

**State of California  
DEPARTMENT OF DEVELOPMENTAL SERVICES**

**INITIAL STATEMENT OF REASONS**

**Proposed Amendments to the Regulation for  
Special Incident Reporting**

**INTRODUCTION AND BACKGROUND**

Special incidents are critical and unexpected events that happen to an individual, many signifying possible health or safety concerns or the need for additional services and supports.

The special incident reporting regulations require all vendors, long-term health care facilities, and regional centers to report certain special incidents. When a provider/vendor learns about a special incident, they make a report to the individual's (i.e., consumer's) regional center. This information is recorded in a secure database at the regional center. The regional center then reports the incident to the Department. Regional center staff will likely contact the individual or their provider to learn more and ensure that the individual is safe and has the supports and services that they need. Sometimes a special incident report may reveal that the individual needs more services or support.

**DESCRIPTION OF THE PROBLEM THAT THE PROPOSAL IS INTENDED TO ADDRESS**

The current published regulations in title 17, California Code of Regulations (CCR), section 54327, were originally promulgated in 1998, and the department's delivery system for services has significantly changed over the years which requires updates and amendments to the regulations to ensure consistency across regional center reporting. In 2021, the Office of the Inspector General (OIG) reported its [findings](#) after conducting an audit in response to requests concerning deaths and abuse of individuals with developmental disabilities. The proposed regulations are, in part, a result of the OIG's investigation, and the department aims to enhance transparency, accountability, and ensure the protection, health, safety, and welfare of individuals served.

Regulations for special incident reporting do not currently outline specific definitions to clarify and standardize reporting. Further, the list of reportable incidents has not changed over the years. Given the evolution of the service delivery system in the intervening time, the Department recognizes that revisions are necessary to assist with the review of incidents that may indicate possible abuse, neglect, or a change in supports or services the individual needs. In reviewing these incidents, the Department strives to ensure the health, safety

and welfare of the individuals served by enhancing the Department's ability to analyze incident trends and develop statewide risk mitigation for critical events.

Special incident reporting requirements must be feasible, useful, and actionable. They should have a nexus to health and safety and to ensuring delivery of necessary services and supports. The Department has collaborated with community partners for input on how to best amend regulations to ensure health and safety and the delivery of quality services and supports.

The Department's proposal aims to address these identified problems, which includes re-ordering of title 17, CCR, section 54327. For ease of reference, the chart in Appendix A summarizes the re-ordering of the subsections under section 54327.

## **SPECIFIC PURPOSE AND RATIONALE FOR EACH ADOPTION, AMENDMENT, OR REPEAL**

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

#### **Purpose**

This regulatory action is nonsubstantive and reorders original subsection (a) as subsection (b) in order to include definitions which are applicable to sections 54327, 54327.1 and 54327.2.

#### **Rationale for Necessity**

This adoption is necessary to specify the meaning of new terms and clarify existing terms used throughout the Special Incident Reporting procedures. Furthermore, these definitions are necessary to improve the transparency, comprehensibility, and consistency of the terms in the Special Incident Reporting regulations to ensure consistent reporting for the health and safety of individuals served and to ensure appropriate supports and services are being assessed and provided. This adoption under subsection (a) is necessary because this is the first subsection under the special incident reporting regulations, and it is essential to define the terms as used in these sections. Therefore, the Department has chosen to reorder section 54327 to enhance clarity and understanding of the special incident reporting requirements.

### **Section 54327(a)(1) "Abandonment"**

#### **Purpose**

This regulatory action defines the term "abandonment" to describe when a person having care and custody leaves the individual without necessary supports and services required for the individual when under circumstances in which a reasonable person would continue to provide care and custody.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to ensure consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for an individual, and re-assessing an individual's service and support needs. This definition is a modification of the definition of abandonment as a type of abuse as defined in Welfare and Institutions Code (WIC) section 15610.05 and is amended to address the service system for the community impacted by these regulations. Further, the Department believes it is necessary to specify that leaving an individual without necessary services and supports that are required is a form of abandonment. The Department chose to remove the term "elder or dependent adult" in the WIC definition of abandonment to ensure reporting of any abandonment, regardless of the individual's age.

### **Section 54327(a)(2) "Aggravated Assault"**

#### **Purpose**

This regulatory action defines the term "aggravated assault" as a willful, intentional attempt to violently injure another person using a firearm, a deadly weapon, or by means of force likely to produce great bodily injury, or that places an individual served in imminent fear of bodily injury, coupled with a present ability to commit the act. Aggravated assault does not necessarily involve any actual contact or injury. Aggravated assault includes assault on a particularly vulnerable victim or an assault that causes serious injury.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon Penal Code section 245(a)(1) and amended to address the needs of the community impacted by these regulations. The Penal Code definition encompasses additional information that is not required for reporting special incidents. The Department chose to amend the definition to capture the information applicable to special incident reporting to ensure that vendors, long-term care providers and regional centers do not have to filter through an extensive definition and sort through information that is not applicable. The Department believes this definition captures the intent of the required reporting while maintaining readability.

### **Section 54327(a)(3) “Battery”**

#### **Purpose**

This regulatory action defines the term “Battery” by adopting the definition found in Penal Code section 242.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent proper special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing individual's service and support needs.

### **Section 54327(a)(4) “Burglary”**

#### **Purpose**

This regulatory action defines the term “burglary” by adopting the definition found in Penal Code section 459.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

### **Section 54327(a)(5) “Chemical Restraint”**

#### **Purpose**

This regulatory action defines the term “chemical restraint” as an involuntary use of medication to sedate or otherwise control the behavior of an individual served and is not a standing medication, regularly prescribed, for the individual's medical or psychiatric condition.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon 42 CFR section 483.352 and title 22, CCR, section 73012.2 to address the needs of the community impacted by these regulations. The Department has chosen to amend the CFR definition to specify that chemical restraint is involuntary. Without this specification, SIR reporting would be required when individuals voluntarily choose the use of medication that is not a standing medication, such as taking a medication, as needed, for an episode of anxiety. Voluntary use of

medication does not indicate a special incident warranting reporting and monitoring through an SIR.

### **Section 54327(a)(6) “Emotional or Mental Abuse”**

#### **Purpose**

This regulatory action defines the term “Emotional or Mental Abuse” as intimidating behavior, threats, harassment, deceptive acts or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This is based the term mental suffering used in the Elder Abuse and Dependent Adult Civil Protection Act.

### **Section 54327(a)(7) “Exploitation”**

#### **Purpose**

This regulatory action defines the term “exploitation” as forcing, compelling, or exerting undue influence over an individual to engage in, or assist others to engage in, prostitution, a live performance involving obscene sexual conduct, or to pose or model for a film, photograph, drawing, painting, or other depiction involving obscene sexual conduct.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon Penal Code section 11165.1(c) and amended to address the needs of the community impacted by these regulations by incorporating the definition for “exploitation” used in Delaware's Adult Protective Services [31 Del. C. §3902(12) & (24) (2022)]. The Penal Code definition specifies that sexual exploitation involves a minor, whereas individuals with developmental disabilities may be particularly vulnerable to this form of abuse. Therefore, the Department believes it is important to tailor this definition for our population in order to capture any type of exploitation.

## **Section 54327(a)(8) “Financial Abuse”**

### **Purpose**

This regulatory action defines the term “Financial Abuse.”

### **Rationale for Necessity**

This amendment is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

## **Section 54327(a)(8)(A) “Financial Abuse”**

### **Purpose**

This regulatory action defines that financial abuse means when a person or entity takes, obtains or retains the assets, money, or property of the individual served.

### **Rationale for Necessity**

This amendment is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon the definition found in WIC section 15610.30(a) and is amended to address the needs of the community impacted by these regulations. The Department believes it is necessary to remove references to age to ensure SIRs are reported for any financial abuse, regardless of age.

## **Section 54327(a)(8)(A)1. “Financial Abuse”**

### **Purpose**

This regulatory action adds additional language to define that financial abuse occurs when a person or entity has obtained or retained the individual's assets, including money or property, for a wrongful use, not for the individual's benefit, or with the intent to defraud the individual.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon the definition found in WIC section 15610.30 and is amended to address the needs of the community impacted by these regulations. The Department

believes it is necessary to remove references to age to ensure SIRs are reported for any financial abuse, regardless of age.

## **Section 54327 (a)(8)(A)2. “Financial Abuse”**

### **Purpose**

This regulatory action adds additional language to clarify that financial abuse occurs when a person or entity has obtained or retained the individual's assets, including money or property, by undue influence or excessive persuasion that causes the individual served to act, or refrain from acting, against their free will.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon the definition found in WIC sections 15610.30(a)(3) and 15610.70 and is amended to address the needs of the community impacted by these regulations. The Department believes it is necessary to remove references to age to ensure SIRs are reported for any financial abuse, regardless of age.

## **Section 54327(a)(8)(B) “Financial Abuse”**

### **Purpose**

This regulatory action adds that financial abuse means mismanagement of income, including Social Security Assistance or other government benefits or Personal and Incidental (P&I) funds, by the individual's representative payee.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon the definition found in WIC section 15610.30(a) and is amended to address the needs of the community impacted by these regulations. The Department believes it is necessary to remove references to age to ensure SIRs are reported for any financial abuse, regardless of age, and specify some of the financial benefits that many individuals receive.

## **Section 54327(a)(9) “Fraud”**

### **Purpose**

This regulatory action defines the term “fraud” as intentional deception or misrepresentation made by an individual with the knowledge that the

deception could result in some unauthorized benefit to themselves or some other person.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon the definition found in 42 CFR section 433.304 and is amended to address the needs of the community impacted by these regulations by using the terminology representative of the individuals served, removing gendered terminology, and eliminating verbiage that is unnecessary for the purposes of special incident reporting.

#### **Section 54327(a)(10) "Hate Crime"**

##### **Purpose**

This regulatory action defines the term "Hate Crime" by adopting the definition found in Penal Code section 422.55.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

#### **Section 54327(a)(11) "Hospitalization"**

##### **Purpose**

This regulatory action defines the term "hospitalization" as when an individual has been admitted to a hospital for an inpatient stay, regardless of duration.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

#### **Section 54327(a)(12) "Human Trafficking"**

##### **Purpose**

This regulatory action defines the term "Human Trafficking" by adopting the definition found in Penal Code section 236.1.



### **Rationale for Necessity**

This amendment is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

### **Section 54327(a)(13) "Identity Theft"**

#### **Purpose**

This regulatory action defines the term "Identity Theft" by adopting the definition found in Penal Code section 530.5.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

### **Section 54327(a)(14) "Individual Served"**

#### **Purpose**

This regulatory action defines the term "individual served" as an individual who has been determined by a regional center to meet the eligibility criteria of the WIC section 4512, and title 17, sections 54000, 54001 and 54010, and for whom the regional center has accepted responsibility. This term will replace the use of the word "consumer" in the special incident reporting sections.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. The Department intends to promote the use of respectful, inclusive terminology. The definition for "individual served" matches the definition for "consumer" from section 54302(a)(19) to preserve the intent of the regulation while updating the terminology to better align with the culture of respect that the Department wishes to cultivate.

### **Section 54327(a)(15) "Internal Bleeding"**

#### **Purpose**

This regulatory action defines the term "internal bleeding" as hemorrhage from an internal organ or site but does not include bruising, contusions, or hematomas.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for an individual, and re-assessing an individual's service and support needs. This definition is based upon the definition found in Taber's Cyclopedic Medical Dictionary. The distinction regarding bruising, contusions, and hematomas is because those injuries are specified separately under SIRs for serious injury/accidents.

### **Section 54327(a)(16) "Isolation"**

#### **Purpose**

This regulatory action adds the term "Isolation."

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

### **Section 54327(a)(16)(A) "Isolation"**

#### **Purpose**

This regulatory action defines that the term "isolation" can mean intentionally preventing an individual served from receiving personal mail or telephone calls.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This term is based upon WIC section 15610.43(a)(1) and amended to remove specification of age, dependence, and gendered terminology. The Department believes these amendments to the term are necessary to address the needs of the community served by these regulations.

### **Section 54327(a)(16)(B) "Isolation"**

#### **Purpose**

This regulatory action defines that the term "isolation" can mean telling a caller or prospective visitor that an individual served is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the individual served, whether the

individual is competent or not, and is made for the purpose of preventing the individual from having contact with family, friends, or concerned persons.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This term is based upon WIC section 15610.43(a)(2) and amended to remove specification of age, dependence, and gendered terminology. The Department believes these amendments to the term are necessary to address the needs of the community served by these regulations.

#### **Section 54327(a)(16)(C) "Isolation"**

##### **Purpose**

This regulatory action adds that the term "isolation" can mean false imprisonment.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation and to safeguard consistent reporting for the health and safety of individuals served as well as ensuring the appropriate supports and services are provided based on having awareness of these incidents occurring. This term is based upon WIC section 15610.43(a)(3) and amended to address the needs of the community served by these regulations.

#### **Section 54327(a)(17) "Larceny"**

##### **Purpose**

This regulatory action defines the term "Larceny" by adopting the definition found in Penal Code section 484.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

#### **Section 54327(a)(18) "Mechanical Restraint"**

##### **Purpose**

This regulatory action defines the term "mechanical restraint" as the use of a mechanical device, material, or equipment attached or adjacent to the

person's body that they cannot easily remove and that restricts the freedom of movement of all or part of a person's body or restricts normal access to the person's body.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This term is based upon the definition found in Health and Safety Code (HSC) section 1180.1(c) and amended to remove gendered terms and the specification that it is used as a behavioral restraint. The Department believes removing the specification of use as a behavioral restraint will also capture any inappropriate uses of mechanical restraints used for positioning or other purposes without appropriate medical review.

#### **Section 54327(a)(19) "Medical Attention"**

##### **Purpose**

This regulatory action defines the term "medical attention" as when an individual served is assessed and/or under the observation of a trained medical professional.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. . This adoption is necessary to distinguish between minor health observation care that is provided by direct care staff from more elevated medical care requiring assessment or observation by a trained medical professional.

#### **Section 54327(a)(20) "Medical Treatment Beyond First Aid"**

##### **Purpose**

This regulatory action defines the term "medical treatment beyond first aid" 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.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors

and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon the CA Office of Law Enforcement Support definition for First Aid and amended to meet the needs of the community impacted by these regulations by eliminating any specified care that falls under basic first aid and consolidating the information for clarity. This source was chosen because the entity is involved in investigating incidents involving law enforcement personnel occurring at state operated facilities.

### **Section 54327(a)(21) “Neglect”**

#### **Purpose**

This regulatory action adds the term “Neglect.”

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

### **Section 54327(a)(21)(A) “Neglect”**

#### **Purpose**

This regulatory action defines that the term “neglect” can mean when a person responsible for the care or custody an individual served negligently fails to exercise the care that a reasonable person, in a like position, would exercise.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This term is based upon WIC section 15610.57(a)(1) and amended to remove specification of age and dependence. The Department believes these amendments to the term are necessary to capture reporting for any incident of neglect for an individual served by the regional center.

### **Section 54327(a)(21)(B) “Neglect”**

#### **Purpose**

This regulatory action defines that the term “neglect” can mean when the individual served fails to exercise the degree of self-care that a reasonable person, in a like position, would exercise.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This term is based upon WIC section 15610.57(a)(2) and amended to remove specification of age and dependence. The Department believes these amendments to the term are necessary to capture reporting for any incident of neglect for an individual served by the regional center.

### **Section 54327(a)(22) "Physical Abuse"**

#### **Purpose**

This regulatory action defines the term "physical abuse" as any intentional act of bodily contact that causes injury or trauma.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. The Department chose a simplified dictionary definition of the term for ease of understanding by entities subjected to these reporting requirements.

### **Section 54327(a)(23) "Physical Restraint"**

#### **Purpose**

This regulatory action defines the term "physical restraint" as using a manual hold to restrict freedom of movement of all or part of the body of an individual served, or to restrict normal access to the individual's body, and that it is used as a behavioral restraint.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This term is based upon the term defined in HSC section 1180.1(d) and amended to meet the needs of the community served by this regulation. The Department chose to amend the term "person" to "individual" to promote the use of respectful, inclusive terminology for individuals served by the regional center and chose to remove the exclusions found in the HSC related to staff-to-person contact because the term "staff" is

limited and does not include all personnel who may apply physical restraint in all settings subject to this regulation.

### **Section 54327(a)(24) “Rape”**

#### **Purpose**

This regulatory action defines the term “Rape” by adopting the definition found in Penal Code section 261.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in reviewing incidents as they occur to be able to re-assess an individual's service and support needs and assist in securing the health and safety for an individual.

### **Section 54327(a)(25) “Robbery”**

#### **Purpose**

This regulatory action defines the term “Robbery” by adopting the definition found in Penal Code section 211.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

### **Section 54327(a)(26) “Sexual Abuse”**

#### **Purpose**

This regulatory action adds the term “Sexual Abuse.”

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

### **Section 54327(a)(26)(A) “Sexual Abuse”**

#### **Purpose**

This regulatory action defines the term “Sexual Abuse” to mean touching an intimate part of an individual if the touching is against the will of the person, the person is unlawfully restrained, or the person lacks capacity to give consent to

the touching, and the touching is for the purpose of sexual arousal, sexual gratification or to cause injury or trauma.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is based upon Penal Code sections 243.4 and 11165.1(b)(4). The Department believes these amendments to the term are necessary to capture reporting for any incident of sexual abuse for an individual served by the regional center and for ease of understanding by entities subjected to these reporting requirements.

#### **Section 54327(a)(26)(B) "Sexual Abuse"**

##### **Purpose**

This regulatory action defines "sexual abuse" as manipulating, threatening or coercing an individual into engaging in sexual acts.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This definition is included to encompass coercion as included in the child abuse reporting act codified in Penal Code section 11165.1(c)(2). The Department chose to utilize this definition to ensure that reports are submitted if an individual served is manipulated, threatened, or coerced into participating in a sexual act because to ensure that abuse is reported under these circumstances.

#### **Section 54327(a)(27) "Simple Assault"**

##### **Purpose**

This regulatory action defines the term "simple assault" as a willful, intentional attempt to injure another person or place them in imminent fear of bodily harm, coupled with a present ability to commit the act and that does not involve the use of a firearm, a deadly weapon, or by means of force likely to produce great bodily harm. Simple assault does not necessarily involve any actual contact or injury.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors



and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This term is based upon Penal Code section 240 and amended to meet the needs of the community served by these regulations. The Department believes it necessary to emphasize that an attempt does not necessarily involve actual contact or injury as misinterpretation would result in under reporting special incidents that may lead to a review necessary to preserve the health and safety of the individual served.

### **Section 54327(a)(28) “Stalking”**

#### **Purpose**

This regulatory action defines the term “Stalking” by adopting the term found in Penal Code section 646.9.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs.

### **Section 54327(a)(29) “Verbal Abuse”**

#### **Purpose**

This regulatory action defines the term “verbal abuse” as the use of words, gestures, or other communicative means to purposefully threaten, coerce, intimidate, harass, or humiliate an individual.

#### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of the term as used in this regulation to safeguard consistent special incident reporting by vendors and regional centers. Reporting is essential in identifying and responding to incidents as they occur, securing the health and safety for individuals, and re-assessing an individual's service and support needs. This term is based upon the Ohio Revised Code section 5123.50 because it clearly captures what must be reported for suspected verbal abuse.

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

#### **Purpose**

This regulatory action reorders subsection (a) as subsection (b) and replaces the term “consumers” with “individuals” instead. This is necessary to bring terms used in this regulation more in alignment with person-centered language. Original subsection (b) is now under subsection(c).

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and that is easier to comprehend. Further, this amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives.

### **Section 54327(b)(1) and (b)(1)(A) – (E)**

#### **Purpose**

This regulatory action removes subsections (b)(1) and (b)(1)(A) – (E) which are amended and absorbed into the new subsections (d), (d)(1), (d)(2), (d)(2)(A) – (D) & (H), (d)(3), (d)(3)(A) – (E), (d)(4), (d)(4)(A) – (I), (d)(5), and (d)(5)(A) – (G) & (I).

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

### **Section 54327(b)(1)(E)1. – 8.**

#### **Purpose**

This regulatory action moves subsections (b)(1)(E)1. – 8. To subsection (d)(5)(A) – (I) with clarifying modifications.

### **Rationale for Necessity**

These amendments are necessary to re-order the subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. The necessity for the substantive amendments to the new subsections are described below under their new subsections.

### **Section 54327(b)(2), (b)(2)(A), (b)(2)(B), and (b)(2)(B)1. – 5.**

#### **Purpose**

This regulatory action moves subsections (b)(2), (b)(2)(A), (b)(2)(B), and (b)(2)(B)1. – 5., and absorbs them with amendments into the new subsections (c), (c)(1) & (2), and (c)(2)(A) – (E).

### **Rationale for Necessity**

These amendments is necessary to ensure clarity of the information found within the regulatory text by clarifying the reordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

## **Section 54327(c)**

### **Purpose**

This regulatory action reorders original subsection (b) as subsection (c). This amendment also adopts the language “the following special incidents regardless of when or where they occurred” which is moved from the original subsection (b)(2). The original subsection (c) has been renumbered as new subsection (e).

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

Further, this amendment is necessary to provide a clear understanding of who is required to report the special incidents specified in the subsequent subsections, to safeguard consistent reporting for the health and safety of individuals served.

## **Section 54327(c)(1)**

### **Purpose**

This regulatory action reorganizes the regulatory text previously found in subsection (b)(2)(A) that establishes that a death (regardless of cause) of an individual served shall be reported by all vendors, regardless of whether or not the death occurred during the time the individual was receiving services and supports from the vendor. Further, this amendment replaces the term “consumers” with “individuals.”

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Further, this amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives.

## **Section 54327(c)(2)**

### **Purpose**

This regulatory action moves the regulation text that is currently outlined in subsection (b)(2)(B) and amends to use the term “individual served” and to specify that reporting is necessary when the individual is the victim of any crime and clarifying that the subsequent list is not exhaustive.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Further, this amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives. Further, the Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. Therefore, the clarification of “any” crime and specifying “not limited to” is necessary to ensure that regional centers and vendors understand that all incidents when a client is the victim of a crime must be reported. The proposed regulation is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety of an individual.

### **Section 54327(c)(2)(A)**

#### **Purpose**

This regulatory action moves the text previously found in subsection (b)(2)(B) 1. And removes “including theft using a firearm, knife, or cutting instrument or other dangerous weapons or methods which force or threaten a victim.”

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Further, the Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. Therefore, the removal of the example of theft with a weapon is necessary to ensure that regional centers and vendors understand that all incidents of robbery must be reported. The proposed regulation is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety of an individual.

### **Section 54327(c)(2)(B)**

#### **Purpose**

This regulatory action moves “Aggravated assault” to subsection (c)(2)(B) from original subsection (b)(2)(B)2. And removes “including a physical attack on a victim using hands, fist, feet or a firearm, knife or cutting instrument or other dangerous weapon.”

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Further, the Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. Therefore, the removal of the specific examples is necessary to ensure that regional centers and vendors understand that any aggravated assault must be reported. The proposed regulation is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety of an individual.

### **Section 54327(c)(2)(C)**

#### **Purpose**

This regulatory action moves “Larceny” from original subsection (b)(2)(B)3. And removes “including the unlawful taking, carrying, leading, or riding away of property, except for motor vehicles, from the possession or constructive possession of another person.”

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. The removal of “including the unlawful taking, carrying, leading, or riding away of property, except for motor vehicles, from the possession or constructive possession of another person” is necessary, because the Department amended the definition to align with Penal Code section 484. Further, the Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. Therefore, the removal of the examples of larceny is necessary to ensure that regional centers and vendors understand that any act of larceny must be reported. The proposed regulation is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety of an individual.

### **Section 54327(c)(2)(D)**

#### **Purpose**

This regulatory action reorders “Burglary” from original subsection (b)(2)(B)4. And removes “including forcible entry; unlawful non-forcible entry; and, attempted forcible entry of a structure to commit a felony or theft therein.”

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the

addition of definitions in subsection (a) and is easier to comprehend. Further, the Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. Therefore, the removal of the examples of burglary is necessary to ensure that regional centers and vendors understand that any incident of burglary must be reported. The proposed regulation is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety of an individual.

### **Section 54327(c)(2)(E)**

#### **Purpose**

This regulatory action is nonsubstantive and moves “Rape” from subsection (b)(2)(B)5. to subsection (c)(2)(E) and removes the redundant reference to rape.

#### **Rationale for Necessity**

This amendment is necessary to remove redundancy and ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

### **Section 54327(c)(2)(F)**

#### **Purpose**

This regulatory action includes “Simple assault” as a newly specified special incident reportable event to aid in clarifying the scope of reporting when an individual served is the victim of a crime.

#### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text requires reporting when the individual is a victim of a crime. The Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. The Department intends to help provide clarity by including additional examples of crimes that may be under-reported due to lack of clarity within the current regulation text. The Department chose to incorporate this specific example as the individuals served may be more likely to be victimized by this type of crime. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety for an individual.

## **Section 54327(c)(2)(G)**

### **Purpose**

This regulatory action includes “Battery” as a newly specified special incident reportable event to aid in clarifying the scope of reporting when an individual served is the victim of a crime.

### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text requires reporting when the individual is a victim of a crime. The Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. The Department intends to help provide clarity by including additional examples of crimes that may be under-reported due to lack of clarity within the current regulation text. The Department chose to incorporate this specific example as the individuals served may be more likely to be victimized by this type of crime. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety for an individual.

## **Section 54327(c)(2)(H)**

### **Purpose**

This regulatory action includes “Fraud” as a newly specified special incident reportable event to aid in clarifying the scope of reporting when an individual served is the victim of a crime.

### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text requires reporting when the individual is a victim of a crime. The Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. The Department intends to help provide clarity by including additional examples of crimes that may be under-reported due to lack of clarity within the current regulation text. The Department chose to incorporate this specific example as the individuals served may be more likely to be victimized by this type of crime. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety for an individual.

## **Section 54327(c)(2)(I)**

### **Purpose**

This regulatory action includes “Identity or credit theft” as a newly specified special incident reportable event to aid in clarifying the scope of reporting when an individual served is the victim of a crime.

### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text requires reporting when the individual is a victim of a crime. The Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. The Department intends to help provide clarity by including additional examples of crimes that may be under-reported due to lack of clarity within the current regulation text. The Department chose to incorporate this specific example as the individuals served may be more likely to be victimized by this type of crime. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety for an individual.

### **Section 54327(c)(2)(J)**

#### **Purpose**

This regulatory action includes "Attempted or actual homicide or manslaughter" as a newly specified special incident reportable event to aid in clarifying the scope of reporting when an individual served is the victim of a crime.

### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text requires reporting when the individual is a victim of a crime. The Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. The Department intends to help provide clarity by including additional examples of crimes that may be under-reported due to lack of clarity within the current regulation text. The Department chose to incorporate this specific example as the individuals served may be more likely to be victimized by this type of crime. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety for an individual.

### **Section 54327(c)(2)(K)**

#### **Purpose**

This regulatory action includes "Human Trafficking" as a newly specified special incident reportable event to aid in clarifying the scope of reporting when an individual served is the victim of a crime.

### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text requires reporting when the individual is a victim of a crime. The Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. The Department intends to help provide clarity by including additional examples of crimes that may be under-reported due to lack of clarity within the current



regulation text. The Department chose to incorporate this specific example as the individuals served may be more likely to be victimized by this type of crime. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety for an individual.

### **Section 54327(c)(2)(L)**

#### **Purpose**

This regulatory action includes "Stalking" as a newly specified special incident reportable event to aid in clarifying the scope of reporting when an individual served is the victim of a crime.

#### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text requires reporting when the individual is a victim of a crime. The Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. The Department intends to help provide clarity by including additional examples of crimes that may be under-reported due to lack of clarity within the current regulation text. The Department chose to incorporate this specific example as the individuals served may be more likely to be victimized by this type of crime. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety for an individual.

### **Section 54327(c)(2)(M)**

#### **Purpose**

This regulatory action includes "Hate Crime" as a newly special incident reportable event to aid in clarifying the scope of reporting when an individual served is the victim of a crime.

#### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text requires reporting when the individual is a victim of a crime. The Department has been made aware that regional centers and vendors have not been consistent in reporting when the client is the victim of a crime. The Department intends to help provide clarity by including additional examples of crimes that may be under-reported due to lack of clarity within the current regulation text. The Department chose to incorporate this specific example as the individuals served may be more likely to be victimized by this type of crime. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety for an individual.

## **Section 54327(d)**

### **Purpose**

This regulatory action moves and combines the original subsections (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. This regulatory action also replaces the term "consumer" with "individual." Original subsection (d) has been reordered as subsection (f) and addressed below.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Further, this amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives.

## **Section 54327(d)(1)**

### **Purpose**

This regulatory action moves text from the original subsection (b)(1)(A) 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. This regulatory action also uses the term "individual served" to reflect more inclusive, respectful language.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. This amendment is necessary to provide a clear understanding of who is required to report to regional centers when a special incident occurs to an individual being served, at the time that individual is receiving services and supports from a vendor to ensure the health and safety for that individual.

## **Section 54327(d)(2)**

### **Purpose**

This regulatory action moves the original regulation text from (b)(1)(B) and adds clarification that the subsequent list is not a comprehensive list of possible abuse requiring a special incident report.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

The Department has been made aware that regional centers and vendors have not been consistent in reporting all required incidents. Therefore, the “but is not limited to” is necessary to ensure that regional centers and vendors understand that this is not an exhaustive list of possible abuse/exploitation that must be reported to ensure the health and safety of an individual.

### **Section 54327(d)(2)(A)**

#### **Purpose**

This regulatory action is nonsubstantive and moves the original regulation text from subsection (b)(1)(B)1.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

The Department has been made aware that regional centers and vendors have not been consistent in reporting all required incidents. Therefore, the “but is not limited to” is necessary to ensure that regional centers and vendors understand that this is not an exhaustive list of possible abuse/exploitation that must be reported to ensure the health and safety of an individual.

### **Section 54327(d)(2)(B)**

#### **Purpose**

This regulatory action is nonsubstantive and moves the original regulation text from subsection (b)(1)(B)2.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. The Department has been made aware that regional centers and vendors have not been consistent in reporting all required incidents. Therefore, the “but is not limited to” is necessary to ensure that regional centers and vendors understand that this is not an exhaustive list of possible abuse/exploitation that must be reported to ensure the health and safety of an individual.

### **Section 54327(d)(2)(C)**

#### **Purpose**

This amendment moves “Fiduciary” from the original subsection (b)(1)(B)3. and replaces it with “Financial” to clarify the intent of the regulation text.

#### **Rationale for Necessity**

This amendment is necessary to mitigate confusion regarding the need to report financial abuse, align with requirements in the Elder Abuse and Dependent Adult Civil Protection Act, and to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

### **Section 54327(d)(2)(D)**

#### **Purpose**

This regulatory action is nonsubstantive and moves the original regulation text from subsection (b)(1)(B)4.

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. The Department has been made aware that regional centers and vendors have not been consistent in reporting all required incidents. Therefore, the “but is not limited to” is necessary to ensure that regional centers and vendors understand that this is not an exhaustive list of possible abuse or exploitation that must be reported to ensure the health and safety of an individual.

### **Section 54327(d)(2)(E)**

#### **Purpose**

This regulatory action includes “Exploitation” as an example of suspected abuse/exploitation that must be reported.

#### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text previously included the requirement for reporting exploitation. The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. Therefore, this adoption is necessary to ensure that exploitation is not overlooked and is explicitly included in the list of examples for the types of abuse and exploitation that is special incident reportable and to align with requirements in the Elder Abuse and Dependent Adult Civil Protection Act. This adoption is necessary to provide a clear understanding of when special incidents must be reported to ensure the health and safety of an individual.

### **Section 54327(d)(2)(F)**

#### **Purpose**

This regulatory action specifies “Verbal” as an example of suspected abuse that must be reported.

#### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text previously included the requirement for reporting abuse. The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. The Department chose to explicitly specify “verbal abuse” because individuals served by the regional center are at an increased risk to experience verbal abuse. Therefore, this adoption is necessary to clarify that verbal abuse is, in fact, a type of abuse and must be reported under the special incident reporting procedures to provide a clear understanding of when special incidents must be reported to ensure the health and safety of an individual.

### **Section 54327(d)(2)(G)**

#### **Purpose**

This regulatory action includes “Isolation” as an example of suspected abuse that must be reported.

#### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text previously included the requirement for reporting abuse. Further, adding this specific example aligns with the requirements in the Elder Abuse and Dependent Adult Civil Protection Act in WIC section 15630 *et seq.* The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. Therefore, this amendment is necessary to clarify that isolation must be reported under the special incident reporting procedures to provide a clear understanding of when special incidents must be reported to ensure the health and safety of an individual.

### **Section 54327(d)(2)(H)**

#### **Purpose**

This regulatory action moves “physical and/or chemical restraint” from the original subsection (b)(1)(B)5. and adds mechanical restraint.

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Further, it is necessary to include of the use of a mechanical restraint as a form of reportable

abuse to ensure consistent reporting of incidents where equipment or a device is used as an unapproved restraint technique or outside of the prescribed medical authorization.

#### **Section 54327(d)(2)(H)1.**

##### **Purpose**

This regulatory action adds additional clarifying language that physical, mechanical, or chemical restraint can be when the restraint is inconsistent with the program's approved program plan, restraint training curriculum, or restraint policy.

##### **Rationale for Necessity**

The additional clarification for physical, mechanical, or chemical restraint is necessary to ensure that all vendors and regional centers have a consistent understanding of what constitutes the abusive use of physical, mechanical, or chemical restraint under special incident reporting requirements. Utilizing restraint techniques that are inconsistent with the an approved program plan, restraint training curriculum or program policy unnecessarily increases risk of injury or death, and it is important to capture any misuse or non-approved use of restraint. The Department believes the specifications contained here provide clarity for when the use of physical or chemical restraint reasonably indicates suspected abuse or exploitation specific to this particular reporting procedure and chose not to include it under the definitions in subsection (a) for that reason.

#### **Section 54327(d)(2)(H)2.**

##### **Purpose**

This regulatory action adds additional clarifying language that physical, mechanical, or chemical restraint can be when the restraint is used in response to behavior of the individual and the individual's behavior does not pose an imminent risk of harm.

##### **Rationale for Necessity**

The additional clarification for physical, mechanical, or chemical restraint is necessary to ensure that all vendors and regional centers have a consistent understanding of what constitutes the abusive use of physical, mechanical, or chemical restraint under special incident reporting requirements. Rights of the individual served must be preserved and therefore restraint in response to the behavior of an individual when the individual's behavior does not pose a risk imminent risk of harm is abusive. The Department believes the specifications contained here provide clarity for when the use of physical, mechanical, or chemical restraint reasonably indicates suspected abuse or exploitation specific

to this particular reporting procedure and chose not to include it under the definitions in subsection (a) for that reason.

### **Section 54327(d)(2)(H)3.**

#### **Purpose**

This regulatory action adds additional clarifying language that physical, mechanical, or chemical restraint must be reported when restraint is used outside of an approved intervention in the individuals plan must be reported.

#### **Rationale for Necessity**

The additional clarification for physical, mechanical, or chemical restraint is necessary to ensure that all vendors and regional centers have a consistent understanding of what constitutes the abusive use of physical, mechanical, or chemical restraint under special incident reporting requirements. If an individual has a plan for the use of restraint and restraint is imposed outside of the plan, the individual has been put at risk and the regional center and the department must review to ensure the ongoing safety and support that is necessary for that individual. The Department believes the specifications contained here provide clarity for when the use of physical, mechanical, or chemical restraint reasonably indicates suspected abuse or exploitation specific to this reporting procedure and chose not to include it under the definitions in subsection (a) for that reason.

### **Section 54327(d)(2)(H)4.**

#### **Purpose**

This regulatory action adds additional clarifying language that physical, mechanical, or chemical restraint can be when the restraint is inconsistent with the physician's order.

#### **Rationale for Necessity**

The additional clarification for physical, mechanical, or chemical restraint is necessary to ensure that all vendors and regional centers have a consistent understanding of what constitutes the abusive use of mechanical or chemical restraint under special incident reporting requirements. Use of mechanical or chemical restraint outside of its prescribed function jeopardizes the health and safety of the individual. The Department believes the specifications contained here provide clarity for when the use of physical or chemical restraint reasonably indicates suspected abuse or exploitation specific to this reporting procedure and chose not to include it under the definitions in subsection (a) for that reason.

### **Section 54327(d)(2)(I)**

#### **Purpose**

This regulatory action includes “Any incident of alleged abuse reported pursuant to the Elder and Dependent Adult Abuse Reporting Act commencing with WIC section 15600 or the Child Abuse and Neglect Reporting Act commencing with Penal Code section 11164” as an example of suspected abuse that must be reported.

#### **Rationale for Necessity**

This adoption does not increase reporting requirements as the original regulation text previously included the requirement for reporting abuse and is merely a specification to increase clarity. Further, adding this specific example aligns with the requirements in the Elder Abuse and Dependent Adult Civil Protection Act in WIC section 15630 *et seq.*

### **Section 54327(d)(3)**

#### **Purpose**

This regulatory action moves and amends text originally found in subsection (b)(1)(C) to specify that the subsequent list is not an exhaustive list of items that would fall under special incident reporting for suspected neglect.

#### **Rationale for Necessity**

The Department has been made aware that regional centers and vendors have not been consistent in reporting all required incidents. The Department intends to help provide clarity by specifying that this is not an exhaustive list and that all suspected neglect must be reported. This amendment is necessary to provide a clear understanding of reporting to regional centers to ensure the health and safety for an individual.

### **Section 54327(d)(3)(A)**

#### **Purpose**

This regulatory action moves and amends text initially found in subsection (b)(1)(C)1. To read specify that failure to provide medical care for physical and mental health needs would also include failure to administer required health care interventions.

#### **Rationale for Necessity**

The Department has been made aware that regional centers and vendors have not been consistent in reporting all required incidents. The Department intends to help provide clarity by specifying that failure to administer required health care interventions is a type of medical care neglect that must be reported. This amendment is necessary to provide a clear understanding of reporting to regional centers to ensure the health and safety for an individual.



**Section 54327(d)(3)(B)****Purpose**

This regulatory action is nonsubstantive and moves text originally found in subsection (b)(1)(C)2.

**Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

**Section 54327(d)(3)(C)****Purpose**

This regulatory action moves, and amends text originally found in subsection (b)(1)(C)3. to clarify that failing to protect from health and safety hazards includes failing to prevent two or more falls in a thirty (30) day period.

**Rationale for Necessity**

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.

**Section 54327(d)(3)(D)****Purpose**

This regulatory action moves, and amends text originally found in subsection (b)(1)(C)4. to clarify that failing to assist in personal hygiene includes failure to assist with toileting or incontinency needs."

**Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text previously included the requirement for reporting neglect relating to personal hygiene. The Department has been made aware that regional centers and vendors have not been consistent in reporting all required incidents. The Department intends to help provide clarity by specifying that failure to assist with toileting/incontinency needs constitutes a type of neglect that must be reported. This amendment is necessary to provide a clear understanding of reporting to regional centers to ensure the health and safety for an individual.

### **Section 54327(d)(3)(E)**

#### **Purpose**

This regulatory action moves, and amends text originally found in subsection (b)(1)(C)5. to specify that failing to provide appropriate care is not specific to elders or dependent adults but applies to all individuals served by the regional center. This regulatory action also includes the clarification “in a like position” for those having care or custody.

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

Further, this amendment is necessary to clarify that neglect is also reportable when it occurs to a child. While this amendment expands the scope for who this incident must be reported, it does not change the intent of the original regulatory text and is in accordance with the Child Abuse and Neglect Reporting Act found in Penal Code section 11164. The inclusion of “in a like position” is in accordance with WIC section 15610.57(a)(2) and is necessary to capture the intent of incident reporting. This will ensure that anyone who may have responsibility for caring for an individual, regardless of the person's formal title or the duration of that responsibility, is captured under this reporting requirement.

### **Section 54327(d)(3)(F)**

#### **Purpose**

This regulatory action incorporates “abandonment” into the list of reportable incidents of neglect.

#### **Rationale for Necessity**

This specification does not increase reporting requirements as the original regulation text previously included the requirement for reporting neglect. The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. Therefore, the addition of “abandonment” as a specific example, in accordance with the Elder Abuse and Dependent Adult Civil Protection Act, is necessary to ensure that regional centers and vendors understand that abandonment is also a type of neglect that must be reported to ensure the health and safety of an individual.

### **Section 54327(d)(3)(G)**

#### **Purpose**

This regulatory action includes “Any incident of alleged neglect reported pursuant to the Elder and Dependent Adult Abuse Reporting Act commencing with WIC, section 15600 or the Child Abuse and Neglect Reporting Act

commencing with Penal Code section 11164.” As an example of suspected neglect that must be reported.

**Rationale for Necessity**

This adoption does not increase reporting requirements as the original regulation text previously included the requirement for reporting neglect. Further, adding this specific example aligns with the requirements in the Elder Abuse and Dependent Adult Civil Protection Act in WIC sections 15630 *et seq.*

**Section 54327(d)(4)**

**Purpose**

This regulatory action is nonsubstantive and moves the text previously in subsection (b)(1)(D) and replaces “A” with “Any.”

**Rationale for Necessity**

The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. Therefore, the clarification of “any” serious injury/accident is necessary to ensure that regional centers and vendors understand that all incidents of serious accident or injury must be reported to ensure the health and safety of an individual.

**Section 54327(d)(4)(A)**

**Purpose**

This regulatory action moves the text previously in subsection (b)(1)(D)1. and adds the clarification that wound adhesives or other wound closure beyond first aid are also serious injuries requiring an SIR.

**Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Further, the Department has been made aware that regional centers and vendors have not been consistent in reporting all required incidents. This amendment is necessary to specify wound adhesives/closures to capture serious injuries that are treated with these means instead of sutures or staples in order to ensure appropriate review of incidents for the health and safety of individuals served.

**Section 54327(d)(4)(B)-(I)**

**Purpose**

This regulatory action reorders text originally found in subsection (b)(1)(D)2.-9. and includes additional nonsubstantive changes.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

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

#### **Purpose**

This regulatory action specifies that Injury resulting from a seizure requiring medical treatment beyond first aid constitutes a serious injury/accident that must be reported to the regional center.

### **Rationale for Necessity**

The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. Therefore, additional examples of serious injury/accident are necessary to ensure that regional centers and vendors understand that all incidents of serious accident or injury must be reported to ensure the health and safety of an individual.

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

#### **Purpose**

This regulatory action specifies that specified bruising, contusions, or hematomas constitute a serious injury/accident that must be reported to the regional center.

### **Rationale for Necessity**

The 2021 report by the Office of Inspector General specifically identified certain types of injuries are an under-reported area of special incident reporting. Therefore, the Department is specifically identifying the types of bruising, contusions and/or hematomas that may be more indicative of the possibility of abuse and/or neglect to ensure appropriate review of incidents to ensure the health and safety of the individuals served.

### **Section 54327(d)(4)(K)1.**

#### **Purpose**

This regulatory action specifies that reporting must occur for any bruising, contusions, or hematomas to the head, eyes, and/or neck.

### **Rationale for Necessity**

The 2021 report by the Office of Inspector General specifically identified certain types of injuries are an under-reported area of special incident reporting. Therefore, the Department is specifically identifying the types of bruising, contusions and/or hematomas that may be more indicative of the possibility of abuse and/or neglect. These types of injuries to the head, eyes and/or neck indicate greater risk that abuse may have occurred and therefore is necessary

to adopt into the regulations to ensure appropriate review of incidents and ensure the health and safety of the individuals served.

#### **Section 54327(d)(4)(K)2.**

##### **Purpose**

This regulatory action specifies that bruising, contusions, or hematomas to the breasts, genitals, rectal or anal area must be reported.

##### **Rationale for Necessity**

The 2021 report by the Office of Inspector General specifically identified certain types of injuries are an under-reported area of special incident reporting. Therefore, the Department is specifically identifying the types of bruising, contusions and/or hematomas that may be more indicative of the possibility of abuse or neglect. These types of injuries to the breasts, genitals or rectal/anal areas indicate greater risk that abuse may have occurred and therefore is necessary to adopt into the regulations to ensure appropriate review of incidents and ensure the health and safety of the individuals served.

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

##### **Purpose**

This regulatory action specifies that bruising, contusions, or hematomas 2 inches or greater constitute a type of injury that must be reported.

##### **Rationale for Necessity**

The 2021 report by the Office of Inspector General specifically identified certain types of injuries are an under-reported area of special incident reporting. Therefore, the Department is specifically identifying the types of bruising, contusions and/or hematomas that may be more indicative of the possibility of abuse and/or neglect or may otherwise be indicative of other medical concerns or service needs. These types of injuries must be reviewed to ensure the health and safety of the individuals served.

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

##### **Purpose**

This regulatory action specifies that Injury resulting from aggressive contact from another individual requiring medical treatment beyond first aid is a type of injury/accident that must be reported.

##### **Rationale for Necessity**

The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. Therefore, adopting additional examples of serious injury/accident is necessary to ensure that

regional centers and vendors understand that all incidents of serious accident or injury must be reported to ensure the health and safety of an individual.

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

##### **Purpose**

This regulatory action specifies that pressure injuries stage 2 or greater or unstageable must be reported.

##### **Rationale for Necessity**

The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. Therefore, adopting additional examples of serious injury/accident is necessary to ensure that regional centers and vendors understand that all incidents of serious accident or injury must be reported. Further, severe pressure injuries may be indicative of possible abuse or other medical concerns that must be reviewed to ensure the health and safety of an individual.

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

##### **Purpose**

This regulatory action specifies that any head injury, including concussion, requiring medical attention constitutes an injury/accident that must be reported.

##### **Rationale for Necessity**

The Department has been made aware that regional centers and vendors have not been consistent in reporting special incidents. Therefore, adopting additional examples of serious injury/accident is necessary to ensure that regional centers and vendors understand that all incidents of serious accident or injury must be reported to ensure the health and safety of an individual.

#### **Section 54327(d)(5) & (d)(5)(A)**

##### **Purpose**

This regulatory action is nonsubstantive and moves text originally found in subsections (b)(1)(E) and (b)(1)(E)1.

##### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

### **Section 54327(d)(5)(B)-(G)**

#### **Purpose**

This regulatory action is nonsubstantive and moves text originally found in subsections (b)(1)(E)3. – 7., and amends a typo from original subsection (b)(1)(E)6. to “decubitus.”

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

### **Section 54327(d)(5)(H)**

#### **Purpose**

This regulatory action specifies “Bowel Obstruction” resulting in unplanned or unscheduled hospitalization as something that must be reported as a special incident.

#### **Rationale for Necessity**

Bowel obstruction is a serious medical condition that impacts a number of individuals served by the regional center. This can be indicative of other concerns that need to be reviewed and evaluated to ensure the individual is receiving the appropriate services and supports. Deaths related to bowel obstruction have been reported and are preventable. Therefore, it is necessary to adopt “bowel obstruction” resulting in an unplanned hospitalization as a type of reportable incident to ensure the health and safety of the individuals served.

### **Section 54327(d)(5)(I)**

#### **Purpose**

This regulatory action is nonsubstantive and moves text originally found in subsection (b)(1)(E)8.

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

### **Section 54327(d)(6)**

#### **Purpose**

This regulatory action specifies that any stay in a hospital emergency room lasting five days or more must be reported as a special incident.

### **Rationale for Necessity**

This adoption is necessary to provide a clear understanding of reporting to regional centers to ensure the health and safety for an individual to capture when individuals served remain in an emergency room without admission for a period of time that exceeds what is reasonable. Further, the timeframe of five days was chosen because it is already a requirement pursuant to regional center contracts and would not have a fiscal impact. It is necessary to highlight this existing requirement within the special incident reporting regulations.

### **Section 54327(e)**

#### **Purpose**

This regulatory action moves original subsection (c) and updates the referenced subsection with “subsections (c) and (d)” to accurately reflect the changes in reordering. It also updates the term “consumer” with “individual served.” Original subsection (e) has been renumbered as subsection(g).

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. It is also necessary to update the references to subsections commensurate with those changes. Further, this amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives.

**Original section 54327(e)(1)-(10) has been reordered as new subsections (g)(1)-(10) and revisions within those subsections are addressed below.**

### **Section 54327(f)**

#### **Purpose**

This regulatory action is nonsubstantive moves and amends the text originally in subsection (d) by striking out the reference to “b” and replacing it with “(c), (d) and (g).” Original subsection (f) has been reordered and edited under subsection (h) outlined below.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. It is also necessary to update the references to subsections commensurate with those changes.



## **Section 54327(g)**

### **Purpose**

This regulatory action moves and amends the text originally in subsection (e) to replace the reference from “subsection (b)” to “subsections (e) and (f)” and adds “special incident” to clarify the type of report referenced. Original subsection (g) is now under subsection (i).

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. It is also necessary to update the references to subsections commensurate with those changes and to accurately reflect the information on regional center reporting instead of the list of reportable incidents. Further, the use of the term “special incident” to describe “report” is necessary for clarity and consistency throughout the regulation text.

## **Section 54327(g)(1)-(10)**

### **Purpose**

This regulatory action moves text originally in subsections (e)(1)-(10) and amends the term “consumer” to “individual served” commensurate with the updates in terminology referenced in the newly defined term from section 54327(a)(13).

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Further, this amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives.

## **Section 54327(h)**

### **Purpose**

This regulatory action is nonsubstantive and moves the text from original subsection (f) and replaces the citation “subsection (b)” with “subsections (c) and (d).” These changes update the reference to the correct subsections to provide a clear understanding of when to report special incidents. Original subsection (h) has been reordered under subsection (j).

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the

addition of definitions in subsection (a) and is easier to comprehend. It is also necessary to update the references to subsections commensurate with those changes.

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

#### **Purpose**

This regulatory action is nonsubstantive and moves the text from subsection (g) and replaces subsection "(e)" with "(g)." Original subsection (i) has been reordered as subsection (k).

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. It is also necessary to update the references to subsections commensurate with those changes.

### **Section 54327(j) & (j)(1)**

#### **Purpose**

This regulatory action regulatory action is nonsubstantive and reorders original subsections (h) and (h)(1).

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

### **Section 54327(k) & (k)(1)**

#### **Purpose**

This regulatory action is nonsubstantive and moves original subsections (i) and (i)(1) and replaces the references to "Department of Health Licensing and Certification Division" with "California Department of Public Health's Licensing and Certification Division." Original subsection (k) has been reordered as subsection (m).

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. Updating the text with the appropriate California Department is necessary for clarity and accuracy.

## **Section 54327(l)**

### **Purpose**

The regulatory action is non-substantive and by moving original subsection (j) to subsection (l) and amends erroneous cross-reference from "subsection (d)(1)-(10)" to the new appropriate cross-reference "subsection (g)(1)-(10)."

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend. The current regulatory text also inaccurately cross-referenced the subsection inaccurately and this amendment corrects that error and aligns with the new hierarchy.

## **Section 54327(m)**

### **Purpose**

This regulatory action is nonsubstantive and reorders text from original subsection (k).

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by re-ordering subsections in a manner that allows for the addition of definitions in subsection (a) and is easier to comprehend.

## **Section 54327 Authority and Reference Citation**

### **Purpose**

This regulatory action incorporates the additional references to Penal Code section 11164, and WIC sections 4427.5, 4436.5, 4659.2 and 15600. It also removes the references to WIC sections 4500 and 4501.

### **Rationale for Necessity**

This amendment is necessary to capture additional statutes that are being implemented, interpreted, or made specific in relation to special incident reporting requirements. It is also necessary to remove references that are unnecessary to this regulatory section.

## **Section 54327.1(a)**

### **Purpose**

This regulatory action is nonsubstantive and makes changes to the sentence structure and removes "as defined in section 54327(b)."

**Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by removing the unnecessary verbiage and aligning with reorganization of information found in section 54327.

**Section 54327.1(c)(1)****Purpose**

This regulatory action is nonsubstantive and makes changes to the sentence structure to replace the term “consumer(s)” with “individual(s) served.”

**Rationale for Necessity**

This amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives.

**Section 54327.1(c)(2)**

This regulatory action is nonsubstantive and updates “vendor” to “vendor’s.”

**Section 54327.1 (c)(4)****Purpose**

This regulatory action is nonsubstantive changes to the sentence structure to replace the term “consumer” with “individual served.”

**Rationale for Necessity**

This amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives.

**Section 54327.1 (c)(5)****Purpose**

This regulatory action is nonsubstantive by making changes to the sentence structure to replace the term “consumer” with “individual served.”

**Rationale for Necessity**

This amendment is necessary to provide consistency and to align the terms used in the regulation with person-centered language. The meaning and intent of the text will not change with these edits; however, the language will be more reflective of respect and inclusivity for which the Department strives.

### **Section 54327.1(c)(6)**

#### **Purpose**

This amendment adds “special” to describe the types of incidents referenced in this subsection are the incidents that fall under consideration of being special incidents.

#### **Rationale for Necessity**

This amendment is necessary to provide consistent language in alignment with the explanations and references to “special incidents” and “special incident reports (SIRs)” found within sections 54327-54327.2.

### **Section 54327.1(c)(7)**

#### **Purpose**

This regulatory action adds “special” to describe the types of incidents referenced in this subsection are the incidents that fall under consideration of being special incidents.

#### **Rationale for Necessity**

This amendment is necessary to provide consistent language in alignment with the explanations and references to “special incidents” and “special incident reports (SIRs)” found within sections 54327-54327.2.

### **Section 54327.1(c)(10)**

#### **Purpose**

This regulatory action adds “special” as well as, “as described in section 54327(c) and (d).”

#### **Rationale for Necessity**

This amendment is necessary to provide consistent language in alignment with the explanations and references to “special incidents” and “special incident reports (SIRs)” found within sections 54327-54327.2. It is also necessary to specify the subsections in 54327 for ease of reference, consistency, and clarity.

### **Section 54327.1(c)(12)**

#### **Purpose**

This regulatory action replaces “consumer’s” with “individual served.”

#### **Rationale for Necessity**

This amendment is necessary to provide consistency in the use of terms as they are defined in this section of the regulation. The meaning and intent of the text will not change with these edits. However, the language will be more reflective of respect and inclusivity for which the Department strives.

### **Section 54327.1(c)(12)**

#### **Purpose**

This regulatory action adds “special” to describe the types of incidents referenced in this subsection are the incidents that fall under consideration of being special incidents.

#### **Rationale for Necessity**

This amendment is necessary to provide consistent language in alignment with the explanations and references to “special incidents” and “special incident reports (SIRs)” found within sections 54327-54327.2.

### **Section 54327.1(c)(16)(C)**

#### **Purpose**

This regulatory action is nonsubstantive and replaces the reference to “Department of Health Licensing” with “Department of Public Health’s Licensing.”

#### **Rationale for Necessity**

This amendment is necessary to update the text with the appropriate Department.

### **Section 54327.1(d)**

#### **Purpose**

This regulatory action is nonsubstantive and corrects the reference to section “54327(b)” to “54327(c) and (d).”

#### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by providing the updated references to reflect the reordering of information found in section 54327.

### **Section 56002(a)(1)**

#### **Purpose**

This regulatory action replaces the gendered terms “his/her” with the gender-neutral term “their.”

#### **Rationale for Necessity**

This amendment is necessary to replace gendered pronouns with gender-neutral language to reflect changing societal norms and make the regulation more inclusive and respectful for those who don't identify as male or female.

**Section 56002(a)(13)****Purpose**

This regulatory action replaces the gendered terms “his/her” with the gender-neutral term “their.”

**Rationale for Necessity**

This amendment is necessary to replace gendered pronouns with gender-neutral language to reflect changing societal norms and make the regulation more inclusive and respectful for those who don't identify as male or female.

**Section 56002(a)(16)****Purpose**

This regulatory action replaces the gendered terms “his or her” with the gender-neutral term “their.”

**Rationale for Necessity**

This amendment is necessary to replace gendered pronouns with gender-neutral language to reflect changing societal norms and make the regulation more inclusive and respectful for those who don't identify as male or female.

**Section 56002(a)(37)****Purpose**

This regulatory action replaces the gendered terms “his/her” with the gender-neutral term “their.”

**Rationale for Necessity**

This amendment is necessary to replace gendered pronouns with gender-neutral language to reflect changing societal norms and make the regulation more inclusive and respectful for those who don't identify as male or female.

**Section 56002(a)(43)****Purpose**

This regulatory action replaces the gendered terms “his/her” with the gender-neutral term “their.”

**Rationale for Necessity**

This amendment is necessary to replace gendered pronouns with gender-neutral language to reflect changing societal norms and make the regulation more inclusive and respectful for those who don't identify as male or female.

## **Section 56002(a)(47)**

### **Purpose**

This regulatory action replaces the term “defined” with “described” and updates the reference to subsections in section 54327 from “(b)” to “(c) and (d)” as a result of the proposed changes to section 54327. Further, the decision to replace “defined” with “described” is more appropriate now that section 54327(a) incorporates formal definitions. This amendment is necessary for clarity.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by providing the updated references to reflect the reordering of information in the proposed regulation found in section 54327.

## **Section 56026(a)(4)**

### **Purpose**

This regulatory action replaces the term “defined” with “described” and updates the reference to section 54327(b) to remove the specific subsection as a result of the proposed changes to section 54327. These changes provide a clear understanding of when and how to report special incidents.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by providing the updated references to reflect the reordering of information found in section 54327. The Department chose to remove specific subsection references to capture all related SIR information that a provider may need. Further, the decision to replace “defined” with “described” is more appropriate now that section 54327(a) incorporates formal definitions. This amendment is necessary for clarity.

## **Section 56038(a)(1)(F)**

### **Purpose**

This regulatory action updates the cross reference to section 54327 by removing subsection (a) because of the proposed changes to section 54327.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity of the information found within the regulatory text by removing subsection (a) which reflects the proposed amendments to section 54327. The originally referenced subsection was inaccurate and the Department chose to remove specific subsection references to capture all related SIR information to ensure a comprehensive understanding of special incident reporting.



## **Section 56059(b)(9)**

### **Purpose**

This regulatory action removes the specification of subsection “(b)” to ensure that consumer files contain all required SIR information found within all of section 54327.

### **Rationale for Necessity**

This amendment is necessary to ensure clarity and consistency of the regulations in title 17, chapter 3, subchapter 4, article 10, by providing the updated cross reference which reflect the proposed reordering of information found in section 54327.

## **Section 56093(c)(1)**

### **Purpose**

This regulatory action removes the specified subsection “(b)” to ensure that all required reporting information found in section 54327 is referenced and is because of the proposed changes to section 54327. This amendment provides a clear understanding of when to report special incidents.

### **Rationale for Necessity**

These amendments are necessary to ensure clarity and consistency of the regulations by providing the updated cross references which reflect the proposed reordering of information found in section 54327.

## **Section 56093(f)(1) and (h)(1)**

### **Purpose**

The regulatory action removes the specification of a specific subsection because of the proposed changes to section 54327. These changes provide a clear understanding of when to report special incidents.

### **Rationale for Necessity**

These amendments are necessary to ensure clarity and consistency of the regulations by providing the updated cross references which reflect the proposed reordering of information found in section 54327.

## **ANTICIPATED BENEFITS**

Anticipated benefits from the proposed regulations are to provide transparency and consistency for special incident reporting. The proposed regulations are intended to improve reporting, accountability, and the safety of individuals served by establishing clear and consistent statewide reporting standards for detection and response to systemic problems and special incident reports, thereby promoting a culture of safety, and improved public accountability and trust.

## **ECONOMIC IMPACT ASSESSMENT**

In accordance with Government Code section 11346.3(b)(1)(A) through D, the Department has made the following assessments regarding the proposed regulations:

### **Creation or Elimination of Jobs within the State of California**

Developing regulations for special incident reporting will not result in the creation or elimination of jobs in California.

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

The proposed regulations establish procedures, consumer safeguards, and program standards related to development of special incident reporting. No new businesses in California will be created nor existing businesses eliminated.

### **Expansion of Businesses Currently Doing Business within the State of California**

The proposed regulations establish procedures, consumer safeguards, and program standards related to development of special incident reporting. There will be no expansion of businesses currently doing business within the state as a result of the proposed regulations.

### **Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment**

These regulations are expected to improve the health and welfare of California residents. The proposed changes reorganize and clarify the current requirements for consistent reporting of special incidents. Special incident reporting is used as a tool to re-evaluate services and supports for the individual served and therefore impacts their health and safety.

The proposed regulations will affect the health and welfare of California residents in general and will not affect worker safety or impact the state's environment.

## **REASONABLE ALTERNATIVES**

Government Code section 11346.2, Subdivision (b)(4) requires DDS to consider and evaluate reasonable alternatives to the proposed regulatory action and provide reasons for rejecting those alternatives. The Department has determined 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 it proposes this regulatory action, would be as effective and less burdensome to affected private persons than the regulatory action, or would be more cost-effective to

affected private persons and equally effective in implementing the statutory policy or provision of law.

### **Small Business Alternative**

The Department has not identified any reasonable alternatives that would lessen any adverse impact on small business.

## **STATEMENT OF DETERMINATIONS**

### *Local Mandate Determination*

Under Government Code sections 11346.5(a)(5), DDS has determined that the proposed regulatory action would not impose a mandate on any local agency or school district that requires reimbursable by the State under Government Code, title 2, division 4, part 7 (commencing with § 17500).

### *Fiscal Impact Estimate*

1. Fiscal Impact on Local Government: The Department is not aware of any cost or savings impacts that a local government agency would necessarily incur in reasonable compliance with the proposed action.
2. Fiscal Impact on State Government: The Department is not aware of any new cost or savings that State government would necessarily incur in reasonable compliance with the proposed action.
3. Fiscal Impact on Federal Funding of State Programs: The Department is not aware of any cost or savings impacts on federal funding of state programs that would necessarily incur in reasonable compliance with the proposed action.
4. Fiscal Impact on Representative Private Persons or Businesses Directly Affected: The Department is not aware of any cost or savings impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
5. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: There are no known costs or savings imposed on local agencies in connection with this proposed regulatory package.

### *Housing Costs*

The Department has made an initial determination that the proposed regulations would have no impact on housing costs.

## **EVIDENCE SUPPORTING FINDINGS OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

DDS has made an initial determination that these regulations would 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 regulations only clarify and standardize the existing reporting process for vendors, long-term health care facilities and regional centers. The proposed regulatory action is primarily clarification of existing requirements and specifically impact the developmental disability services system. The Department is not aware of any significant economic impact that these changes would have on business.

### **Performance Standards in Place of Prescriptive Standards**

The proposed changes to the regulations do not impose any new performance standards.

## **PUBLIC PROCESS FOR DEVELOPMENT OF THE PROPOSED ACTION (PRE-REGULATORY INFORMATION)**

Consistent with Government Code sections 11346(b), and 11346.45(a), and with the Department's long-standing practice, DDS held public workshops and stakeholder meetings with interested persons during the development of the proposed regulation. The following list of informal pre-rulemaking discussions provided the Department with useful information that was considered during development of the regulation that is now being proposed for formal public comment.

Meeting with Disability Rights California

Tuesday, February 1, 2022

Monday, April 4, 2022

Meeting with CA Disability Services Association

Thursday, February 3, 2022

Tuesday, February 15<sup>th</sup>, 2022

Wednesday, March 2, 2022

Meeting with Family Resource Networks

Friday, February 4, 2022

Thursday February 24, 2022

Tuesday, March 1, 2022

Meeting with CA Community Living Network

Tuesday, February 15, 2022

Friday, March 18, 2022

Meeting with DDS Consumer Advisory Committee

Wednesday, February 16, 2022

Thursday, April 14, 2022

Meeting with Association of Regional Center Agencies  
Weekly meetings held from January 24, 2022 to June 11, 2024

## REFERENCES – Documents Relied Upon

1. Grimm, Christi A. Department of Health and Human Services Office of the Inspector General (2021). *California Did Not Fully Comply with Federal and State Requirements for Reporting and Monitoring Critical Incidents Involving Medicaid Beneficiaries with Developmental Disabilities* (A- 09-17-03002). Retrieved from: <https://oig.hhs.gov>
2. Christian, Leeann Department of Developmental Services Reporting on Specified Consumers (August 31, 2020).
3. F.A. Davis Company. (1993). Internal Bleeding in *Taber's Cyclopedic Medical Dictionary* (17<sup>th</sup> ed. p. 1005).
4. CA Office of Law Enforcement Support, *Facility Reporting Guidelines*, (Updated March 2020)
5. Wikipedia. (n.d.). Physical Abuse. In *Wikipedia The Free Encyclopedia*. Retrieved June 3, 2024, from [https://en.wikipedia.org/wiki/Physical\\_abuse#References](https://en.wikipedia.org/wiki/Physical_abuse#References).
6. Ohio Rev. Code Ann. §5123.50 retrieved from <https://codes.ohio.gov/ohio-revised-code/section-5123.50>

## APPENDIX

Appendix A – Crosswalk for proposed changes to title 17, section 54327.

## Appendix A

Crosswalk to display the reordering of title 17, section 54327

Existing section 54327	Proposed section 54327
	(a) &(a)(1)-(29)
(a)	(b)
(b) & combined with (b)(2)	(c)
(b)(2)(A)	(c)(1)
(b)(2)(B)	(c)(2)
(b)(2)(B)1.	(c)(2)(A)
(b)(2)(B)2.	(c)(2)(B)
(b)(2)(B)3.	(c)(2)(C)
(b)(2)(B)4.	(c)(2)(D)
(b)(2)(B)5.	(c)(2)(E)
	(c)(2)(F)
	(c)(2)(G)
	(c)(2)(H)
	(c)(2)(I)
	(c)(2)(J)
	(c)(2)(K)
	(c)(2)(L)
	(c)(2)(M)
(b) combined with (b)(1)	(d)
(b)(1)(A)	(d)(1)
(b)(1)(B)	(d)(2)
(b)(1)(B)1.	(d)(2)(A)
(b)(1)(B)2.	(d)(2)(B)
(b)(1)(B)3.	(d)(2)(c)
(b)(1)(B)4.	(d)(2)(D)
	(d)(2)(E)
	(d)(2)(F)
	(d)(2)(G)
(b)(1)(B)5.	(d)(2)(H)
	(d)(2)(H)1.
	(d)(2)(H)2.
	(d)(2)(H)3.
	(d)(2)(H)4.
	(d)(2)(I)
(b)(1)(C)	(d)(3)

(b)(1)(C)1.	(d)(3)(A)
(b)(1)(C)2.	(d)(3)(b)
(b)(1)(C)3.	(d)(3)(C)
(b)(1)(C)4.	(d)(3)(D)
(b)(1)(C)5.	(d)(3)(E)
	(d)(3)(F)
	(d)(3)(G)
(b)(1)(D)	(d)(4)
(b)(1)(D)1.	(d)(4)(A)
(b)(1)(D)2.	(d)(4)(B)
(b)(1)(D)3.	(d)(4)(C)
(b)(1)(D)4.	(d)(4)(D)
(b)(1)(D)5.	(d)(4)(E)
(b)(1)(D)6.	(d)(4)(F)
(b)(1)(D)7.	(d)(4)(G)
(b)(1)(D)8.	(d)(4)(H)
(b)(1)(D)9.	(d)(4)(I)
	(d)(4)(J)
	(d)(4)(K)
	(d)(4)(L)
	(d)(4)(M)
	(d)(4)(N)
	(d)(4)(O)
(b)(1)(E)	(d)(5)
(b)(1)(E)1.	(d)(5)(A)
(b)(1)(E)2.	(d)(5)(B)
(b)(1)(E)3.	(d)(5)(C)
(b)(1)(E)4.	(d)(5)(D)
(b)(1)(E)5.	(d)(5)(E)
(b)(1)(E)6.	(d)(5)(F)
(b)(1)(E)7.	(d)(5)(G)
	(d)(5)(H)
(b)(1)(E)8.	(d)(5)(I)
	(d)(6)
(c)	(e)
(d)	(f)
(e)	(g)
(e)(1)	(g)(1)
(e)(2)	(g)(2)
(e)(3)	(g)(3)
(e)(4)	(g)(4)
(e)(5)	(g)(5)

(e)(6)	(g)(6)
(e)(7)	(g)(7)
(e)(8)	(g)(8)
(e)(9)	(g)(9)
(e)(10)	(g)(10)
(f)	(h)
(g)	(i)
(h)	(j)
(h)(1)	(j)(1)
(i)	(k)
(i)(1)	(k)(1)
(j)	(l)
(k)	(m)