

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

DEPT: Health Services Agency *ms*

BOARD AGENDA # \*B-7

Urgent  Routine

AGENDA DATE March 31, 2009

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Introduce and Waive the First Reading of an Ordinance to Establish a Medical Marijuana Identification Card Application Fee

STAFF RECOMMENDATIONS:

Introduce and waive the first reading of an ordinance to establish a Medical Marijuana Identification Card application fee in the amount of \$118 which represents the County portion only of the fee and does not include the State imposed fee, currently set at \$66.

FISCAL IMPACT:

The proposed fee is attributable to the State mandate requiring that counties implement a Medical Marijuana Identification Card Application program in accordance with State established guidelines and processes. The proposed County fee which is based on the estimated costs to be incurred by the County, is \$118. That \$118 fee does not include the State fee, which is currently set at \$66, and which will also

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2009-199

On motion of Supervisor Grover, Seconded by Supervisor Monteith  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Grover, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION: THIS ITEM WAS REMOVED FROM THE CONSENT CALENDAR AND PLACED ON NON-CONSENT FOR DISCUSSION AND CONSIDERATION

Introduced and waived the first reading of ordinance C.S. 1058

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

**FISCAL IMPACT (Continued):**

be collected by the County and forwarded to the State as required. Set-up costs will include the purchase of a camera, tripod, file cabinet and supplies. Other estimated costs considered staff training, website and hard copy materials preparation, coordination with the State to implement the program, and the actual per application processes to be conducted by staff. As established by the State, this is a per application fee-supported program that includes a pass-through fee to the California Department of Public Health Services. Full recovery of costs will be dependent on actual application volumes. This County fee is authorized by statute and does not require a public hearing prior to adoption by the County. There is no cost to the County General Fund.

**DISCUSSION:**

Program Background

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; however, the County must by law (SB 420), participate in the State program. 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.

Request for Proposal

The Public Health division of the Stanislaus County Health Services Agency developed a team to begin research on the legislation regarding Medical Marijuana, requirements of the program, and how counties were to implement the program in July 2005. Upon completion of the research regarding the proposed program, a Request for Proposal was developed to seek a not-for-profit organization according to the State rules, to implement and administer the program.

On January 20, 2006, RFP No. 05-44-BLS to solicit Medical Provider to administer the program was released. Upon completion of the RFP process in May 2006, there was only one applicant. After review of the applicant qualifications and discussion with the State, it was determined that the one respondent was not eligible to administer the program.

## Approval to Introduce and Waive the First Reading of an Ordinance to Establish a Medical Marijuana Identification Card Application Fee

Page 3

### Court Challenges

A lawsuit launched by San Diego County in January of 2006 and enjoined by San Bernardino and Merced Counties, sought relief from the law on the grounds that Marijuana, for any use, was illegal under federal law. On October 24, 2006, Health Services Agency staff presented an update to the Board of Supervisors. The staff recommendation, which had the support of the Health Executive Committee of the Board, was to delay implementing the Medical Marijuana Program pending the outcome of the San Diego County/San Bernardino County lawsuit, and was approved by the Board.

San Diego Superior Court Justice, William R. Nevitt, Jr. rejected San Diego's claim in his ruling released November 16, 2006. San Diego and San Bernardino Counties challenged the ruling and appealed the decision. Stanislaus County continued to wait the final decision of the ruling. In December of 2006, a state judge upheld California's law permitting the use of medical marijuana for medical purposes, thereby rejecting the lawsuit challenging the statute. San Diego County announced its intent to have the appellate court's decision overturned. On October 17, 2008, the California Supreme Court rejected the petition to hear the case.

### Implementation Efforts

The State 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 back 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.

Health Services Agency staff met with the Sheriff and developed a means of leveraging the Sheriff's office imaging equipment. This program component was rejected by the State Department of Public Health on December 22, 2008, citing that the program must be administered by a health related organization.

### Proposed Fee

As approximately 70% of California counties have implemented a program, Health Services Agency staff obtained cost and fee information from other counties. Having assessed those programs, and applying local cost structure, process information, and volume estimates, a proposed fee was developed. Under the State program, the cost of the program is to be recouped from fees. In fact, a portion of the application fee collected by the County is to be forwarded to the State to recover the State's costs of administering their portion of the program. The State mandates that applicants who are enrolled in the Medi-Cal program are to be extended a 50% discount. Since it will not cost any less for an applicant who is a Medi-Cal enrollee, staff have estimated the

Approval to Introduce and Waive the First Reading of an Ordinance to Establish a Medical Marijuana Identification Card Application Fee

Page 4

volume of Medi-Cal to non-Medi-Cal applicants and cost shifted the fees in an attempt to recover costs.

The proposed fee to apply for a Medical Marijuana Identification Card is \$118 plus the State imposed fee which is currently \$66, for the total to be collected by the Health Services Agency per application of \$184. For comparison, Merced County's total application fee is \$225 and San Joaquin County's fee is \$141.

The table below summarizes the known and estimated costs used to establish the proposed fee. Staff assumed 100 applications would be submitted annually and that one-half of those would be from Medi-Cal beneficiaries. The costs related to each application were projected by estimating time and related cost relative to specific aspects of the program. Initial set up expenses such as the purchase of the camera, were allocated assuming 100 applications would be received in one year, and the cost would be recovered in two years.

<b>Description</b>	<b>Cost</b>
Costs to Establish, Manage and Operate program	\$84
Equipment related set-up costs	4
Cost Shift for 50% Medi-Cal discount	30
<b>County Cost = County Application Fee</b>	<b>\$118</b>
Current Pass-through fee to State <sup>1</sup>	66
<b>Total Application Fee – County and State</b>	<b>\$184</b>
Less State required 50% discount	
<b>Total Application Fee for Medi-Cal beneficiaries</b>	<b>\$92</b>

<sup>1</sup> Required pass-through fee to the State is reduced by 50% for Medi-Cal beneficiaries, so this cost is \$33.00 and was considered in the cost shift figure.

In order to administer the program as efficiently as possible, the Health Services Agency will have limited hours each week, during which applications will be accepted, processed and distributed. This is modeled after many other counties' programs and will enable the agency to have a limited number of existing staff trained to administer the program and maintain other public health responsibilities.

Upon the establishment of the fee by the Board of Supervisors, Health Services Agency staff will work with the State to finalize the implementation of the program.

**POLICY ISSUES:**

Approval of this request supports the Board's priority of *A healthy community and Efficient delivery of public services* by meeting the State mandated program requirements.

Approval to Introduce and Waive the First Reading of an Ordinance to Establish a  
Medical Marijuana Identification Card Application Fee  
Page 5

**STAFFING IMPACT:**

Based on the estimated applicant volume and limited hours for administering the program, the program will be implemented utilizing existing staff positions.

**ORDINANCE NO. C.S. \_\_\_\_\_**

**AN ORDINANCE RELATING TO MEDICAL MARIJUANA  
IDENTIFICATION CARD APPLICATION FEE**

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 9.92 is added to the Stanislaus County Code to read as follows:

“Pursuant to Sections 11362.7 et seq. of the Health and Safety Code, persons who seek to obtain a medical marijuana identification card are required to pay a fee to the County for all costs incurred by the County or the County’s designee for administering the medical marijuana identification card program. The costs incurred by the County are determined to be in the amount of \$118 for each applicant and that shall be the amount of the County fee imposed pursuant to this ordinance. Pursuant to applicable state law, persons who apply for a medical marijuana identification card and who are enrolled in the Medi-Cal program are to be extended a fifty percent discount of the county fee, therefore, such qualified applicants shall pay a County fee in the amount of \$59. The County shall also collect the amount of any fee imposed by the State for this program.

Section 2. This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor \_\_\_\_\_, seconded by  
Supervisor \_\_\_\_\_, the foregoing ordinance was passed and  
adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus,  
State of California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the  
following called:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

---

Chairman of the Board of Supervisors of  
the County of Stanislaus, State of  
California

ATTEST:

CHRISTINE FERRARO, Clerk of the Board  
Of Supervisors of the County of Stanislaus,  
State of California

By \_\_\_\_\_

Approved as to form:

JOHN P. DOERING, County Counsel

By Dean Wright