

MEETING DATE: April 11, 2019

AGENDA ITEM: D

TO: BSCC Chair and Members

FROM: Aaron Maguire, General Counsel, aaron.maguire@bscc.ca.gov

SUBJECT: Regulation Update for Feminine Hygiene Products: **Requesting Approval**

Summary

This agenda item requests Board approval to begin the process of updating the regulations related to feminine hygiene products for adult local detention facilities. Specifically, this proposal would direct staff to begin the Administrative Procedures Act process of updating section 1265 of Title 15 of the California Code of Regulations related to feminine hygiene products to conform to the recently enacted section 1485 of Title 15 of the California Code of Regulations, which deals with the same subject matter for juvenile facilities.

Background

On December 19, 2018, a lawsuit was filed in the Sacramento Superior Court against the Board and the Sacramento County Sheriff, requesting the court order the Board to direct all counties to provide tampons to all adult female inmates free of charge. Plaintiffs' counsel argued that counties were failing to provide tampons due to section 1265 of the Board's regulations, which reads, in pertinent part, as follows: "Each female inmate shall be issued sanitary napkins and/or tampons as needed."

Plaintiffs' counsel has agreed to dismiss the case with the understanding that the Board would consider conforming the current adult feminine hygiene regulation to the recently approved juvenile feminine hygiene regulation, as follows: "Each female inmate shall be provided with sanitary napkins, panty liners, and tampons as requested." (See Cal. Code Regs., tit. 15, § 1485.)

This change will ensure consistency between the treatment of juveniles and adults in local detention facilities by requiring these items to be provided upon request. Board staff will develop inspection reports to monitor that feminine hygiene items are available upon request and without requiring inmates to purchase these items from commissary, i.e., a store operated pursuant to section 4025 of the Penal Code.

Recommendation/Action Needed

Staff recommends that the Board:

1. Approve the proposed revisions to Section 1265 of Title 15 of the California Code of Regulations in Attachment D-1
2. Direct staff to begin the rulemaking process pursuant to the Administrative Procedures Act and publish notice of regulatory action in the California Regulatory Notice Register.
3. Following the requisite public comment period, if no public comments are received and no changes are made to the express terms, deem this action the final Board approval and direct staff to file the final proposed regulations and the Final Statement of Reasons without further Board action and any other final rulemaking documents required by the Administrative Procedures Act.

Attachments

D-1: Proposed Amendments to Section 1265 of Title 15 of the California Code of Regulations.