

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

DEPT: Health Services Agency *ms*

BOARD AGENDA # *B-14

Urgent Routine

AGENDA DATE December 8, 2009

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

4/5 Vote Required YES NO

SUBJECT:

Approval to Introduce and Waive the First Reading of an Ordinance Amending Stanislaus County Code Chapter 9.90 Relating to the Stanislaus County Community Health Center Board

STAFF RECOMMENDATIONS:

Introduce and waive the first reading of an ordinance amending Stanislaus County Code Chapter 9.90 relating to the Stanislaus County Community Health Center Board.

FISCAL IMPACT:

The Fiscal Year 2009-2010 Clinic and Ancillary budget is \$49,513,811. Contained within this budget is the annual net impact of the Federally Qualified Health Center Look-Alike (FQHC-LA) designation of over \$7 million in enhanced revenue and prescription drug discounts. The recommendation is being made in order to maintain this FQHC-LA designation and the essential funding and other related benefits it affords.

BOARD ACTION AS FOLLOWS:

No. 2009-809

On motion of Supervisor Chiesa, Seconded by Supervisor Grover

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) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION: Introduced and waived the first reading of Ordinance No. C.S. 1068

ATTEST: Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk

BD-82-6
File No. ORD-55-L-1

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DISCUSSION:

The Federally Qualified Health Center Look-Alike (FQHC-LA) designation for the Health Services Agency's primary care clinics was awarded effective September 20, 2007. On an annualized basis, the designation contributes over \$7 million dollars to the Stanislaus County Community Health Centers (Health Services Agency primary care clinics). This increase in revenue is based on the cost based methodology of reimbursement provided to FQHC designated clinics for services provided to Medi-Cal and Medicare beneficiaries, compared with the standard fee schedule applied to non FQHC designated providers. The FQHC designation is the single largest contributing factor to the Health Services Agency clinic system's improved financial operating performance.

In order to maintain the FQHC designation, the Health Services Agency must submit an annual recertification application to the federal Health Resources and Services Administration (HRSA) each July (due 60 days prior to the anniversary of the initial designation). On July 17, 2008, staff submitted HSA's first annual recertification application to HRSA. Although traditionally the recertification process for FQHC Look-Alikes has been a paper submission and desk review process, on October 3, 2008, HRSA sent a notification to Stanislaus County that its designation had been selected for a site visit pursuant to the 2008-07 Program Assistance Letter which announced a pilot whereby ten FQHC Look-Alike designations across the country would receive a site visit as part of the recertification review.

The site visit was to occur in November of 2008, but was subsequently rescheduled twice by HRSA. The site visit review did take place on February 25-26, 2009 and was conducted by two contracted reviewers and one HRSA project officer.

The feedback from this visit was sent by HRSA to Stanislaus County on June 3, 2009. The report entitled "FQHC-LA Site Visit Response Tool" contained 25 measures, of which HSA was found in compliance on 24. The remaining measure is with respect to governance structure, and the composition now considered non-compliant was previously approved and considered compliant by HRSA during the initial application review in 2007. Nonetheless and despite recent communication with HRSA as to the inconsistency, a corrective action plan based upon this revised interpretation was due to HRSA by August 30, 2009.

The Proposed Action Plan (Attachment A) was supported by the Health Executive Committee on July 28, 2009 and then approved by the Board of Supervisors on August 4, 2009 and by the Community Health Center Board (CHC Board) on August 5, 2009.

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The Proposed Action Plan was then submitted to HRSA for review. HRSA has recently approved the Action Plan and recommended the continued FQHC-LA designation based on its implementation.

The issue of non-compliance to be resolved by the Action Plan is with respect to the three members of the Community Health Center Board (CHC Board) who are employed by Stanislaus County. HRSA has now determined that although the three board members are not employed in the health centers (primary care clinics), a violation of the conflict of interest policy is present as those board members are employees of the FQHC-LA "Applicant." Note: In the Stanislaus County Community Health Centers FQHC-LA designation, Stanislaus County is the "Applicant" and the CHC Board is the "Co-Applicant." This is a reversal by HRSA, as it had thoroughly reviewed the governance structure in the original August 2006 application as evidenced by a change it required the County to make before granting the designation. In February of 2007, the Board of Supervisors amended the original ordinance to meet HRSA's then current expectations as outlined in its January 2007 communications. Despite staff's disagreement with this finding, it is recommended that the Board of Supervisors approve the necessary changes in order to maintain the designation and the essential funding it provides.

To achieve compliance, the recommended amended Ordinance (Attachment B) is necessary, as are corresponding changes by the CHC Board of its bylaws, and ultimately the participation of the County employed CHC Board members.

The changes to the Ordinance include the elimination of references to the two "non-user" seats which call for the Board of Supervisor appointments to be appointees from the County Chief Executive Office and from the County Health Services Agency. Appointment, reappointment and removal of two of the five "non-user" seats however, would continue to be an authority of the Board of Supervisors, while the remaining three "non-user" seats and all six of the "user" seats would remain under the authority of the CHC Board. This is consistent with a federal requirement that allows an entity other than the CHC Board to appoint no more than half of the "non-user" board members. At the request of the CHC Board, the amended ordinance would also allow for alternates to ensure the achievement of quorum and as a means of succession planning.

Presently the two Board of Supervisor appointees are the County's Chief Operating Officer and the Public Health Officer. Although not a requirement, the CHC Board had appointed a county employee who is an Assistant Director of the Community Services Agency. If recommended amended ordinance is adopted, it would be the intent of staff to assist in the identification of replacement board members who could offer similar

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areas of expertise, and to encourage the three county employees to continue to attend the CHC Board meetings.

Note: The second annual recertification application was submitted to HRSA by the Health Services Agency on July 16, 2009.

POLICY ISSUE:

This recommendation supports the Board of Supervisor's priorities of *A healthy community*, *Effective partnerships* and *Efficient delivery of public services*, as the FQHC-LA designation is an essential financial component of the Agency's ability to sustain the County's clinic system services for our community, and supports the Community Health Center Board's activities.

STAFFING IMPACT:

While there is no impact to the Salary and Position Allocation Resolution, the governing responsibilities of three county employees would be eliminated as a result of this recommendation.

ATTACHMENT A

**Proposed Action Plan in Response to FQHC-LA Site Visit Report of June 3, 2009
(if approved by Board of Supervisors and CHC Board)**

Action	Responsibility	Timeline
1. Present proposed amended Ordinance to the Stanislaus County Board of Supervisors for approval to adopt.	HSA Managing Director/CHC Executive Director, County Counsel, County CEO Office and County Board of Supervisors	Within forty-five (45) days of receiving HRSA approval of the proposed plan
2. Cause Ordinance to be adopted (includes a required thirty (30) day timeframe which provides for a public notice).	Clerk of the Stanislaus County Board of Supervisors	Within forty-five (45) days of approval by Board of Supervisors
3. Present and consider proposed amended Bylaws to the Stanislaus County Community Health Center Board for approval	HSA Managing Director/CHC Executive Director and CHC Board	Within one hundred twenty (120) days of receiving HRSA approval to the proposed plan
4. Seek interested community members for the three "non-user" CHC board seats. Obtain completed applications.	HSA Managing Director/CHC Executive Director, County Chief Executive Office, County Board of Supervisors and CHC Board	Within one hundred twenty (120) days of receiving HRSA approval of proposed plan
5. Coordinate and accept resignations from the three County employed CHC Board members.	HSA Managing Director/CHC Executive Director and CHC Board	Within one hundred twenty (120) days of receiving HRSA approval of proposed plan
6. Appoint two new "non-user" members as replacements for the County Chief Executive Office appointee and the Health Services Agency appointee.	County Board of Supervisors	Within one hundred fifty (150) days of receiving HRSA approval of proposed plan
7. Appoint one new "non-user" member as replacement for the one County employed board member originally appointed by the CHC Board.	CHC Board	Within one hundred fifty (150) days of receiving HRSA approval of proposed plan
8. Submit report to HRSA Project Officer confirming implementation of the approved plan and full compliance.	HSA Managing Director/CHC Executive Director	Within one hundred eighty (180) days of receiving HRSA approved plan

ATTACHMENT B

ORDINANCE NO. C.S. _____

**AN ORDINANCE AMENDING THE STANISLAUS COUNTY
COMMUNITY HEALTH CENTER BOARD ORDINANCE**

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

Section 1. Chapter 9.90 of the Stanislaus County Code is amended to read as follows:

COMMUNITY HEALTH CENTER BOARD

Sections:

- 9.90.010 Establishment.
- 9.90.020 Membership and Appointment.
- 9.90.030 Terms of Office.
- 9.90.040 Meetings.
- 9.90.050 Limitations of Authority.
- 9.90.060 Duties.
- 9.90.070 Conflicts of Interest.

9.90.010 Establishment.

There is hereby established in Stanislaus County a commission which shall be known as the Stanislaus County Community Health Center Board ("CHCB"). The purpose of the CHCB is to act, in conjunction with the Board of Supervisors, as the governing board of those health care clinic operations of the County of Stanislaus ("County") which are designated as Federally Qualified Health Centers ("Look Alike") pursuant to 42 U.S.C. Section 1395x(aa)(3) and/or (4), and/or Section 1396(1)(2)(A) and/or (B) ("FQHCs") and further described in Policy Information Notice ("PIN") 99-09, issued April 20, 1999, by the U.S. Department of Health and Human Services, Health Resources and Services Administration ("HRSA") through its Bureau of Primary Health Care ("BPHC"), and concerning "Federally Qualified Health Center Look-Alike Entities for Public Entities," and as more particularly described in PIN 2003-21, issued August 26, 2003.

9.90.020 Membership and Appointment.

The CHCB shall consist of eleven (11) members initially appointed by the Board of Supervisors. All subsequent appointments, removals and replacements of members shall be made in accordance with subsections (A) and (B) of this section 9.90.020. All members of the CHCB shall be residents of Stanislaus County and lawful citizens of the United States. No member of the CHCB shall be an employee or an

immediate family member of an employee of the County. No members shall have a financial interest which would constitute a conflict of interest.

A. User Members.

Six (6) of the members shall be individuals who are, or will be, served by the FQHCs ("User Members"). The six (6) user members shall broadly represent geographical areas served by the FQHC clinics. In making all appointments, removal and replacements of User Members, the CHCB will assure that the User Members, as a group, are representative of the FQHCs' user population in terms of factors such as ethnicity, location of residence, race, gender, age and economic status. The appointment, removal and replacement of all six User Members shall be made by the CHCB.

B. Non-user Members.

The remaining five (5) members of CHCB ("Non-User Members") shall consist of individuals who possess expertise in community affairs, finance and banking, legal affairs, trade unions, and other commercial and industrial concerns, or social service agencies within the community, and who are capable of providing leadership in the community. No more than two (2) non-user members may receive more than ten percent (10%) of their annual income from the health care industry. Two (2) of the Non-User members shall be appointed, removed and replaced by the Board of Supervisors. The other three (3) Non-User Members shall be appointed, removed and replaced by the CHCB.

9.90.21 Alternates.

After October 1, 2009, Alternates for Members may be appointed, subject to the requirements of Members set forth in Section 9.90.020 herein. If and for those appointed, each Alternate would serve as the designee for a specific member in order to maintain the federally required composition of the Community Health Center Board. Each Alternate would assume the Rights and Responsibilities of a member, but only in the absence of the respective designated member. Alternates shall not assume Elected Officer duties. The CHCB shall have the authority to appoint Alternates for the Members of the CHCB which are to be appointed by the CHCB, and the Board of Supervisors shall have the authority to appoint Alternates for the Members of the CHCB which are to be appointed by the Board of Supervisors.

9.90.030 Terms of Office.

The term of each CHCB member shall be four (4) years.

With respect to the appointment of the CHCB members upon the vacancy of a position or the expiration of a term of a user member, the remaining members of the CHCB shall appoint appropriate candidates for the open position with the exception of vacancies of the two member seats appointed by the Board of Supervisors which shall be filled by appointment by the Board of Supervisors. In making appointments to the Non-User seats, the CHCB will take into consideration the requirement that the user members reflect the FQHCs' user mix.

9.90.040 Meetings.

Meetings shall be held at least monthly, within the geographic area of the County. The person or persons having direct administrative responsibility for the operation of FQHCs shall attend all meetings of the CHCB.

All meetings of the CHCB, including, without limitation, regular, special, and adjourned meetings, shall be called, publicly noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the California Government Code).

9.90.050 Limitations of Authority.

The Board of Supervisors shall maintain the authority to set general policy on fiscal and personnel matters pertaining to the FQHCs, policies related to financial management practices, charging and rate setting, labor relations and conditions of employment. The CHCB may not adopt any policy or practice, or take any action, which is inconsistent with or which alters the scope of any policy set by the Board of Supervisors on fiscal or personnel issues.

9.90.060 Duties.

Subject to the provisions of Section 9.90.050, the duties of the CHCB shall be as follows:

- a. Approve the selection and dismissal of the FQHC Executive Director who shall have direct administrative responsibility for the operation of the Stanislaus County FQHCs;
- b. Adopt policies identifying the services to be delivered at each Stanislaus County FQHC location and the hours during which services are to be provided;
- c. Approve, within appropriations made available for such purposes, the budget for Stanislaus FQHCs operations, subject to approval by the Board of Supervisors. Such budget shall be initially prepared by the FQHC Executive Director who shall have direct administrative responsibility for the operation of the Stanislaus FQHCs or their delegate. All allocations, disbursements, or other commitment of public funds that are subject to the control or recommendations of the CHCB shall be made only upon duly agendized motions that are seconded and approved by a majority vote;
- d. Develop financial priorities and strategies for major resource utilization;
- e. Evaluate at least annually the effectiveness of the Stanislaus County FQHCs in making services available and accessible to residents of the County. Such evaluation shall include, but not be

limited to, utilization patterns, productivity, efficiency of operations, patient satisfaction, and achievement of program objectives;

f. Develop and implement a procedure for hearing and resolving patient grievances, unless otherwise provided for by the County Ordinance Code;

g. Adopt quality of care audit procedures;

h. Assure compliance with Federal, State and local laws, ordinances and regulations;

i. Periodically inform the Board of Supervisors regarding the Stanislaus County FQHCs' utilization, productivity, patient satisfaction, and achievement of project objectives;

j. Adopt such other policies as are necessary and proper for the efficient and effective operation of the Stanislaus County FQHCs;

k. Evaluate the performance of the Stanislaus County FQHC Executive Director, who shall have direct administrative responsibility for the FQHCs, annually and share the evaluation with the Board of Supervisors. The evaluation may use the County's "Pay For Performance" evaluation system; and

I. Adopt bylaws for the CHCB which comply with all applicable statutes, regulations, and with the conditions of this enabling ordinance.

9.90.070 Conflicts of Interest.

The CHCB shall be subject to the same conflict of interest rules and reporting requirements which are applicable to the Board of Supervisors.

Section 2. This ordinance shall take effect immediately upon 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 resolution was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, the _____ day of _____, 2009, by the following called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

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

ATTEST:

Christine Ferraro Tallman
Clerk of the Board of Supervisors of the
County of Stanislaus, State of California

By _____

Deputy

APPROVED AS TO FORM:

John P. Doering
County Counsel

By Dean Wright

Dean Wright
Deputy County Counsel

ORDINANCE C.S. 1068

NOTICE IS HEREBY GIVEN that on December 22, 2009, at 9:00 a.m., or as soon thereafter as the matter may be heard, the Stanislaus County Board of Supervisors will meet in the Basement Chambers, 1010 10th St., Modesto, CA, to consider the adoption and the waiving of the second reading of Ordinance C.S. 1068 amending Stanislaus County Code Chapter 9.90 relating to the membership of the Stanislaus County Community Health Center Board.

NOTICE IS FURTHER GIVEN that a full copy of the proposed ordinance is available for review in the Clerk of the Board Office, 1010 10th Street, Suite 6700, Modesto, CA. For further information, contact Mary Ann Lee, Managing Director, Stanislaus County Health Services Agency at (209) 558-7163 or at P.O. Box 3271, Modesto, CA 95353.

BY ORDER OF THE BOARD OF SUPERVISORS

DATED: December 8, 2009

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk
of the Board of Supervisors
of the County of Stanislaus,
State of California



BY: _____
Elizabeth A. King, Assistant Clerk of the Board

**DECLARATION OF PUBLICATION
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am a printer and Principal clerk of the publisher of **THE MODESTO BEE**, printed in the City of **MODESTO** , County of **STANISLAUS** , State of California, daily, for which said newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of **STANISLAUS** , State of California, Under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue there of on the following dates, to wit:

Dec 15, 2009

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at

MODESTO, California on

December 16th, 2009

(Signature)



**PUBLIC NOTICE
ORDINANCE C.S. 1068**

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Pub Dates Dec 15, 2009