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Iowa Pharmacy Board Rejects Medical Marijuana, Ignoring Court Order

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Max Knauer III

The Iowa Board of Pharmacy sidestepped a court ruling this week, which had ordered it to consider whether the state should reclassify marijuana as having medical value.

The Iowa board was ordered by a district court judge to consider whether "marijuana has accepted medical use in the United States." Thirteen states have deemed that marijuana has accepted medical use and have legalized it with doctor approval. Those thirteen states, of course, are "in the United States," which would appear to make for an open and shut case for the Iowa board.

The effort to reclassify marijuana in Iowa is led by the American Civil Liberties Union and local medical marijuana users. One such user, George McMahon, receives 300 joints monthly from the federal government. He's one of four patients grandfathered into the Compassionate Investigational New Drug program ended by President George H.W. Bush in 1991.

Advocates included a Drug Enforcement Administration ruling that determined marijuana did have accepted medical use. (That ruling was rejected by political appointees in the federal government.)

The pharmacy board was fully informed by assistant attorney general and counsel to the board Scott Galenbeck of its job. "Judge Novak's ruling states," Galenbeck read to the board, "The board must determine whether the evidence presented by petitioner is sufficient to support a finding that marijuana has accepted medical use in the United States and does not lack accepted safety for use in treatment under medical supervision.' A couple sentences before that the judge stated if the board believes that evidence presented by petitioner was insufficient to support such a finding it should have stated such in its order."

The board had previously rejected the ACLU effort. The civil liberties group appealed to the district court, setting up this week's rematch.

Yet the Iowa board, instead of asking whether it has "accepted medical use in the United States," asked whether Iowa should approve of it, which is not a question for the board but for the Iowa legislature.

The meeting was held in downtown Des Moines with only a handful of the public in attendance. "I was going to ask maybe if we could have this gentleman sit rather than walk through the room taking pictures," Galenbeck said of a Huffington Post reporter [at the meeting](#).

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The board was unanimous. Board Member Margaret Whitworth complained of "a lack of science and any up-to-date more recent information."

"I have a very difficult time saying that there was any type of scientific evidence-based type of evidence given to us that day. The fact that the other states have done this does not mean that Iowa has to follow suit. We need to have a lot of evidence," said board member Ed Maier.

"I would agree with that," said board member DeeAnn Wedemeyer-Oleson, who then launched into a story about how she had told her father when she was in high school that everybody else was allowed to stay out late at night so she should have the privilege, too.

"And he said, 'Well, if all your friends jumped off the bridge, does that mean you should jump off the bridge?' So, to me this whole other 12, what is now 13 states, allowing medical marijuana use is not at all sufficient to allow the Board of Pharmacy to make a decision," she determined.

"I'd have to agree," said Ann Diehl, a board member. "I don't have anything else to add but I didn't see any, what I would call, scientific based evidence."

Board member Susan Frey went as far as to blame the board's own counsel for not properly explaining to the court why they had rejected reclassifying pot in the first place.

"When controlled substances are classified, it's classified on the eight criteria that Scott [Galenbeck] presented in our legal brief to the court. And I think that that was not addressed appropriately to the court and not all of those counts were presented and also certainly not here at our hearing. So I would say that, again, I would back the comments that we need science-based evidence, that there are acceptable uses and that those uses are within the realm of safety for the public," she analyzed.

She moved to reject the request and the motion carried without objection.

Randall Wilson, the ACLU attorney, told the Huffington Post that the point of the court's order "was lost on the board." He'll now return to the court and note that the board once again ignored the law.

"It was not surprising, but it was disappointing. I felt the board could have been better briefed," said Wilson, who noted the members "entered into value judgments" instead following the letter of the law.

McMahon has been in the federal pot program for 19 years. He testified at the first hearing but health problem kept him from the second. The attorneys briefed him on the result, however. "I thought it was wonderful and horrible. The wonderful thing was for everyone to get an insight into what that bunch of men is like - or those men and women. They just bald-faced stood up and told the judge to forget what he said, they were going to do what they wanted anyway," McMahon told the Huffington Post.

If McMahon and his attorneys succeed in forcing the pharmacy board to reschedule marijuana into a class that admits its medical value, they hope it'll get a boost in the legislature. The drug is now contradictorily listed in two separate categories, one which says it has medical value and one which says it has none. With the board's decision, that situation continues for the time being.

"I hoped they would do the right thing, but I really didn't have much confidence in them," said Carl Olsen, a paralegal and who first filed the case. "They were pissed off because I got the ruling against them. So they just denied it again and basically did pretty much the same thing they did the first time, which isn't going to make the judge very happy."

Max Knauer III, a Huffington Post citizen journalist, reported from Des Moines. He is a retired educator and part-time correspondent for the Iowa Bystander. Ryan Grim reported from Washington, D.C. He is the author of [This Is Your Country On Drugs: The Secret History of Getting High in America](#), due out later this month

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