



County Administrative Office  
**COUNTY OF TULARE**  
**AGENDA ITEM**

**BOARD OF SUPERVISORS**

ALLEN ISHIDA  
District One

PETE VANDER POEL  
District Two

PHILLIP A. COX  
District Three

J. STEVEN WORTHLEY  
District Four

MIKE ENNIS  
District Five

**AGENDA DATE:** December 17, 2013 - REVISED

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input type="checkbox"/>
CONTACT PERSON: Debbie Vaughn    PHONE: 559-636-5005				

**SUBJECT:** Review and approve the proposed attached criteria for State medical marijuana legislation.

**REQUEST(S):**  
That the Board of Supervisors:  
Review and approve the proposed attached criteria for State medical marijuana legislation.

**SUMMARY:**  
During the last two State legislative sessions, several bills were introduced involving medical marijuana which could have limited local land use control and legalized for-profit medical marijuana operation through the establishment of a state agency to regulate, license, and oversee such operations. In some cases, the bills sought to prevent physicians' abuse of medical marijuana laws.

On August 29, 2013, the United States Department of Justice issued a Guidance Memorandum which outlined enforcement priorities including: preventing distribution to minors; preventing revenue from going to criminal enterprises, gangs, and cartels; preventing the diversion of marijuana from states where it is legal under state law in some form to other states; preventing marijuana activity as a cover for trafficking in other drugs or illegal activity; preventing violence and the use of firearms in marijuana activities; preventing drugged driving and other adverse health consequences; preventing cultivation on public lands; and preventing possession or use on federal property. In the memo, the Deputy Attorney General stated that "the Department's guidance...rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct

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will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests” and that “a system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice.”

In anticipation that medical marijuana bills may be introduced in the upcoming legislation session, County Counsel prepared a list of recommended bill criteria for Board review (attached). The first section outlines key criteria related to maintaining local land use control and enforcement. The second section identifies criteria specifically related to medical marijuana including preventing criminal enterprise; physician regulation and penalties; violence prevention; trafficking and illegal transportation; minor access; and health and safety standards.

The County legislative analyst has discussed the above draft criteria with both the California State Association of Counties (CSAC) and the Rural County Representatives of California (RCRC). The associations provided some feedback and have requested that a Board approved list of criteria be provided so that they may disseminate and discuss the criteria with other member counties.

**FISCAL IMPACT/FINANCING:**

N/A

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

Board of Supervisors direction regarding medical marijuana legislative criteria aligns with the County’s Strategic Initiatives of Safety and Security and Quality of Life by addressing concerns related to public safety and environmental quality.

**ADMINISTRATIVE SIGN-OFF:**

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Debbie Vaughn  
Senior Administrative Analyst

Cc: Auditor-Controller  
County Counsel  
County Administrative Office (2)

Attachment(s) Proposed Medical Marijuana Legislative Criteria

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF REVIEW AND )  
APPROVE THE PROPOSED ATTACHED ) Resolution No. \_\_\_\_\_  
CRITERIA FOR STATE MEDICAL ) Agreement No. \_\_\_\_\_  
MARIJUANA LEGISLATION

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE  
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD \_\_\_\_\_  
\_\_\_\_\_, BY THE FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JEAN M. ROUSSEAU  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

Reviewed and approved the proposed attached criteria for State medical marijuana  
legislation.

## Requirements for State Medical Marijuana Bill from Tulare County's Perspective

### Background:

Failed State Bills: In the 2013 Legislative Session, the State Legislature attempted to pass two different bills which sought to prevent physician's abuse of the medical marijuana laws and to legalize for-profit medical marijuana operations, establishing a state agency to regulate, license and oversee those operations. (See SB 439 and AB 473, 604 and 611).

Federal Guidance: The United States Department of Justice issued a Guidance Memorandum on August 29, 2013 which urged states to enact strict regulations to: keep drugs away from children; prevent exports to other states; block criminal elements using medical marijuana as a cover for trafficking; prevent safety and environmental dangers posed by growing medical marijuana on public land; prevent drugged driving; and prevent violence and the use of firearms in the cultivation and distribution of marijuana.

### Required and Recommended Criteria for State Bill:

CSAC comment: staff does not currently have policy guidelines and will be soliciting input as to whether or not the medical marijuana task force should be reconvened.

Maintain Local Control: CSAC comment: opposition to the end of session bills (604 and 611) was based on its policy regarding the maintenance of local land use control.

- ② Amend current provision Health & Safety Code section 11362.83 to clarify that "regulation" includes **banning** collectives, cooperatives, dispensaries or any other medical marijuana operation.
- ② If a local agency's regulations conflict with or are stricter than state law, the patient or medical marijuana operator must comply with the local agency's regulations. RCRC comment: "conflict with" may be interpreted as a local agency with less strict regulations being able to overrule a state law and they felt this language should be clarified or removed.
- ② Does not contain language that can be interpreted to: Grant legal **rights** to use medical marijuana (should not have the word "right" in bill or Preamble); weaken **law enforcement's** authority to arrest a medical marijuana patient/operator using their discretion based on the totality of circumstances (see Littlefield case); or weakens any authority counties or cities have to **abate** violations of their ordinances.

### Preventing Criminal Enterprise:

- ② All dispensaries, collective grow sites or other medical marijuana operations must have a **state license**. All license-holders must comply with all ordinances and regulations of the jurisdiction in which they are located. Dispensaries can only sell medical marijuana that is sold or otherwise provided to the dispensary by a licensed grow site.

- ☐ Strong criteria for dispensary or licensed grower owners, operators, and employees: **no felony convictions** within the last 10 years, no convictions for moral turpitude and the operation must be **non-profit**. Independent audit of operation must be performed and the results made available to the state and local governments at least every two (2) years.
- ☐ More than 2 violations of state or local laws governing medical marijuana cultivation, distribution, transportation, sales or possession in a 3 year period, or any felony conviction or conviction for moral turpitude of an owner/operator, means permanent revocation of license.
- ☐ Individuals can only grow at their **primary residence** (must comply with all applicable city, county, homeowners' association, renter's, etc. rules). If the individual rents or leases the residence, notarized consent from the owner must be obtained. RCRC comment: staff believes this requirement would be more widely accepted if it was a local requirement versus a statewide requirement.

Physician Regulation and Penalties: RCRC comment: staff does not believe that the Physician's association will support this requirement.

- ☐ Additional regulations and **penalties** for physicians who abuse the law (See SB 604/611) (e.g. can only give recommendation based upon at least two **in-person visits, including a complete physical examination and taking a thorough medical history**, cannot prescribe over the internet, must not be affiliated with, have a **financial interest** in, or receive any form of remuneration from any dispensary or medical marijuana operation, etc.)

Violence Prevention:

- ☐ Dispensaries and operations must meet minimal **security requirements of the structure** or area unless greater security restrictions have been set by the local agency.

Preventing Trafficking/Illegal Transportation:

- ☐ The bill should address **transportation** from a licensed grow site to a licensed dispensary, and by a qualified patient or primary caregiver. A licensed grow site may not transport more than \_\_\_ pounds to a licensed dispensary at a time.
- ☐ **Mobile deliveries and online sales are banned.**

Preventing Access to Minors:

- ☐ Doctors may not recommend medical marijuana to **minors** ( - or - without approval by child's primary physician, a specialist and the state board).
- ☐ **Advertising:** ban internet advertising and any advertising outside the dispensary that may appeal to children (e.g. cartoon characters).
- ☐ May not grow at home if there are any minors who live there.

Health and Safety Safeguards:

- ② All medical marijuana products must be **tested** for contaminants and **labeled** with the THC levels.
- ② Minimize environmental impacts (water theft, pesticide pollution, environmental damage) – by allowing only a set number of **large grow sites**, which must be licensed.