

INITIAL STATEMENT OF REASONS

BOARD OF STATE AND COMMUNITY CORRECTIONS MINIMUM STANDARDS FOR LOCAL DETENTION FACILITIES TITLE 15, DIVISION 1, CHAPTER 1, SUBCHAPTER 4

§ 1006. Definitions.

This section defines terms used throughout these regulations. To provide clarity, consistency, and updated industry terms, several definitions have been modified or added as necessary to fully disclose the meaning of specific terms. There are no operational or fiscal impacts due to these changes.

The definition for "average daily population" was amended for consistency with the more commonly known definition used with the BSCC's Jail Profile Survey.

The definition of "disciplinary isolation" was amended by removing the phrase "separate from regular jail inmates" because the deleted phrase was unnecessary and included an undefined term ("regular jail inmates"). The word "isolation" was replaced with "separation" to more closely define the condition of confinement.

The definition of "facility watch commander" was amended by removing the phrase "tour of duty" and inserting the phrase "work hours." This change was made to replace outdated language with a more contemporary and readily-understood phrase.

The term "medical detoxification" is proposed to create a necessary distinction between the detoxification process that safely withdraws people from addicting drugs, and the use of the sobering cell where inmates are held if they are a threat to their own safety or the safety of others due to their state of intoxication.

The definition of "rated capacity" was amended for clarity to replace "disciplinary isolation" with "disciplinary separation" to more accurately describe the condition of confinement.

The term "responsible health care staff" is proposed for clarity to describe a group of individuals qualified to perform a professional service within his or her scope of practice. This definition provides consistency to these regulations. (*Sections 1204, 1210, 1055, 1056 and 1058 were also amended using this term.*)

The definition of "sobering cell" was amended for clarity to remove the phrase "to prevent injury by falling or victimization by other inmates" because the deleted text was unnecessary.

The term "telehealth" is proposed to describe a method by which health care professionals may facilitate the health care of inmates remotely using video cameras and was referenced in Sections 1052 and 1209.

§ 1010. Applicability of Standards.

This section provides a list of applicable regulations for each specific adult facility type. Portions of this section have been amended to include newly proposed sections of Title 15 that apply to specific facilities. The reference to newly proposed section 1027.5 was added to Section 1010(b) and 1010(d) because Section 1027.5 is applicable to Type I, II, III and IV facilities, as well as court holding and temporary holding facilities. Section 1030 Suicide Prevention Program was renumbered from its previously designated Section 1219. The reference to the original section number has been updated to reflect the regulations current location. Section 1058.5 Restraints and Pregnant Inmates, is a newly proposed regulation. The reference to Section 1058.5 was inserted as applicable to each facility type. Section 1122.5 Pregnant Minors, is a newly proposed regulations. The reference to Section 1122.5 was inserted in section 1010(c) as it applies to court holding facilities that hold minors. There is no operational or fiscal impact as a result of the proposed amendments.

§ 1024. Court Holding and Temporary Holding Facility Training.

This regulation outlines the required training for personnel in a Court Holding Facility. The text of this regulation was amended to replace the phrase "are responsible for supervising" and "supervise" to enhance the clarity of this sections intent. There may be a minimal operational impact. Agencies must now formalize their training curriculums to include fire and life safety training. Fiscal impact is not anticipated to occur because agencies are currently required to train on fire and life safety topics. This amendment clarifies the standard to be met and does not impose a higher standard than now exists. In Section 1024(d), emergency procedures and planning, the language "fire and life safety" was inserted. The Executive Steering Committee recommended that the Administration Workgroup clarify the required level of training for staff in Temporary Holding and Court Holding facilities. To address the recommendation, the Administration Workgroup amended Section 1024 to include the "fire and life safety." By being compliant with Section 1024, an agency will also meet the training requirement of Section 1028, Title 15, CCR.

§ 1027. Number of Personnel.

This section outlines the requirements for sufficient levels of personnel employed and/or on duty at a facility. Prior language was confusing for the field that follows these regulations, as it included dissimilar criteria in determining compliance (objectively counting safety checks and subjectively reviewing programs to assess staffing.) The revised regulation separates presumptive, objective standards (frequency of safety checks) from performance, subjective standards (assessment of staffing by verification of programs and activities). Safety check requirements have been moved to a new regulation, Section 1027.5. In the second paragraph, the phrase "in like manner" was deleted because the term was confusing. No impact to facility operations is anticipated. No fiscal impact to facility operations is anticipated.

§ 1027.5 Safety Checks.

This section outlines the requirements for safety checks in detention facilities and was created to reduce confusion caused by including presumptive, objective standards and performance, subjective standards in section 1027. This new regulation consists of elements deleted from Section 1027. Prior to this edit, Section 1027 mixed presumptive standards (frequency of safety checks) and performance standards (subjective assessment of programs and activities). Separating these dissimilar types of criteria will eliminate confusion in interpreting inspection results and give agencies clearer direction to remedy points of non-compliance. There is no operational or fiscal impact for this proposed regulation.

§ 1029. Policy and Procedures Manual.

This section outlines the requirements for facilities to publish a manual that addresses applicable policy and procedure. Subsection (a)(4), referenced Penal Code Section 6030(f), which is no longer the current code to reference. Replacing the reference to Penal Code 6030(f) with Penal Code Section 3407 helps to assure that facility operators abide by the most current statutory requirements. In subsection (a)(7)(c), the language, “civil disturbance” has been replaced with “mass arrests” to add clarity and specificity to the type of civil disturbance intended. The change to subsection (a)(4) will not impact facility operations because the limitations of PC 3407 are already imposed by statute. The change to (a)(7)(c) will not impact facility operations. No fiscal impact is anticipated with either amendment.

§ 1030. Suicide Prevention Program.

The regulation outlines the requirements for facilities to have a written suicide prevention program in place. The current Section 1219 is located in Article 11, Medical/Mental Health Services contains minimal direction to facility administrators and is proposed for repeal. Inserting the Suicide Prevention Program into Section 1030, previously known as “Type IV Facility Policy Procedures Manual” (repealed) will assure that facility administrators have a comprehensive suicide prevention program in place and provide location consistency with other operational regulations. The proposed adoption to the regulation provides increased requirements for a written suicide prevention. The Medical/Mental Health Workgroup and Administration Workgroup proposed changes that would include the facility administrator, in conjunction with the health authority and mental health director, in crafting policy. The BSCC believes training (a), screening (b), communication between facility personnel (c), housing recommendations (d), increased supervision (e), intervention (f), proper reporting (g), and administrative review (h) are basic necessities in providing health and mental health treatment. Requiring the provisions of (a) through (h) will ensure facilities are consistently training staff, communicating, and better serving inmates who may present a suicide risk. The operational impact of these regulatory amendments are that policies and procedures will need to be expanded to include the requirements of this regulation. This will require input from and coordination with the health authority and mental health director. Along with policies and procedures, a training program will need to be created to support these new requirements. This regulation

change may result in increased costs for policy and procedure development and training. Any increased costs are justified by the improved quality of inmate health care.

§ 1046. Death in Custody.

This section outlines the required review procedures when a death in custody occurs. The proposed revisions in this regulation clarify the type of death review and places a timeframe on when it is to be conducted. These changes should aid in expediting the timely review of deaths. The death in custody review was already required by these regulations. Adding the word "initial" along with the second paragraph clarifies that it is not an investigative review. This change does not affect facility operations. Adding that this review is to be done within 30 days merely places a time frame on the review and does not affect facility operations. There is no fiscal impact to these amendments.

§ 1050. Classification Plan.

This section outlines the requirement for each facility to have a classification plan and the criteria that must be included in classification assessments. The insertion of the term "or designee" in the channel of appeal section allows for the appropriate designation of a position below the administrator. In the chain of appeal: No operational impact is anticipated because the administrator is typically not part of the appeal chain. There is no fiscal impact.

§ 1051. Communicable Diseases.

This section outlines the requirements for policies and procedures on communicable disease identification and response. The regulation as it is contains redundant language. The sentence speaking to tuberculosis has been reworded to provide clarity and remove redundancy. No operational or fiscal impact is anticipated.

§ 1052. Mentally Disordered Inmates.

This section outlines the requirement for facility administrators to develop written policies and procedures on the identification and evaluation of mentally disordered inmates. The proposed amendment includes inserting a reference to telehealth, which provides additional resources for facilities to accomplish needed medical or mental health evaluations. Operationally, adding telehealth as an option could make it much easier for inmates to receive appropriate health care. If an agency elected to purchase video equipment, this amendment may result in increased up-front costs. However, there may be long-term cost savings because health professionals could be providing services by video camera in lieu of potentially driving long distances to see inmates. Any costs may be justified by the improved quality of inmate health care.

§ 1053. Administrative Segregation.

This section outlines the requirement for facility administrators to develop written policies and procedures on the administrative segregation of inmates. The current administrative segregation regulation is broad and brief in discussion of the cases in which an inmate may be placed in administrative segregation. The proposed amendment provides a more

detailed description of behavior and needs that may require placement, and provides clearer parameters when addressing classification.

The facility administrator may eliminate the direct pressure and influence on the inmate population to promote behavior that is criminal in nature. Operationally, it may decrease the movement of jail contraband and reduce assaults on other inmates and staff. There will be no fiscal impact.

§ 1054. Administrative Removal-Type IV Facility.

The purpose of this section is to require facility administrators to develop written policy and procedure on the administrative removal of inmates housed in Type IV facilities. The insertion of the language “or designee” in the review of administrative removal allows for the appropriate designation of a position below the administrator who can act on these occurrences. The administrator him/herself does not need to review each of the removals. Operationally, the addition of “or designee” allows for the appropriate designation of a position below the administrator to review removals. There will be no fiscal impact.

§ 1055. Use of Safety Cell.

This section outlines the safe and proper use of safety cells in local detention facilities. Inserting the language “or designee” in reference to the approval of safety cell placement by the facility manager allows for the appropriate designation of a position below the manager who can act on these events. Whether or not an agency utilizes the “watch commander” (deleted) terminology, the broader “designee” term captures the intent of the position designated by the manager, or next in the chain of command. The use of a designated physician in this regulation is overly restrictive. "Designated physician" was replaced with "responsible health care staff" because it isn't necessary to have a physician approve placement and continued retention. Responsible health care staff as defined by the new definition in Section 1006, would be appropriately qualified to place inmates in a safety cell and approve continued retention

Inmates may be placed in safety cells due to behavior which results in the destruction of property or reveals an intent to cause physical harm to self. In these cells, inmates could 1) harm themselves and require health care interventions or 2) their behavior could be masking a medical condition. Changing the timeframe for continued retention from eight hours to four hours will improve inmate safety. Changing the timeframe that a mental health opinion on placement and retention is secured from 24 to 12 hours will improve inmate safety.

Operationally, the insertion of the language “or designee” allows for the appropriate designation of a position below the facility manager, or next in command, to approve safety cell placements. The use of a designated physician in this regulation is overly restrictive. "Responsible health care staff," as newly defined in these regulations (Section 1006), will provide flexibility by opening up access and services to inmates by utilizing available staff within their scope of practice. Changing the timeframe for continued retention from eight hours to four hours will increase the oversight that the facility

manager, the facility watch commander, or responsible health care staff will have with inmates in safety cells. Changing the timeframe for the mental health opinion from 24 hours to 12 hours will require increased involvement from health care staff.

There is no fiscal impact associated with utilizing “or designee;” the use of "responsible health care staff" may reduce costs because it gives the health authority more options to hire and use staff at varying levels within the appropriate scope of practice. Depending on who is approving the continued retention, changing the timeframe for continued retention from eight hours to four hours should not increase costs. For example, a watch commander will be on duty in the facility. However, if responsible health care staff are required by policies and procedures to approve continued retention, there may be an increased cost. This is justified by the improved quality of inmate health care. Changing the timeframe for the mental health opinion from 24 hours to 12 hours may increase costs in those facilities without 24 hour coverage because the involvement of the health care staff has increased. The increased costs are justified by the improved quality of inmate health care.

§ 1056. Use of Sobering Cell.

This section outlines the safe and proper use of sobering cells in local detention facilities. Due to their level of intoxication, inmates placed in sobering cells could be prone to medical situations that require interventions for their safety. Adding "At 12 hours from the time of placement all inmates will receive an evaluation by responsible health care staff" will require increased involvement by health care staff. Current regulations do not require a second-level of medical review for inmates in sobering cells past the six hour evaluation. As a best practice, many facilities already have a 12-hour medical or health care staff review policy in place, adopting the 12-hour review policy will align regulation with best practices and provide increased medical treatment and interventions. This addition will increase health care staff activities and may cause fiscal impact. Any increased costs are justified by the improved quality of inmate health care.

§ 1057. Developmentally Disabled Inmates.

This regulation outlines the requirements of the facility to identify and evaluate inmates for developmental disabilities. As defined in Section 1006, “developmentally disabled” means those persons who have a disability which originates before an individual attains age 18, continues, or can be expected to continue indefinitely, and constitutes a substantial disability for that individual. This term includes mental retardation, cerebral palsy, epilepsy, and autism, as well as disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals.” Due to their disability, developmentally disabled inmates could be vulnerable in a jail setting. Inserting "appropriate classification and housing, protection, and nondiscrimination" clarifies the intent of this regulation and will emphasize the special considerations these inmates require. There is no operational impact as these inmates already receive special considerations. The amendments to this regulation are clarifying in nature, by definition, developmentally disabled inmates include those with cerebral palsy. There is no anticipated fiscal cost, this is a current industry standard terminology.

§ 1058. Use of Restraint Devices.

This regulation outlines the requirements of facilities to develop written policies and procedures for the use of restraint devices. The current requirement that facilities use a physician in this regulation is overly restrictive. In the first paragraph, "physician" was replaced with "responsible health care staff" because it isn't necessary to have a physician approve placement in restraints. Responsible health care staff as defined by the new definition in Section 1006, would be appropriately qualified to place inmates in restraints.

To be consistent with Section 1055 Use of Safety Cell and to clarify the intent of this regulation, the following sentence was added as a second paragraph: "In no case shall restraints be used for punishment or as a substitute for treatment." To eliminate redundancy, the last sentence in this regulation was deleted.

The use of a designated physician in this regulation is overly restrictive. In the now fourth paragraph, "designated physician" was deleted and "responsible health care staff" was added because it isn't necessary to have a physician approve continued retention. Responsible health care staff as defined by the new definition in Section 1006, would be appropriately qualified to approve continued retention. Inmates may be placed in restraint devices due to behavior which results in the destruction of property or reveals an intent to cause physical harm to self. In restraints, inmates could 1) harm themselves and require health care interventions or 2) their behavior could be masking a medical condition. Increasing the involvement of facility management/responsible health care staff would address this concern.

The following amendments were made in the fourth paragraph; the staff responsible for reviewing continued retention was changed to replace "or the designated physician" to "responsible health care staff"; the timeframe for approval for continued retention was changed from a minimum of every two hours to every hour; the timeframe to secure a medical opinion on placement and retention was changed from "as soon as possible, but no later than four hours" to "within one hour;" a "medical assessment shall be completed within four hours of placement" was added. The above changes were made to better serve inmates who are placed in restraints by providing increased health and safety reviews. The replacement of "designated physician" with "responsible healthcare staff" was made because a designated physician is not always onsite and is not necessary if responsible health care staff is present. Using staff that are already onsite and available will ensure that restrained inmates receive proper reviews in a timely manner. The requirement for approval of continued retention was changed from every two hours to every hour to provide better observation for placement and treatment. Similarly, the requirement for medical opinion on placement and retention was changed from "as soon as possible, but no later than four hours" to "within one hour"; and the requirement for medical assessment was changed from every six hours to within four hours in order to provide increased contact with medical staff in a timelier manner.

Also in the fourth paragraph, the following was added: "If the facility manager, in consultation with responsible health care staff determines that an inmate cannot be safely

removed from restraints after eight hours, the inmate shall be taken to a medical facility for further evaluation." This language was added to provide facilities with a procedure for inmates that cannot be safely removed from restraints, which was not previously addressed in the regulations. If an inmate cannot be safely removed from restraints after eight hours they shall be taken to a medical facility, this requirement is to protect facility staff and the inmate from injury and to provide the inmate with proper medical and mental health treatment.

The addition of "or designee" in relation to the safe removal of restraints or further action by the facility manager, allows for the appropriate designation of a position below the manager, or next in command, who can act on these events.

Operationally, the proposed changes may provide flexibility by utilizing qualified available staff within their scope of practice, require increased involvement from health care staff, and require increased coordination between the facility manager and responsible health care staff. It may also require appropriate staff to drive the inmate to a medical facility. The use of "responsible health care staff" may reduce costs because it gives the health authority more options to hire and use staff at varying levels within the appropriate scope of practice.

The majority of the proposed amendments will not result in a fiscal impact. Changing the timeframe for approval for continued retention from a minimum of every two hours to every hour, changing the timeframe that a medical opinion on placement and retention is secured from "as soon as possible, but no later than four hours" to "within one hour" and adding that a "medical assessment shall be completed within four hours of placement" may require increased involvement from facility management/health care staff and may increase costs. This is justified by the increased inmate safety that the additional oversight brings.

Adding the language that "if the facility manager, in consultation with responsible health care staff determines that an inmate cannot be safely removed from restraints after eight hours, the inmate shall be taken to a medical facility for further evaluation," may require increased coordination between the facility manager and responsible health care staff. It may also require appropriate staff to drive the inmate to a medical facility and may increase costs. This is justified by the increased inmate safety that the additional oversight brings.

§ 1058.5. Restraints and Pregnant Inmates.

This newly proposed section outlines the requirements for the development of written policies and procedures for the use of restraint devices on pregnant inmates. Current regulations do not contain statutory language pertaining to restraints and pregnant inmates. This new regulation assures that facility operators would abide by those statutory requirements. Facility operations should not be changed by this amendment, as this law (PC 3407) was enacted in 2013. There will be no fiscal impact.

§ 1061. Inmate Education Plan.

The inmate and education plan section outlines the requirement for Type II and Type III facility administrators to coordinate and provide an inmate education program. In the third sentence, the words "both sentenced and non-sentenced" were replaced by "housed." "Housed" clarifies that an agency has a responsibility to offer voluntary education to all inmates assigned to a housing unit, but not inmates on alternative, non-custodial programs. In the last sentence, "program" was added between "for" and "eligibility" to provide clarity. Also in the last sentence, "from any class" was deleted to make it clear that inmates may be excluded or removed from any program whether or not it is a class or a program offered via tablets or the internet. There may be an operational impact due to the deletion of "from any class," which provides greater flexibility to facility operators by clarifying that inmates may be excluded or removed from any program whether or not it is a class or a program that is offered via tablets or the internet. This provides facility operators with additional consequences for inmates' negative behavior. There will be no fiscal impact.

§ 1063. Correspondence.

This section outlines the requirement to develop written policies and procedures on the subject of inmate correspondence.

The amendments to this regulation provided needed clarity and specificity by replacing the term "letters" with "envelopes and two sheets of paper," and "envelopes and sheets of paper." There will be no operational or fiscal impact.

§ 1070. Individual/Family Service Programs.

This section outlines the requirement for written policies and procedures on service programs at Type II, II, and IV facilities. To better reflect the needs of inmates, the range and source of services in this regulation was reordered and expanded.

In subsection (a), "individual, group and/or family counseling" was deleted and added to subsection (b)(1) under best practices. In order to provide appropriate and relevant services to inmates in local detention facilities, a means of gathering information from an inmate is necessary. Risk and needs assessments are instruments that assist practitioners in collecting and synthesizing information about inmates. It was added to the top of the list of services to emphasize the importance of the assessment process. "Drug and alcohol abuse counseling" was deleted in subsection (b) and inserted in (b)(2) under best practices, "Best practices" was added as subsection (b) to emphasize the importance of assuring that the services that follow in the new subsections (1) through (5) are proven effective. "Cognitive behavioral interventions" was added to subsection (b)(3) because many inmates in local detention facilities suffer from a number of mental disorders. Including this in the list of services will assure that inmates receive needed treatment. "Vocational testing and counseling" was moved from subsection (d) to (b)(4) because it fits under the umbrella of best practices. "Employment counseling" was moved from subsection (e) to (b)(5) because it fits under the umbrella of best practices. "Referral to community resources and programs" was deleted from subsection (f) and inserted in subsection (c), "Legal assistance" was removed from subsection (f) to subsection (e), "Regional center services for the developmentally disabled" was removed from

subsection (i) and inserted in subsection (f), and "Community volunteers" was moved from subsection (c) to (g) to provide comprehensible order. In subsection (d) "reentry planning and service development" replaced "prerelease and release assistance" because it is a more accurate description of services to be rendered. Subsections (h) and (i) were deleted because they were moved to subsections (e) and (f), respectively, for clarity.

For facilities that are not currently administering risk and needs assessments, policies and procedures may require amendment and staff training would be required. Best practices in cognitive behavioral interventions could require appropriate staff to provide those services. The addition of "reentry planning and service development" in lieu of "prerelease and release assistance" will not affect operations. The remainder of changes to the list of services do not affect facility operations.

For facilities that are not currently administering risk and needs assessments there would be a fiscal impact because policies and procedures may require amendment and staff training would be required. The increased costs are justified by the improvement in the quality and delivery of services to inmates. Best practices in cognitive behavioral interventions may require appropriate staff to provide those services. The increased costs are justified by the improvement in the quality and delivery of services to inmates. The addition of "reentry planning and service development" in lieu of "prerelease and release assistance" will not result in a fiscal impact. The remainder of changes to the list of services will not have a fiscal impact.

§ 1081. Plan for Inmate Discipline.

This section outlines the requirement for the facility administrator to develop written policies and procedures on the discipline of inmates. The regulation has been completely reordered to ensure alignment with case law, provide clarity and thereby address prior confusion. In order to be consistent with the definition change in Section 1006, "disciplinary isolation" was changed to "disciplinary separation," the same change is carried into this regulation in (b) Punitive Actions 2 and 3. The change in definition is done for the purpose of more closely defining the condition of confinement. Changes to (b) 3 regarding the hearing, (b) 6 regarding a written statement, and (d) regarding the imposition of conditions or restrictions, reflect greater consistency with case law. Reference to Section 1054 in (c) has been changed due to this incorrect reference. It has been corrected to Section 1053. There may be an operational impact due to further requirements in the hearing process, allowing inmate's witnesses and documentary evidence at a hearing, and allowing the inmate to have assistance at a hearing. The citations in the note section were inserted to align properly with BSCC's statutory authority. There will be no fiscal impact.

§ 1082. Forms of Discipline.

This section outlines the acceptable forms of discipline that may be utilized by disciplinary officers. In order to be consistent with the definition title change in Section 1006 Definitions, from "disciplinary isolation" to "disciplinary separation," the same change is

carried into this regulation. The change to the definition title was done for the purpose of more closely defining the condition of confinement. There is no operational or fiscal impact.

§ 1083. Limitations on Disciplinary Actions.

This section sets limits for the use of disciplinary actions, in accordance with the prohibition of cruel and unusual punishment in local detention facilities. In order to be consistent with the definition change in Section 1006 Definitions, from “disciplinary isolation” to “disciplinary separation,” the same change is carried into this regulation. The change to the definition title was done for the purpose of more closely defining the condition of confinement. There is no operational or fiscal impact.

§ 1122.5. Pregnant Minors

This section outlines the requirement for facilities to develop written policies and procedures on the pregnant minors in custody. The Title 15, Minimum Standards for Local Detention Facilities do not contain statutory language pertaining to pregnant inmates. This new regulation assures that facility operators would abide by the requirements in statute and Title 15, Minimum Standards for Juvenile Facilities. Operationally, there may be an impact on facilities as they will be required to develop policies and procedures for pregnant minors consistent with Title 15, Minimum Standards for Juvenile Facilities, Section 1417. There may be a fiscal impact associated with developing policies and procedures for pregnant minors. Any cost will be justified by the protection that appropriate policies and procedures will provide.

§ 1125. Psychotropic Medications for Minors in Jail.

This section outlines the requirement for facilities to develop written policies and procedures on the voluntary and involuntary use of psychotropic medications for minors. The phrase "or become unavoidable" in the last sentence of the first paragraph is unnecessary in this regulation because it is subjective, therefore it has been removed. There is no operational or fiscal impact.

§ 1204. Health Care Staff Procedure.

This section outlines the requirement to utilize the proper personnel in performing health care within facilities. The use of a designated physician in this regulation is overly restrictive. "Responsible health care staff," as newly defined in these regulations (Section 1006), may provide flexibility by opening up access and services to inmates by utilizing available staff within their scope of practice. Operationally, the use of "health care staff" may provide flexibility by opening up access and services to inmates by utilizing available staff within their scope of practice. The use of "health care staff" may reduce costs because it gives the health authority more options to hire and use staff at varying levels within the appropriate scope of practice.

§ 1205. Health Care Records.

This section outlines the requirement for health authorities to maintain health records that contain specific information for each individual. "Medical/Mental" was removed to clarify that the records referred to in this regulation pertain to all health records, not just medical

records and mental health records. "Care" was added to make it clear that the records referred to in this regulation pertain to health care. "Paper or electronic" was added to this regulation to make it clear that the health care record may be in a paper form or electronic form. "Within the provisions of HIPAA..." was added to describe those occasions when the responsible physician or designee shall share health screening and care information to jail authorities. Operationally, the addition of "within the provisions of HIPAA" will clarify what health information may be shared and may improve safety and security of the facility. There will be no fiscal impact.

§ 1206. Health Care Procedures Manual.

This section outlines the requirement for health authorities to develop written policies and procedures on health care and provisions that much be address. "Private physicians" was removed and "other treating health care professionals" was added for clarity. Private physicians are not the only health professionals that may be contacted. "And other services mandated by statute" was removed and placed in the new subsection (q). Beyond statutes pertaining to pregnant and lactating women, there are a number of statutory requirements that the health authority must include in the health care procedures manual. Subsection (p) was added to assure that this topic is addressed in the health care procedures manual and promote coordination between health care staff and custody staff. There will be no operational or fiscal impact.

§ 1206.5. Management of Communicable Diseases in a Custody Setting.

This section outlines the requirement for policies and procedures to be developed on the identification, treatment, and control of communicable diseases. This regulation contains redundant language which has been removed to provide clarity to this regulation. There is no operational or fiscal impact.

§ 1207. Medical Receiving Screening.

This section outlines the requirement that inmates in custody receive medical screening. The second sentence contained redundant language which has been removed providing clarity to this regulation. The last sentence was revised to better describe the training required of those who are expected to play a role in the receiving screening process. There is no operational or fiscal impact.

§ 1208.5. Health Care Maintenance.

This newly proposed section has been added to outline the requirement that inmates receive an age appropriate and risk factor based health maintenance visit within a specified range of time during incarceration. With the advent of Public Safety Realignment, inmates may be held in county jails for extended periods of time. The Title 15, Minimum Standards for Local Detention Facilities do not currently address health care maintenance for these inmates. This regulation will require health care maintenance examinations upon the second anniversary of incarceration. Operationally, there may be an impact on facilities because this regulation will require appropriate health care staff to perform more frequent health examinations. Increased health care examinations may result in increased costs. Any increased costs will be justified by the improvement in health care for inmates held for prolonged periods of time.

§ 1209. Mental Health Services and Transfer to Treatment Facility.

This section outlines the requirement of facilities to establish policy and procedure for the identification and handling of mental health related issues. Subsection (a)(1) has been amended to provide clarity by replacing "Screening for...problems" with "Identification and referral of inmates with...needs." Subsection (a)(2) was inserted to assure that mental health programs are provided by appropriately qualified staff while acknowledging that local resources may dictate the need for the flexibility of telehealth (newly defined in Section 1006).

In subsection (a)(3) the term "services" replaced the language "and management of acute psychiatric episodes." This change was made to emphasize that crisis intervention must be addressed by the health care procedures manual. In addition, the lower case "c" was replaced by an upper case "C" to provide consistency within this list of services. Subsection (a)(4) was added to clarify that basic mental health services are to be provided to inmates in local detention facilities. In subsection (a)(5), the lower case "m" was replaced by an upper case "M" to provide consistency within this list of services. Subsection (a)(6) was added to assure that mental health services are provided in a coordinated approach with other health care disciplines. Subsection (b) was amended to clarify that the term "designated treatment facility" means a Lanterman Petris Short treatment facility.

This regulation currently requires the provision of mental health services. Allowing jurisdictions the flexibility to use telehealth in subsection (a)(2), operationally, this change may make it much easier for inmates to receive appropriate mental health care. Subsection (a)(6) was added to assure that mental health services are provided in a coordinated approach with other health care disciplines. The operational impact may vary depending on the level of coordination between health care disciplines. If these efforts are not coordinated policies, procedures and practice will need to be modified. The remainder of changes will not have an operational impact.

Allowing the use of telehealth in subsection (a)(2) may result in increased up-front costs due to the purchase of video equipment. However, there may be long-term cost savings because the qualified staff providing mental health programs could be providing those services by video camera in lieu of potentially driving long distances to see inmates. The change in subsection (a)(6) may result in increased costs depending on the level of coordination between health care disciplines. If these efforts are not coordinated policies, procedures and practice will need to be modified. The costs are justified by the improved quality of inmate health care. The remainder of proposed changes will have no fiscal impact.

§ 1210. Individualized Treatment Plans.

This section requires that an individualized treatment plan be developed for each inmate who receives mental health or health treatment. This regulation was amended to delete the term "treatment" and in its place add "responsible health care." As defined in Section 1006, "responsible health care staff" is the appropriate term to describe the individuals

qualified to develop a treatment plan and provides consistency and clarity to these regulations. There is no operational or fiscal impact.

§ 1217. Psychotropic Medications.

This regulation outlines the requirement that responsible physicians develop policies and procedures governing the use of psychotropic medications. The phrase "or become unavoidable" in the last sentence of the first paragraph is unnecessary in this regulation because it is subjective. There is no operational or fiscal impact.

§ 1219. Suicide Prevention Program.

Section 1219 has been repealed to provide location consistency with other operational regulations. Section 1030 will be renamed "Suicide Prevention Program".

§ 1241. Minimum Diet.

This section outlines the minimum diet requirements for inmates in custody. The 2015-2020 Dietary Guidelines were released on 01/07/2016. This regulation was updated accordingly, to include: The California Daily Food Guide was renamed to the California Food Guide, all other changes were made to be consistent, dairy was further defined to allow for flexibility without a change to the regulation, increased grain (by deleting "some") was done to meet the guidelines, and sodium and sugar intake should be a consideration in determining proper diet. The revisions were made for consistency with the new guidelines. An operation impact exists in that meal planning will need to reflect the updated regulation requirements. The change will be cost effective and is justified as the change reduces the costs of dairy.

§ 1243. Food Service Plan.

This section outlines the requirements of food service plans in compliance with the California Retail Food Code. Standard practice for many facilities is to prepare and hold a three-day sample tray. This is an industry best practice in the event that a food borne illness occurs, the trays may be tested to either determine the cause or to rule out a food borne illness. The operational impact would be reflected in the time it takes for kitchen staff to make and store the tray. The fiscal impact of this change would be the cost of one additional plate in each of three meals per day, as well as the training to ensure staff accomplish this task. It is justified as it is a best practice in the industry.

§ 1247. Disciplinary Separation Diet.

This section outlines the required diet for an inmate that is on disciplinary separation. In order to be consistent with the definition change in Section 1006 Definitions, from "disciplinary isolation" to "disciplinary separation," the same change is carried into this regulation. The change to the definition title was done for the purpose of more closely defining the condition of confinement. There is no operational or fiscal impact.

§ 1270. Standard Bedding and Linen Issue.

This regulation requires the issue of clean bedding and linens for each inmate. The language "Two blankets or sleep bag may be issued in place of one mattress cover or one sheet." was inserted to provide that sleep bags and/or two blankets may be an

alternative to one mattress cover or one sheet. By expanding the ability to substitute, facilities are able to meet the standard. This change would allow more flexibility for the facility operators. There is no operational or fiscal impact.

§ 1271. Bedding and Linen Exchange.

This section outlines the requirement that written policies and procedures on the exchange of bedding and linen be developed. The word “sleep bag” has been inserted to address agencies that use this as a substitute for the mattress pad, sheet and/or blanket. The sleep bag is a bottom and top covering that is not detachable. There is no operational impact. There may be a fiscal impact for counties that choose to use the sleep bag as it relates to laundering, due to the weight of the bag and the wear to washing machines.

PURPOSE

These revisions were made to enhance the operation of local detention facilities, and provide facility administrators with clear guidance on best practices in the field. While there are no specific problems that these revisions intend to address, they do incorporate current best and evidence-based practices and reflect any relevant changes in applicable statute. Benefits of these revisions will include enhanced safety and security of local detention facilities and continued protection of residents, staff and the public.

PROBLEMS THIS PROPOSED REGULATION SEEKS TO ADDRESS

There are no specific problems that these revisions address, they incorporate current best and evidence-based practices and reflect relevant changes in applicable statute.

BENEFITS ANTICIPATED FROM THE PROPOSED REGULATION

The BSCC anticipates several benefits from the proposed regulation adoption and amendment, including: Protection of health and safety for incarcerated persons, and worker safety.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

Except for the incorporated documents, listed below, the BSCC did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of these regulations.

- 2011 Dietary Reference Intakes (DRI) of the Food and Nutrition Board, Institute of Medicine of the National Academies
- 2008 California Food Guide
- 2015-2020 Dietary Guidelines for Americans

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the BSCC.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The BSCC has not identified any alternatives that would lessen any adverse impact on small businesses.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

The BSCC has determined that the proposed regulations would not have a significant statewide adverse economic impact directly affecting business based on the Economic Impact Assessment, as discussed below.

ECONOMIC IMPACT ASSESSMENT PURPOSE

The Board of State and Community Corrections (BSCC) is required by Penal Code 6030 to biennially review facility standards and make appropriate revisions. The proposed revisions were made to incorporate necessary requirements for the operation of local detention facilities.

In reviewing the current regulations, the BSCC set out to provide local detention facilities with a clear and concise guide to navigate the requirements as they pertain to specific facilities.

THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed amendments will not create or eliminate jobs within the state of California.

THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

The proposed amendments will not create new businesses or existing businesses within the state of California.

THE EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

The proposed amendments will not expand businesses currently doing business within the state of California.

BENEFITS OF THE REGULATIONS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT

The anticipated benefits to this regulation are increased welfare of incarcerated persons and worker safety. The welfare of incarcerated persons and worker safety will be affected positively by updating many of the existing regulations on topics such as, but not limited to suicide prevention, communicable diseases, and medical receiving and screening.