



County of Yolo

HEALTH DEPARTMENT

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Bette G. Hinton, M.D.
Director – Health Officer

TO: Supervisor Mariko Yamada, Chair
and Members of the Board of Supervisors

FROM: Bette G. Hinton, M.D., Director/Health Officer
Myrna Epstein, PhD, MPH, RN

DATE: February 27, 2007

SUBJECT: Approve and authorize the implementation of the Yolo County Health Department Medical Marijuana Identification Card Program and direct staff to set a public hearing date to adopt the fees needed to cover the cost of the program. (No general fund impact)

RECOMMENDED ACTION

1. Approve and authorize the implementation of the Medical Marijuana Identification Card Program in Yolo County as required by law (Senate Bill 420, Chapter 875, Statutes of 2003) with the Health Department as the entity responsible for issuing identification cards to eligible residents.
2. Direct staff to set a public hearing date to adopt the fees needed to cover the cost of identification card program.

FISCAL IMPACT

There is no general fund impact by this action. The department is proposing a \$68 fee to cover the cost of staff time to process the application and individual photograph necessary for the identification card. The fees are based on the estimates and experience of other county health departments that have already implemented the Medical Marijuana Program. It is estimated to take 70 minutes per person to completely process applications. At current rates with the DHS fee portion included, a non-Medi-Cal beneficiary will pay a total of \$210 while a Medi-Cal beneficiary will pay \$142.

REASON FOR RECOMMENDED ACTION

Although federal law continues to make the possession of marijuana illegal, California law still requires counties to issue medical marijuana identification cards for medicinal purposes.

All California counties are required to implement applicable provisions of Senate Bill 420 authorizing the Medical Marijuana Program. The primary function of each county's participation is to process applications for medical marijuana identification cards for residents of their county. The local health department has been identified as the county agency to manage this program in most California counties.

BACKGROUND

In 1996, California voters passed Proposition 215, also known as the Compassionate Use Act (Act). The Act made the medical use of marijuana legal in California for patients with serious medical conditions listed under the law. However, it did not provide an effective way for law enforcement to properly identify patients who were legally protected by the Act.

The intent of Senate Bill (SB) 420 (Chapter 875, Statutes of 2003, Vasconcellos) was to assist law enforcement in identifying Californians who were protected by the Act and to provide patients and their caregivers with a form of identification that would protect them against wrongful arrest and prosecution by State and local law enforcement agencies.

SB 420 also required the California Department of Health Services (CDHS) to establish and maintain a statewide medical marijuana identification card and registry program for qualified patients and their caregivers. As a result, the Medical Marijuana Program was established in 2004 and is located within the California Department of Health Services.

The Medical Marijuana Program allows qualified patients to apply for and receive identification cards for themselves and their primary caregiver through their county of residence. Patients must present certification by a licensed physician of their eligibility based on the list of serious medical conditions defined under the Act. Participation in the program by the resident is optional. Statutes governing the Medical Marijuana Program can be found in Sections 11362.7 through 11362.83 of the Health and Safety Code (H&S). Regulations for the Program are located in the California Code of Regulations, Section 39001 through 39009 of Title 17.

The process to issue these identification cards will entail entering application information into the California Department of Health Services' Medical Marijuana Automated System (MMAS), taking a photograph of the applicant and transferring this information electronically to the California Department of Health Services, which will produce the card and register its validity on a verification Web site. The Identification Card will be sent to the health department. The Medical Marijuana Card recipient is required to return to the health department to collect the identification card.

In July, 2005, the California Attorney General reviewed federal and California law and provided an opinion that federal law did not invalidate California law in this instance. In February, 2006, San Diego County sued California and its health services director, arguing that local governments should not be bound to uphold state laws that are weaker than the federal blanket ban on marijuana. The superior court judge ruled that counties would not be breaking federal law by giving out state identification cards. San Diego County is appealing this ruling. Thus, the California law requiring counties to issue identification cards still stands.

OTHER AGENCY INVOLVEMENT

County Counsel's office has reviewed the directives, statutes and laws pertaining to the Medical Marijuana ID program. The Health Department has also participated in discussions and meetings with medical consultants, the Yolo County Health Council, representatives from law enforcement and patient advocacy groups.