

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Health Services Agency *MSW*

BOARD AGENDA # B-14

Urgent Routine

AGENDA DATE October 24, 2006

CEO Concurs with Recommendation YES NO
(Information Attached) *Dht*

4/5 Vote Required YES NO

SUBJECT:

Acceptance of an Update on the Medical Marijuana Identification Card Program established by the State of California

STAFF RECOMMENDATIONS:

1. Accept an update on the Medical Marijuana Identification Card Program established by the State of California.
2. Accept the recommendation of the Health Executive Committee to delay implementation of the Identification Card Program in Stanislaus County.

FISCAL IMPACT:

There is no cost to the County General Fund. If the Board of Supervisors directs staff to implement the Identification Card Program, a fee would be developed and presented for Board of Supervisors' approval. The fee would be charged for each application and intended to cover the County's estimated cost, including \$14.00 per application to be charged, collected and submitted to the State to offset State program costs.

BOARD ACTION AS FOLLOWS:

No. 2006-856

On motion of Supervisor O'Brien, Seconded by Supervisor Mayfield
and approved by the following vote.

Ayes: Supervisors: O'Brien, Mayfield, Grover, DeMartini, and Chairman Simon

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) _____ Denied
- 3) _____ Approved as amended
- 4) _____ Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

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DISCUSSION:

In 2003, Senate Bill SB 420 (Vasconcellos) was enacted to assist law enforcement in identifying Californians who are protected by the Compassionate Use Act (the "Act"). The Act was in response to Proposition 215 (1996). Proposition 215, passed by voters, allows for individuals with chronic medical conditions and their caregivers to cultivate, possess, and use marijuana upon the recommendation of their physician.

SB 420 requires that the State Department of Health Services (DHS) establish and maintain a statewide program for the issuance of identification cards of qualified patients or their caregivers, with a physician's recommendation. For qualified patients or caregivers, obtaining a medical marijuana card is voluntary. The identification card program is separate and apart from the issues surrounding the sale of marijuana at retail marijuana stores since the sale of marijuana is a separate issue. The essential function of the identification card is to allow law enforcement officials to be able to identify individuals who are authorized by California law to possess marijuana in the amounts prescribed by law.

The State of California initiated their Medical Marijuana Program in July 2004, and proceeded with a pilot implementation process in January 2005. The State has been implementing individual county's programs incrementally since that time. The program requires that counties allow residents to submit an application for an identification card, and requires the county to take a digital image of the applicant and to verify the prescription with the applicant's physician according to State established criteria. Once the verification process is complete, the county is required to submit the application and digital image of the applicant to the State. The State approves the application, enters the information into a database accessible by law enforcement, produces the identification card and forwards the card to the county. The county is then required to contact the applicant and upon presentation of identification, the county is to distribute the Medical Marijuana Identification Card, which is valid for one-year.

Pursuant to SB 420, all counties are required to participate in the state card program. However, the state law is in direct conflict with applicable federal law which provides that cultivation, possession and or use of marijuana for any purpose, medical or otherwise, is unlawful without exception. Therefore, a county's participation in the state program is in conflict with current federal law. To date, twenty-five (25) counties have implemented the program, 2 counties have enjoined and filed a lawsuit against the State based on the conflict with federal law, and thirty-one (31) counties have yet to take official action.

On August 18, 2006, the Board of Supervisors received correspondence dated August 10, 2006 from Chief Roy Wasden, representing the Law Enforcement Executives Association stating opposition to the Medical Marijuana Identification Card Program.

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established by the State of California

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The correspondence cited that “the current system lacks adequate control verification and creates crime associated with drug use and drug production.” The letter conveyed the Law Enforcement Executives’ opposition “until meaningful controls are implemented in production, distribution and possession of medical marijuana.”

On September 5, 2006, staff provided an update to the Health Executive Committee of the Board of Supervisors on the program and the preparatory work undertaken to date by staff. The Committee advised staff to bring a report to the Board of Supervisors, however recommended that the County remain prepared yet wait to implement the program locally until the outcome of the lawsuit filed by San Bernardino and San Diego counties. The Board of Supervisors has received two pieces of correspondence regarding this program and they are attached.

POLICY ISSUES:

Direction to implement supports the Board’s goal of meeting State mandates while being in conflict with federal law.

STAFFING IMPACT:

There is no staffing impact associated with this request.

✓
BOARD OF SUPERVISORS

2006 AUG 18 P 12: 57

City of Modesto Police Department

600 10th Street, Modesto CA 95354

Chief Roy Wasden

CORRESPONDENCE 1

page 1 of 2

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Operations

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Support

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August 10, 2006

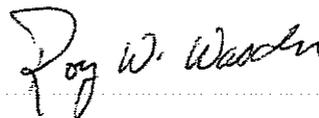
County Board of Supervisors
1010 Tenth Street, Suite 6500
Modesto, CA 95354

Dear Board Members:

RE: County Provided Medical Marijuana Cards

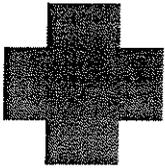
The county Law Enforcement Executive Association (LEX) collectively has a great deal of experience with problems associated with medical marijuana. Based on that experience, we cannot support medical marijuana card issuance. The current system lacks adequate control verification and creates crime associated with drug use and drug production. We recognize the law requires Dr. John Walker to implement a card issuance process but we wish to be on record in opposition to this until meaningful controls are implemented in production, distribution and possession of medical marijuana.

Sincerely,



Roy W. Wasden, President
Stanislaus County Police Chiefs',
Sheriff's and District Attorney's
Association

RWW/dp



SAFE ACCESS NOW
F. AARON SMITH, CALIFORNIA COORDINATOR

539 Carr Ave. Santa Rosa, CA 95404 – Email: safeaccessnow@gmail.com
Phone: (707) 291-0076 – Fax: (866) 204-1341

DEPT OF SUPERVISORS

OCT 18 P 2:06
✓ October 16, 2006

To: Stanislaus County Board of Supervisors
Attn: Supervisor Ray Simon, Chairman
CC: Cleopathia Moore, Stanislaus Public Health Administration
Rick Robinson, Stanislaus County Executive Officer

Dear Supervisor Simon,

We are writing you today because it has been brought to our attention that your board will soon be conducting a hearing to discuss implementation of California's statewide Medical Marijuana ID Card (MMIC) in Stanislaus County. As a leading advocacy group, representing approximately 3,000 Stanislaus County patients who use medicinal cannabis under state law, we applaud your decision to take up this important issue.

The recent enforcement actions taken against the Modesto medical marijuana dispensary, California Healthcare Collective (CHC), clearly illustrate the urgent need to make the medical marijuana registry program available in the county. In the joint operation between the Modesto Police Department and the US Drug Enforcement Agency, undercover agents were able to obtain marijuana from the CHC using counterfeit documentation stating that they were qualified to use medical cannabis under state law.

California's medical marijuana ID card program was created by the legislature in order to help prevent such misuse and abuse of our state's Compassionate Use Act (H&S §11362.5).

In order to address the concerns voiced by law enforcement over implementation and interpretation of the Compassionate Use Act, the California Legislature and the Governor enacted Senate Bill 420, (H&S §11362.7, et seq.) in October of 2003. This legislation requires counties to administer the statewide MMIC program. Among its other benefits, this program aids law enforcement officers in identifying legitimate medical marijuana patients with better ease and efficiency.

Currently, patients in Stanislaus County have no choice but to carry inconsistent documentation that is difficult—if not impossible—for local law enforcement to verify. Implementation of the MMIC program will help to solve this problem by providing a uniform means of identifying patients who qualify under HS §11362.5.

Once the County's MMIC program is in place, peace officers will be able to utilize a web-based database (maintained by the California Department of Health Services) to verify a patient's legal status within minutes. Law enforcement will have access to this system twenty-four hours a day, as opposed to the current practice, which relies on the hours of operation of individual doctors when attempting to verify the legitimacy of a medical marijuana patient's documentation. The county-administered MMIC removes the burden of verifying patient records from the officers on the street, freeing up their valuable time for service to their communities.

In no way does this program liberalize current medical marijuana laws. In fact, the MMIC provides a mechanism to distinguish legitimate patients from those who are abusing the law. It is for all these reasons that law enforcement staff is generally supportive of the ID card in the twenty-three counties with operating programs, including neighboring Santa Clara and Calaveras Counties.

Not only will implementation of the MMIC program move Stanislaus County into compliance with California law, County Staff will in no way be in violation of federal law. The 2002 US Supreme Court ruling, *Conant v. Walters* upheld a doctor's right to recommend marijuana. The state medical marijuana ID card simply identifies those patients who have had cannabis recommended to them by their doctor, and does not set the stage for marijuana distribution centers in the county.

California's medical marijuana laws have gained broad support across partisan lines since the initial passage of Proposition 215, ten years ago.

An independent field poll conducted in 2004 found that 74 percent of California voters support the implementation of the State's medical marijuana laws—64 percent of Republicans and 84 percent of Democrats. Another more recent poll commissioned by the AARP found even stronger support among older Americans. Fully 82 percent of West Coast residents over the age of forty-five support patients' rights to use medicinal cannabis when recommended by their doctor.

Please join us in supporting the medical marijuana ID card program in Stanislaus County. Once the program is implemented, the county will have fulfilled its statutory obligation to the state and the voters. Additionally, the program will save the precious time of local law enforcement personnel at the same time protecting legitimate medical marijuana patients from needless detainment or arrest.

Thank you for taking decisive action in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Aaron Smith', written over a horizontal line.

F. Aaron Smith
Safe Access Now
(707) 291-0076