

**Before the Iowa Board of Pharmacy Examiners
Iowa Department of Health
(Administrative Proceeding)**

Upon the Petition of Carl Olsen

In the Matter of the Rescheduling of
Marijuana Pursuant to Iowa Code Section
124.201 and 657 IAC, Chapter 26.

Agency Docket No. _____

Petition and Motion for Intervention
of

and _____, Petitioners, Intervenors

Come now the Petitioners/Intervenors and respectfully state:

Introduction

This is a petition and intervention by 2 interested citizens of Iowa to join in a request to the Iowa Board of Pharmacy Examiners for agency action recommending the removal of marijuana from schedule I of the Iowa Controlled Substances Act (Chapter 124 of the Iowa Code). The Petitioners submit their request upon the grounds that marijuana no longer fits within the criteria established for schedule I substances, and therefore should either be moved to another schedule or not listed at all as the Board may appropriately determine.

Request for Board Action

1. Petitioner/Intervenor _____, has been a medically supervised user of marijuana for purposes of treatment of severe pain, spasms and nausea under a precarious medical-legal arrangement; removal of marijuana as a schedule 1 substance under Iowa Code Chapter 124 would help insure his continued access to effective treatment.

2. Petitioner/Intervenor _____ has a debilitating condition for which medically supervised treatment with marijuana would provide superior symptomatic relief.

3. For the reasons stated, both Petitioner/Intervenors have a personal interest in a removing marijuana from Schedule 1 of Iowa Code Chapter 124 which inaccurately characterizes marijuana as a substance that has no legitimate medical use within the United States.

4. The First legal mandate requiring agency action is Iowa Code Section 124.201 “Duty to recommend changes in schedules” which requires this Board to annually consider various factors for the appropriate listing of substances that are controlled by Iowa law and to “recommend to the General Assembly, any deletions from, or revisions in the schedules of substances, enumerated in section 124.204, 124.206, 124.208, 124.210 or 124.212, which it deems necessary or advisable.”

5. The section just cited provides the Board with discretionary authority to recommend changes in the scheduling of controlled substances considering the following criteria:

- a. The actual or relative potential for abuse;
- b. The scientific evidence of its pharmacological effect, if known;
- c. State of current scientific knowledge regarding the substance;
- d. The history and current pattern of abuse;
- e. The scope, duration, and significance of abuse;
- f. The risk to the public health;
- g. The potential of the substance to produce psychic or physiological dependence liability; and
- h. Whether the substance is an immediate precursor of a substance already controlled under this division.

6. Petitioners submit that in terms of “addiction,” “**relative** potential for abuse,” “pharmacological effect,” and “risk to public health,” there is no reason to classify marijuana as more dangerous than the following substance which are listed in schedule II and schedule III or which are not regulated at all:

- a. Dronabinol (Marinol) [Schedule 3] which is supposed to be purified or forms of the principal psychoactive cannabinoid in marijuana and Nabilone [Schedule 2] which is supposed to be a synthetic cannabinoid with properties similar to marijuana and which can result in drug dependence.
- b. Opium and opiates [Schedule 2] which are well known for their addictive and destructive qualities;
- c. Hydrocodone [Schedule 2] which can be highly addictive
- d. Meth-amphetamine [Schedule 2] which is both highly addictive, widely abused and destructive of health;
- e. Cocaine [Schedule 2], which is both highly addictive, widely abused, and destructive of health;
- f. Tobacco, which is highly addictive, highly destructive of health, has little or no recognized medical use and is not listed on any controlled substances schedule.
- g. Many other substances that are listed in Schedule II (Section 124.206 of the Code of Iowa).

7. The Second legal mandate requiring agency action is set forth in Iowa Code Section 124.203 which **requires** this Board to “recommend that the general assembly place the substance in a different schedule or remove it from the list of controlled substances, as appropriate” if this Board “finds that the substance” does not “have a high potential for abuse” **or** that the substance has an “accepted medical use in treatment in the United States” and has “accepted safety for use in treatment under medical supervision.”

8. Upon review, this Board **may** certainly find using its own professional judgment, that when used under medical supervision, marijuana does not have a high potential for abuse. {All 12 states, that have recognized marijuana as appropriate for treatment under medical supervision, permit patients to grow their own marijuana.}

9. Upon review, this Board **must** find that marijuana has “accepted medical use in treatment in the United States” and has “accepted safety for use in treatment under supervision” because, as a matter of law, approximately twelve states, comprising 20.6%

of the United States Population¹ have statutorily determined that marijuana is acceptable for medical use under medical supervision.

10. Based upon current legal realities within the United States, this Board is now bound to report to the Iowa Legislature that marijuana no longer meets the mandatory legislative criteria established for listing a substance in Schedule I of the Iowa Controlled Substances Act. Iowa Code Section 124.204.

11. Because this Board is required to make a good faith annual comparative review of the scheduling of drugs based on their relative dangerousness, its next required report to the Iowa legislature should note that marijuana is inappropriately listed in Schedule I and recommend in that report for “that the general assembly place the substance in a different schedule or remove it from the list of controlled substances, as appropriate.” Iowa Code § 124.203.

¹ Based on U.S. Census Bureau Data estimates for 2006. The states are: Alaska 670,053, California 36,457,549, Colorado 4,753,377, Hawaii 1,285,498, Maine 1,321,574, Montana 944,632, Nevada 2,495,529, New Mexico 1,954,599, Oregon 3,700,758, Rhode Island 1,067,610, Vermont 623,908, Washington 6,395,798. United States Population in 2006 = 299,398,484.

13. Although Petitioners/Intervenors are satisfied with the major cases cited in the Memorandum of Law by Petitioner Carl Olsen, the opportunity for further legal briefing is welcomed.

Wherefore, Petitioners/Intervenors respectfully request this Board to undertake a fresh, substantive review of the appropriate listing of marijuana in the Iowa Controlled Substances Act, and, based on the requirements of law, to recommend in its next annual report to the Iowa General Assembly that marijuana be removed from Schedule I and appropriately rescheduled.

Respectfully Submitted:

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