

Iowans for Medical Marijuana
Post Office Box 4091
Des Moines, Iowa 50333

August 14, 2010

David C. Holland, Esq
The Law Offices of David C Holland PC
419 Park Avenue South
New York City 10016
212-980-6881 fax

Dear Mr. Holland,

Iowans for Medical Marijuana must respectfully withdraw from the Coalition for Rescheduling Cannabis.

After the ruling in **Gonzales v. Oregon**, 546 U.S. 243 (2006), Iowans for Medical Marijuana determined that state rescheduling is a prerequisite to federal rescheduling, based on the scheduling criteria in Iowa Code §124.201(1) & §124.203(1) (2009), which is derived from the Uniform Controlled Substances Act, 9 ULA 42 §201(b) & 9 ULA 53 §203(a) (1994), which, in turn, is derived from the Controlled Substances Act, 21 U.S.C. §811(c) & 21 U.S.C. §812(b)(1).

The holding in **Gonzales v. Oregon**, 546 U.S. 243 (2006), combined with the policy statements of the Obama Administration, make it clear that the federal regulatory scheme for controlled substances (implemented by federal regulations) is driven by state policies on controlled substance (implemented by state laws).

Executive Order 13132 of August 4, 1999 ("Federalism"), Federal Register, Vol. 64, No. 153, Tuesday, August 10, 1999, page 43255.

Presidential Memorandum of January 20, 2009 ("Memorandum for the Heads of Executive Departments and Agencies"), Federal Register, Vol. 74, No. 15, Monday, January 26, 2009, page 4435.

Presidential Memorandum of January 30, 2009 ("Regulatory Review"), Federal Register, Vol. 74, No. 21, Tuesday, February 3, 2009, page 5977.

Presidential Memorandum of May 20, 2009 ("Preemption"), Federal Register, Vol. 74, No. 98, Friday, May 22, 2009, page 24693.

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Iowans for Medical Marijuana, 8/14/2010

The ruling in *Gonzales v. Oregon*, at page 258, is unequivocally clear:

The Attorney General has rulemaking power to fulfill his duties under the CSA. The specific respects in which he is authorized to make rules, however, instruct us that he is not authorized to make a rule declaring illegitimate a medical standard for care and treatment of patients that is specifically authorized under state law.

Federal scheduling of controlled substances is a rule making process, 21 C.F.R. 1308.43(d) (April 1, 2010):

The Administrator shall, before initiating proceedings for the issuance, amendment, or repeal of any rule either to control a drug or other substance, or to transfer a drug or other substance from one schedule to another, or to remove a drug or other substance entirely from the schedules, and after gathering the necessary data, request from the Secretary a scientific and medical evaluation and the Secretary's recommendations as to whether such drug or other substance should be so controlled, transferred, or removed as a controlled substance. The recommendations of the Secretary to the Administrator shall be binding on the Administrator as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Administrator shall not control that drug or other substance.

In 2008, Iowans for Medical Marijuana filed a petition to reclassify marijuana in Iowa by removing it from Schedule I of the Iowa Uniform Controlled Substances Act, Iowa Code 124.204(4)(m). On February 17, 2010, the Iowa Board of Pharmacy found that marijuana no longer meets the statutory criteria for inclusion in Schedule I of the Iowa Uniform Controlled Substances Act and recommended the Iowa Legislature remove it from that classification:

http://www.iowa.gov/ibpe/pdf/2010_02_17minutes.pdf


Since 1996, a total of 14 states and the District of Columbia have enacted medical marijuana legislation, and yet not one of those states has reviewed the classification of marijuana under the Uniform Controlled Substances Act or applied for federal reclassification of marijuana. All of the coalition members have either failed to seek state reclassification of marijuana under their own state's Uniform Controlled Substances Act and/or file civil actions in state courts complaining of the failure of their own states to apply for federal rescheduling. Because of this failure on the part of the coalition members there is a conflict of interest between Iowans for Medical Marijuana and the other coalition members which requires Iowans for Medical Marijuana to withdraw and separate itself from the coalition.

Please remove our name and contact information from the Coalition website:

http://www.drugscience.org/coalition_members.html

We sincerely wish you all the best in your endeavors.

Sincerely,



Cc: The Coalition for Rescheduling Cannabis:

American Alliance for Medical Cannabis
22860 Lanark Street
West Hills, CA 91304

Americans for Safe Access
1322 Webster St. #402
Oakland, CA 94612

California NORML
2215-R Market St. #278
San Francisco, CA 94114

Drug Policy Forum of Texas
1425 Blalock Road, Suite 109
Houston TX 77055

Jon Gettman
11312 Dutchman's Creek Rd.
Lovettsville, VA 20180

High Times
419 Park Ave. South, 16th Floor
New York, NY 10003

Los Angeles Cannabis Resource Center (LACRC)
1296 North Fairfax Av.
West Hollywood, CA 90046

National Organization for the Reform of Marijuana Laws (NORML)
1001 Connecticut Ave. NW Suite 710
Washington, DC 20036

New Mexicans for Compassionate Use
2905 Camino Del Bosque
Santa Fe, NM 87507

Iowans for Medical Marijuana, 8/14/2010

Oakland Cannabis Buyers Cooperative (OCBC)
P.O. Box 70401
Oakland, CA 94612-0401

Patients Out of Time
1472 Fish Pond Road
Howardsville, VA 24562

Lloyd K. Jessen, R.Ph., J.D.
Executive Secretary/Director
Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

Christine A. Sannerud, Ph.D.
Chief, Drug & Chemical Evaluation Section (ODE)
Drug Enforcement Administration
Attn: Office of Diversion Control/OD
8701 Morrisette Drive, Springfield, VA 22152