

MEETING DATE: November 21, 2024

AGENDA ITEM: G

TO: BSCC Chair and Members

FROM: Ginger Wolfe, Staff Services Manager II
ginger.wolfe@bscc.ca.gov

SUBJECT: Implementation of Assembly Bill 268 – Cardiopulmonary Resuscitation (CPR) Requirements (Section 1028 of Title 15)
Adoption of Revised Regulations: **Requesting Approval**

Summary

This agenda item requests Board approval to finalize the adoption of regulations related to Assembly Bill 268 (Chapter 298, Statutes of 2023), which requires, among other things, the Board to adopt regulations related to the administration of cardiopulmonary resuscitation (CPR) in local detention facilities. Specifically, this item requests final approval of the text of section 1028 of Title 15 of the California Code of Regulations and direct staff to submit final rulemaking documents to the Office of Administrative Law.

Background

On October 4, 2023, Governor Newsom signed AB 268, authored by Assemblymember Dr. Akilah Weber, which added two additional members to the Board, a licensed health and mental or behavioral health care provider to be appointed by the Governor and subject to confirmation by the Senate. Beginning July 1, 2024, AB 268 requires annual training of correctional officers to include at least four mental and behavioral health hours annually. In addition, AB 268 requires correctional officers to be certified in CPR and, “when safe and appropriate to do so,” to begin CPR on a nonresponsive person without obtaining approval from supervisors or medical staff. (Pen. Code, § 6048, subs. (b), (d) & (e).)

At its February 15, 2024, meeting, the Board directed staff to begin the rulemaking process for revisions to Title 15, sections 184 and 1028, bring a final package for approval if substantive revisions were made to the draft language during the regulatory making process, and that if no substantive changes are made to the draft regulatory language that staff file the final regulatory package with the Office of Administrative Law.

BSCC staff initiated the rulemaking process on May 31, 2024, by publishing the Notice of Proposed Action and establishing a 45-day public comment period that ended on July 15, 2024. The rulemaking file and all required rulemaking documents were filed with the Office of Administrative Law on September 10, 2024.

During its review, the Office of Administrative Law provided Approval in Part of the rulemaking file; amendments to Title 15, section 184 [related to annual mental health training] will become effective on January 1, 2025.

The Office of Administrative Law informed BSCC that while the proposed amendments to Title 15, section 1028, effectively implemented the statute (Pen. Code, § 6048, subd. (b)), the amendments did not adequately specify the intent and purpose and, therefore, did not meet the Administrative Procedures Act standards. BSCC staff withdrew section 1028 from the rulemaking file and drafted modifications to address the Office of Administrative Law's feedback. Specifically, the Office of Administrative Law recommended further addressing when the administration of CPR would be "safe and appropriate."

BSCC staff published the modified text for a 15-day public comment period from October 28, 2024, through November 12, 2024. BSCC staff responded to comments received on the proposed action in the final statement of reasons (attachment G-3). With the Board's approval, BSCC staff will resubmit section 1028 for adoption with an estimated effective date of April 1, 2025.

Recommendation/Action Needed

BSCC Staff recommends the following:

1. Approve the modifications to Title 15, section 1028, as proposed in attachment G-1;
2. Approve the final package; and,
3. Direct staff to submit the final rulemaking package to the Office of Administrative Law, including the modified text of the proposed regulations, final proposed regulations, final statement of reasons, and any other rulemaking documents required by the Administrative Procedures Act.

Attachments

G-1: Modified Text of Title 15, section 1028 (Fire and Life Safety Staff)

G-2: Final Proposed Text of Title 15, section 1028, (Fire and Life Safety Staff)

G-3: Final Statement of Reasons