under existing section 54327(b)(1)(E)4. (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed regulation text moved section (b)(1)(E)4. to section (d)(5)(D). The Department does not propose limiting reportable incidents based on diagnosis, but rather conditions leading to any unplanned or unscheduled hospitalizations as outlined in current and proposed regulations.

12. Comment: Give detail on hold not admitted under existing section 54327(b)(1)(E)8. (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed regulation text moved (b)(1)(E)8. to (d)(5)(I) and is a nonsubstantive change. However, your suggestion and other feedback received from community partners related to ideas around additional reporting requirements may be pursued at a future date.

13. Comment: Provide information on sexual assault under existing section 54327(b)(2)(B)5. (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed changes incorporate the definition of Sexual Abuse in section 54327(a)(26) and the definition for Rape under section 54327(a)(24). The proposed regulation clarifies that Rape is defined in Penal Code section 261 which falls under title 9 of Crimes Against the Person Involving Sexual Assault, and Crimes Against Public Decency and Good Morals. The proposed regulation text adds the additional examples of simple assault, human trafficking and stalking to provide additional clarity to reporting when an individual is a victim of a crime. These additional terms are also defined in section 54327(a)(27), (a)(12), and (a)(28).

14. Comment: Does the SIR need to specify when it is unknown if law enforcement was contacted pursuant to existing section 54327(e)(9)? (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment as it was not sufficiently related to the proposed amendments.



15. Comment: Text should be included under existing section 54327(f) & (g). (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment as it was not sufficiently related to the proposed amendments. The proposed text moved section 54327(f) and (g) to subsections (h) and (i). These are nonsubstantive changes and the Department has not made regulatory changes to the method of reporting. The Department believes this section sufficiently addresses appropriate methods of reporting SIRS.

16. Comment: Clarify ombudsman reporting under existing section 54327(k). (SB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed regulation text moved section 54327(k) to subsection (m). This nonsubstantive change did not impact existing reporting requirements. Reporting to the Ombudsperson is captured under the referenced Elder and Dependent Adult Abuse Reporting Act, Welfare and Institutions Code, Chapter 11, section 15600(i).

17. Comment: Please clarify section 54327(d). Does this mean anytime during a service delivery day, or at any time an individual is enrolled in services regardless of when/where the incident took place? (NB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed regulation text moves and combines the original subsections 54327(b) & 54327(b)1 to clarify that all vendors and long-term health care facilities shall report to the regional center the subsequent special incidents if they occurred during the time the individual was receiving services and supports from any vendor or long-term health care facility. Only the incidents that fall under subsection (c) are reportable regardless of when or where the incident occurred.

18. Comment: Regarding section 54327(d), should all vendors providing services each write an incident report or just the agency who observed/discovered the incident? (NB)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The Department has not made regulatory changes to the identification of responsible parties for reporting of special incidents. The regulations specify that all vendors and long-term health care facilities shall report incidents if they occurred during the time the individual was receiving services. It is important that vendors exercise due diligence when there is uncertainty if other parties have fulfilled their reporting responsibilities. In

situations when there is a suspicion of abuse or neglect vendors are mandated to report incidents regarding the health and safety of the individual.

19. Comment: These amendments are crucial for transparency, accountability, and ensuring the protection, health, safety, and welfare of individuals served. (AW)

Agency Response: The Department appreciates support of the proposed regulation.

20. Comment: Support for redefining “consumer” with “individuals served” which mirrors the values of person-centered planning and promotes respect and inclusivity. (AW)(AG)(KR)

Agency Response: The Department appreciates support of the proposed regulation.

21. Comment: The updated definitions, reporting guidelines, and the inclusion of incidents like human trafficking, isolation, and verbal abuse, provide a clearer framework for consistent reporting across regional centers. This will enable better tracking of incidents and improve the overall quality of care. (AW)(SC)(SC-2)

Agency Response: The Department appreciates support of the proposed regulation.

22. Comment: The language in section 54327(d)(2)(H) regarding physical, mechanical and physical restraint provides important guidance. Improper restraint is an issue and the Department should monitor compliance with this subsection and carefully train providers and regional centers on how to apply this subsection and appropriately report on related matters. (AG)(AG-2)

Agency Response: The Department appreciates the support of the proposed regulation. The Department will work with community partners to provide guidance and training related to changes in regulations.

23. Comment: The Department should standardize the SIR reporting form across all regional centers, vendors, and long-term health care facilities as similarly recommended by the Office of Inspector General's report referenced in the rulemaking file. (AG)(AG-2)(DV)(DV-2)(JT)(MA)

Agency Response: The Department did not make any changes to the regulation in response to this comment. However, there are long term plans to

revise the regulations and implement a new electronic reporting system that will address the suggestions outlined in the comment.

24. Comment: In standardizing an SIR form, the Department should separate the “incident date” and “report date” form fields; include all incident types defined in regulations; add space to specify restraint specifics; list agencies to whom cross reports have been submitted and specify contact information; and incorporate an additional page that can be attached for further information, if needed. (AG)

Agency Response: The Department did not make any changes to the regulation in response to this comment. However, additional standard fields will be included in the regional center special incident report upon implementation of these proposed regulations.

25. Comment: SIR data should be aggregated and publicly accessible while complying with privacy laws. This data should be easily filtered and also track the timeliness of submissions to the regional center and the Department. (AG)(AG-2)

Agency Response: The Department did not make any changes to the regulation in response to this comment as it was not sufficiently related to the proposed amendments. However, there is now an aggregated and accessible SIR dashboard available [here](#). Timeliness of SIR reporting is not publicly available.

26. Comment: The SIR form and procedures should be updated to include line items for experiencing or at risk for homelessness, and experienced or at-risk of community placement failure. These two incidents directly and negatively impact a person's immediate health and safety. (SC)(SC-2)(MM)(MM-2)(MO)

Agency Response: The Department did not make any changes to the regulation at this time. However, your suggestion and other feedback received from community partners related to ideas around additional reporting requirements may be pursued at a future date.

27. Comment: The proposed changes to the regulations are not cost-neutral and would require increased workload demands for regional centers and vendors due to increased SIRs, communication between regional centers and vendors, mandated reporting, documentation, incident tracking, formal follow up and closure activities resulting in a need for additional staffing support during and after hours. (JD)(WRC)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This rulemaking does not make any changes to the reporting requirements already in existence under title 17 and federally mandated reporting. The proposed regulation text merely provides examples of already required reporting, provides clear definitions to ensure consistency for SIRs, and re-organizes already existing regulation text in a manner that is easier to understand. Current regulations and regional center contracts already require reporting of the specified incidents and section 54327.2 outlines the requirements for regional centers to review and follow up on SIRs. Appropriate SIR follow-up communication and coordination is essential in ensuring health and safety of individuals receiving services. Therefore, the Department finds that the specifications made in the proposed regulatory text does not have a measurable impact on time needed to complete the form or complete the follow up communication necessary to ensure the health and safety of individuals served.

28. Comment: New SIR training will need to be developed and presented to staff and vendors which incurs costs. (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The Department will work with community partners such as the independent risk management contractor and ARCA to provide guidance and training related to changes in regulations prior to implementation.

29. Comment: Vendors will need to increase their operational capacity to account for additional communication and documentation requirements. (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This rulemaking does not make any changes to the reporting requirements already in existence under title 17 and federally mandated reporting. The proposed regulation text merely provides examples of already required reporting, provides clear definitions to ensure consistency for SIRs, and re-organizes already existing regulation text in a manner that is easier to understand. Current regulations and regional center contracts already require reporting of the specified incidents and section 54327.2 outlines the requirements for regional centers to review and follow up on SIRs. Appropriate SIR follow-up communication and coordination is essential in ensuring health and safety of individuals receiving services. Therefore, the Department finds that the specifications made in the proposed regulatory text does not have a measurable impact on time needed to complete the form or complete the follow up communication necessary to ensure the health and safety of individuals served.

30. Comment: These changes will increase workloads for Child Protective Services, Adult Protective Services, Long-Term Care Ombudsman, Community Care Licensing, and the California Department of Public Health. (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This rulemaking does not make any changes to the reporting requirements already in existence under title 17 and federally mandated reporting. The proposed regulation text merely provides examples of already required reporting, provides clear definitions to ensure consistency for SIRs, and re-organizes already existing regulation text in a manner that is easier to understand.

31. Comment: The Reporting of any stay in a hospital ER for five days or more is duplicative of DDS's Safety Net reporting requirements. The existing reporting mechanism should be used exclusively to prevent duplication. (JD)

Agency Response: Thank you for your comment. Safety Net reporting requirements are more extensive than the proposed change to ER stay for five days reporting and thus will remain in place.

32. Comment: The additional victim-of-crime categories should also be defined. (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed changes include definitions for Special Incident Report Categories, including Victim of Crime in section 54327(a)(1)-(28).

33. Comment: There are significant challenges to identify and document falls through existing monitoring mechanisms to meet the "Two Falls in a 30-Day Period" tracking requirement. (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This amendment is necessary to provide a clear understanding of reporting to regional centers to ensure the health and safety for an individual. Frequent falls can signal a change in medical status, change in medical equipment needs, or the need for other services and supports to ensure the health and safety of an individual in the future. Continued falls may be indicative of neglect to provide appropriate care for an individual and must be reported.

34. Comment: Clarification around the requirement of "medical attention beyond first aid" is needed for the new injury sub-categories. For example,

would an assessment by a nurse in an ICF or day program meet this requirement? (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This regulatory action defines the term “medical treatment beyond first aid” in section 54327(a)(20), as when an individual served receives treatment by a trained medical professional beyond the one-time, short-term treatment administered immediately after the injury occurs and at the location where it occurred.

35. Comment: Requiring Independent Living Services (ILS), Independent Living Program (ILP) and (Adult Day Program) ADP vendors to report incidents outside of service hours may not be feasible as many individuals receiving those services value their privacy and may not disclose those incidents. Provide guidance on implementing this requirement in a way that respects the individuals' autonomy. (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This rulemaking does not make a change to the reporting requirements. Reporting on certain incidents regardless of when or where they occur was previously in section 54327(b)(2) and is now under subsection (c). Section 54327(h) outlines the timeline for vendors to report incidents after learning of the occurrence of a special incident. Each individual's planning team already should be collecting information through a person-centered approach pursuant to other requirements.

36. Comment: Would all falls be subject to reporting under the revised category of neglect to include “protect from health and safety hazards?” This needs to be clearly defined. (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed regulation text adds failing to prevent two or more falls in a thirty (30) day period as an example of required reporting under reasonable suspected neglect that includes but is not limited to the negligent failure to protect from health and safety hazards. Frequent falls can signal a change in medical status, change in medical equipment needs, or the need for other services and supports to ensure the health and safety of an individual in the future. Continued falls may be indicative of neglect to provide appropriate care for an individual and must be reported.

37. Comment: Clarify if reporting is required in all cases of injury-related SIR categories #11 and #12. (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. Section 54327(d)(4) requires any serious injury or accident occurring during the time services are being provided must be reported in an SIR. This is inclusive of bruising found in subsections (d)(4)(11) & (12).

38. Comment: Please clearly define “medical attention beyond first aid.” (JD)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This regulatory action defines the term “medical treatment beyond first aid” in section 54327(a)(20) as when an individual served receives treatment by a trained medical professional beyond the one-time, short-term treatment administered immediately after the injury occurs and at the location where it occurred.

39. Comment: Consider moving the requirement for reporting frequent falls from section 54327(d)(3)(C) to section 54327(d)(4) under injury rather than neglect because falls are recorded as an injury regardless of severity. If an individual chooses not to utilize a support designed for safety and fall prevention, it should not be categorized as neglect and inaccurately reflect the care provided by an agency. (SS)(WRC)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed changes for reporting frequent falls are not under the injury category because not all falls result in reportable injury criteria. If individual falls were clearly related to individual choices and rights then they would not be considered reasonably suspected neglect and would not need to be reported unless an injury occurred, and then the reporting would fall under the reporting requirements found in subsection (d)(4). The proposed regulation text adds failing to prevent two or more falls in a thirty (30) day period as an example of required reporting under reasonable suspected neglect that includes but is not limited to the negligent failure to protect from health and safety hazards. This amendment is necessary to provide a clear understanding of reporting to regional centers to ensure the health and safety for an individual. Frequent falls can signal a change in medical status, change in medical equipment needs, or the need for other services and supports to ensure the health and safety of an individual in the future. Continued falls may be indicative of neglect to provide appropriate care for an individual and must be reported.

40. Comment: It is unlikely that an individual would be in the emergency room for 5 or more days without being admitted. Is that intended to be if the hospital stay is longer than 5 days? If so, is an additional SIR needed for those stays in addition to the hospital admittance required in section 54327(d)(5)? (SS)

Agency Response: The Department did not make any changes to the proposed regulations. The Department agrees that these events do occur even if they are unlikely. The hospitalizations (admitted to the hospital) requiring an SIR are outlined in section 54327(d)(5). No additional SIR will be needed if the original SIR is updated to reflect the hospitalization.

41. Comment: Smaller regional centers do not have the resources to manage the increased reporting, training, document and webpage updates necessary to comply with additional incident reporting. Further, these added requirements would include additional training, revision of all documents, website, as well as expanded need for medical records that are difficult to access due to HIPAA PHI regulation. (WRC)

Agency Response: The Department did not make any changes to the regulation in response to this comment. This rulemaking does not make any changes to the reporting requirements already in existence under title 17 and federally mandated reporting. The proposed regulation text merely provides examples of already required reporting, provides clear definitions to ensure consistency for SIRs, and re-organizes already existing regulation text in a manner that is easier to understand.

42. Comment: Vendors supporting individuals for less than 24 hours would not know about many of the incidents, resulting in late reports and penalizing the vendor and regional center. (WRC)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The department has not made a change to the reporting requirements. Section 54327(h) outlines the timeline for vendors to report incidents after learning of the occurrence of a special incident. However, the Department did clarify that the report required under 54327(i) is within 48-hours after learning of the incident, which is consistent with all other subsections.

43. Comment: The Department should encourage skilled nursing facilities to report and follow up on incidents that would fall under SIR reporting requirements as they are not currently provided by these entities. (WRC)

Agency Response: The Department thanks you for your comment. The Department will work to inform community partners of the clarifying amendments to reporting requirements. Further, section 54327(d) of the proposed regulations states that all vendors and long-term health care facilities shall report to the regional center. Skilled Nursing Facilities continue to be within the definition of a long-term health care facility.



44. Comment: Regional Centers should have access to an updated Map of Clinical Conditions from title 17. (KR)

Agency Response: The Department did not make any changes to the regulation in response to this comment as it was not sufficiently related to the proposed amendments.

45. Comment: How can parents have access to incident reports and ensure that what is reported is accurate? The Hispanic community is afraid to report incidents and does not receive help from the different systems. The responsibility always falls back on the parents. (RS)

Agency Response: The Department did not make any changes to the regulation in response to this comment. Individuals supported and authorized parties may request copies of special incident reports as they are part of the individual's record. If any issues arise, you may direct those concerns to the regional center.

46. Comment: Parent vendors and individual vendors should not be exempt from special incident reporting requirements since those services are tied to CMS dollars. (MM)

Agency Response: Thank you for the suggestion. These proposed regulation changes are language clarifications. Your suggestion and other feedback received from community partners related to ideas around additional reporting requirements may be pursued at a future date.

47. Comment: The requirement to report on incidents that occur outside of vendored care is more difficult for service providers whose care is provided intermittently. There are more, unfunded, administrative costs and the timeline in which to report on those incidents should be extended to start after the provider has been made aware of the incident. (MM)

Agency Response: The proposed changes move and combine the original subsections 54327 (b) & 54327 (b)(1) to clarify that all vendors and long-term health care facilities shall report to the regional center the subsequent special incidents if they occurred during the time the individual was receiving services and supports from any vendor or long-term health care facility. Further, the proposed changes do not modify the requirement listed in current regulations requiring a report to be submitted immediately but not more than 24 hours after learning of the occurrence of the special incident. The Department did clarify that the report required under 54327(i) is within 48 hours after learning of the incident, which is consistent with all other subsections.

48. Comment: When completing the SIR, the summary of treatment provided should only be included when possible and not be an unwavering requirement. (MM)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The proposed regulation outlines regional center requirements to include information found in section 54327(g)(6) which outlines the treatment plan provided to the individual supported, if any.

49. Comment: Sections 54327(d)(4)(k)1. & 2. and (d)(4)(L) may cause confusion among providers who may inadvertently not report bruising under subsection (d)(4)(k) if they are smaller than two inches in diameter. Consider clarifying this language to ensure understanding of what bruising must always be reported, regardless of size. (TD)

Agency Response: The Office of the Inspector General (OIG) report specifically identified certain types of injuries that are an under-reported area of special incident reporting. The proposed changes provide additional detail on types of injury under section 54327(d)(4)(A)-(O). This includes bruising, contusion, or hematomas outlined in section 54327(d)(4)(K)(1) and (2) to be reportable regardless of size for the areas specified in that subsection. However, bruising, contusion, or hematomas two (2) inches or greater must be reported as outlined in section 54327(d)(4)(L), regardless of where on the body those injuries occurred. Furthermore, the Department made amendments to subsection (d)(4)(K) to clarify that bruising in those identified areas requires reporting regardless of the size of the bruise.

50. Comment: SIR reporting requirements vary across regional centers. The Department should provide oversight and address the lack of consistency to ensure all vendors have the same reporting requirements that do not deviate from what is found in title 17. (DV)

Agency Response: The Department appreciates support of the proposed regulation. The proposed regulations include newly added definitions in section 54327(a)(1)-(28) that will add the clarification needed for consistent reporting. In addition, the Department will work with community partners, including regional centers, to provide guidance on proposed changes. Regional centers have the authority to require their contractors to report incidents beyond these regulatory requirements for reporting to the Department.

51. Comment: There should be a portal where parents can make reports in their own words instead of someone else making an erroneous report. (RS-2)

Agency Response: The Department did not make any changes to the regulation in response to this comment. Creating a portal for reporting would result in costs. If individuals served and their families wish to report a special incident, they can do so by contacting service coordination staff at their regional center. The regional center staff must review and determine if those reports are reportable to the Department in accordance with title 17 regulations. The Department will retain this suggestion for consideration in any future rulemaking.

Listed below are the organizations and individuals that provided comments during the **15-Day Comment Period:**

| <b>Commenter/Affiliation – date received</b>     | <b>Comment Code</b> |
|--|---------------------|
| Ingrid Chamberlain- 4/7/2025                     | IC                  |
| Lucina Galarza- 4/7/2025                         | LG                  |
| United Cerebral Palsy of the North Bay- 4/7/2025 | UCPNB               |
| VistAbility-4/7/2025                             | VA                  |
| Vendor 4/7/2025                                  | V1                  |
| Escuela del Rio- 4/8/2025                        | EDR                 |
| Sharon Washington- 4/9/2025                      | SW                  |
| Darline Dupree/Amy Westling, ARCA-4/10/2025      | ARCA                |
| Westside Regional Center- 4/11/2025              | WRC2                |
| Samantha Carmichael, CVRC- 4/14/2025             | SCVRC               |
| Karen Mulvany- 4/22/2025                         | KM                  |

Below is a summary of each objection or recommendation made regarding specific regulatory actions proposed, including an explanation of how the proposed action was changed to accommodate each objection or recommendation, or the reasons for making no change.

The comments are grouped by topic where possible and exclude any objections or recommendations not specifically directed at the Department's proposed action nor to the procedures followed by the Department through this rulemaking action.

1. Comment: All matters have been resolved using online post for SIR through regional center staff. (IC)

Agency Response: The Department did not make any changes to the regulation in response to this comment.

2. Comment: Section 54327(d)(6) is an unreasonable timeframe for reporting on hospital stays. The ER would need to act or the decision to find alternate service facility would be necessary well before that time. The Regional Center should be notified by the second day to provide assistance/advocacy. (LG)(VA)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. There are instances when individuals spend extended amounts of time, well beyond the five-day notification requirement, in the ER without being admitted. Unplanned hospitalizations pursuant to section 54327(d)(5) will be captured in a special incident report and instances where there is a stay in a hospital emergency room lasting longer than five days will be captured under section 54327(d)(6). The timeframe of five days was chosen because it is already a requirement pursuant to regional center contracts. Reducing the timeframe from five days would create a fiscal impact. The Department did not make any changes to the regulation in response to this comment.

3. Comment: The proposed regulation text provides a clearer and more concise description of the SIR requirements and definitions. (UCPNB)

Agency Response: The Department appreciates support of the proposed regulation.

4. Comment: The definitions for aggravated assault, false imprisonment and simple assault lack references to the Penal Code in which these terms are already defined. This could potentially lead to confusion or misinterpretation. (VA)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. These definitions are based off existing Penal Codes or Welfare and Institutions Code, and have been amended to address the needs of the community impacted by the regulations as identified in the Initial Statement of Reasons. Including the definitions in section 54327(a) clarifies the terms as used throughout the reporting requirements.

5. Comment: 54327(d)(4)(K) should include reporting on bruising to the inner thigh relating to sexual assault. (VA)

Agency Response: The Department did not make any changes to the regulation in response to this comment. The bruising specified under section 54327(d)(4)(K) was in response to the 2021 report by the Office of Inspector General specifically identifying certain injuries that are under-reported. Rape, or attempts to commit rape, against an individual served must be reported pursuant to section 54327(c)(2)(E) and any bruising of 2 inches or greater, including the inner thigh,

would be reported pursuant to section 54327(d)(4)(J). While the Department did not make any changes to the regulation at this time, your suggestion and other feedback received from community partners related to ideas around additional reporting requirements may be pursued at a future date.

6. Comment: Employees can fraudulently provide services or forge parent signatures which equates to neglect for the individual receiving services. There is currently not a mechanism in place to hold these employees accountable. Adding employee fraud to the SIR form would allow vendors to gain help from DDS/Regional Centers on this issue. (V1)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. If the individual is a victim of fraud, special incident reporting requirements would fall under section 54327(c)(2)(H). If the employee's act of fraud lead to a special incident reportable event, that would be captured under the applicable subsection. Employee fraud related to inaccurate billing or other related issues should be addressed through the appropriate legal or procedural mechanisms, but would not require special incident reporting if a special incident reportable event did not result.

7. Comment: Section 54327(j) should include electronic or digital submission instead of email to allow for submission via weblink. (EDR)

Agency Response: This comment was not related to the 15-Day changes. However, the Department chose to make nonsubstantive amendments to sections 54327(h)-(k) to update the method of submission from "electronic mail" to "electronic submission" after becoming aware that the use of other electronic means is already a current practice at some regional centers.

8. Comment: Anything enhancing and supporting the reporting of a "special incident" is sorely needed, especially for those with limited verbal skills. (SW)

Agency Response: The Department appreciates support of the proposed regulation.

9. Comment: The updated definitions and update in terminology from "consumer" to "individual served" are crucial for tracking incidents, improving quality of care, and cultivating respect and inclusion. (ARCA)

Agency Response: The Department appreciates support of the proposed regulation.

10. Comment: All unplanned hospitalizations and ER visits should be reported because they often evolve into reportable incidents or risk factors. (WRC2)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. Unplanned hospitalizations meeting the criteria pursuant to section 54327(d)(5) or visits to an emergency room lasting longer than 5 days, pursuant to section 54327(d)(6) must be reported through an SIR. While the Department did not make any changes to the regulation at this time, your suggestion and other feedback received from community partners related to ideas around additional reporting requirements may be pursued at a future date.

11. Comment: Additional clarification is needed on reporting all falls with injury. It would be difficult to track any fall that did not result in medical attention beyond first aid. (WRC2)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. Proposed section 54327(d)(3)(C) specifies that failing to prevent two or more falls in a 30-day period is reportable under negligent failure to protect from health and safety hazards. Frequent falls can signal a change in medical status, change in medical equipment needs, or the need for other services and supports to ensure the health and safety of an individual in the future. Continued falls may be indicative of neglect to provide appropriate care for an individual and must be reported. The Department will work with community partners to provide guidance and training related to changes in regulations.

12. Comment: Does a pressure injury need to be diagnosed by a medical professional? Should the pressure stages be in the regulation or does it refer to a standard? (WRC2)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. Section 54327(d)(4)(N) states that any serious injury/accident including pressure injuries stage 2 or greater or unstageable must be reported through an SIR. The Department is not imposing an alternate definition for what constitutes the stages of pressure injuries.

13. Comment: Choking that results in medical attention should be included as a reportable event. (WRC2)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. If choking lead to a special incident reportable event, that reporting

requirement would be captured under the applicable subsection. While the Department did not make any changes to the regulation at this time, your suggestion and other feedback received from community partners related to ideas around additional reporting requirements may be pursued at a future date.

14. Comment: Should FMS vendors have a regulation that non-vendor and vendor providers must report incidents similar to FHA or FFS? (WRC2)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. All vendors and long-term health care facilities are required to follow the special incident reporting guidelines outlined in this section. The only exceptions are identified in section 54327(b) which excludes parent vendors and individuals served who are vendored to provide services to themselves.

15. Comment: The addition of new SIR categories will drastically increase SIRs for adults, and result in drastic increases to adult service coordinator workloads. This will increase the issue of service coordinator burnout and potentially impact the quality of the outcomes individuals receive through the process of reviewing and closing SIRs. Realistic workloads need to be considered while gauging safety and needs of individuals served. Will DDS be re-evaluating the expectation of closing SIRs or seeing outcomes? (SCVRC)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. There should be no changes to the types of incidents that are being reported as the clarifications made through this rulemaking package are primarily focused on definitions and clarity needed for consistent reporting across vendors and regional centers. There are no changes to the expectations for SIR reporting or closing SIRs.

16. Comment: Consider amending the definition for “isolation” in section 54327(d)(2). The current definition would require someone be able to prove that the person intended to prevent the individual from having contact with others. Subsection (B) needs to provide people with an actual means of obtaining evidence that the individual is not refusing to see them, otherwise, a vendor could refuse a visit based upon their own assertions. This issue is intensified for individuals who are functionally nonverbal or susceptible to manipulation. Oversight from authorized representatives or conservators is necessary as abuse and neglect is too common. (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. The definition for “isolation” was based upon Welfare and Institution

Code, section 15610.43(a)(1) & (2). The Department is not materially altering the mandated reporting requirement under this statute through these regulations.

17. Comment: Section 54327(a) should define “authorized representative of the individual served” and distinguish those persons for adults versus minors. These persons should be identified in the IPP along with any limits to the decision-making powers of that person. (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. “Authorized representative” is defined in Welfare and Institutions code, section 4701(d)(1) & (2) and the Department will not be redefining that term in these regulations.

18. Comment: Sexual assault should be included under section 54327(c)(2)(E) because it is not incorporated under the definition for “rape.” This subsection, further, should not imply a requirement for multiple attempts to commit sexual assault or rape to have occurred before reporting is required. (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. The proposed regulations require reporting when the individual is a victim of a crime, including but not limited to, the specifically identified categories in section 54327(c)(2). Rape and attempts to commit rape, aggravated assault, simple assault, human trafficking and stalking are explicitly identified under this subsection. Reasonably suspected abuse, including sexual abuse and exploitation are captured under section 54327(d)(2). The Department finds there is no implication that any of these subsections would require more than one attempt to perpetrate one of these crimes as a prerequisite for special incident reporting.

19. Comment: Since certain vendors, such as in-home respite providers, are not legally able to administer medications, even in emergency situations, the requirement to report failure to administer required health care interventions as suspected neglect under section 54327(d)(3) is unreasonable. (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. Neglect is defined in section 54327(a)(21) to mean “when a person responsible for the care or custody of an individual served negligently fails to exercise the care that a reasonable person, in a like position, would exercise” or “When the individual served fails to exercise the degree of self-care that a reasonable person, in a like position, would exercise.” The Department does not find the requirement to report reasonably suspected neglect under subsection (d)(3)(A) to be an unreasonable expectation for any vendor provider. Further, this



reporting requirement aligns with mandated reporting requirements already in place.

20. Comment: The Department should address the issue of prohibiting service providers from administering medication in medical emergencies. (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment.

21. Comment: Section 54327(d)(3)(C) requires reporting 2 or more falls in a 30-day period to be reported for neglectful failure to protect against falls. Individuals with CP, balance disorders, or seizures often fall. What would constitute “negligent failure”? This should be defined. (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. Frequent falls can signal a change in medical status, change in medical equipment needs, or the need for other services and supports to ensure the health and safety of an individual in the future. Continued falls may be indicative of neglect to provide appropriate care for an individual and must be reported. Neglect is defined in section 54327(a)(21).

22. Comment: Consider adding “allergic reactions” to the hospitalizations that must be reported under section 54327(d)(5). (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. While the Department did not make any changes to the regulation at this time, your suggestion and other feedback received from community partners related to ideas around additional reporting requirements may be pursued at a future date.

23. Comment: Section 54327.1(c)(12) should be amended to also identify the relationship between a vendor and an alleged perpetrator. (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. As it stands now, the relationship between the vendor and alleged perpetrator is usually identified through the description of the incident. While the Department did not make any changes to the regulation at this time, your suggestion and other feedback received from community partners related to ideas around additional reporting requirements may be pursued at a future date.

24. Comment: Consider adding the DDS Office of the Ombudsman and the DRC Office of Client Rights Advocacy under section 54327(c)(16). (KM)

Agency Response: This comment was not related to the 15-Day changes. The Department did not make any changes to the regulation in response to this comment. The DDS Office of the Ombudsperson and the DRC Office of Client Rights Advocacy are resources available to the community. The entities listed in section 54327(c)(16) are those which would receive a direct report for an applicable special incident. The DDS Office of the Ombudsman and the DRC Office of Client Rights Advocacy do not receive direct reports on special incidents related to these regulations.