

130 E Aurora Ave
Des Moines, Iowa 50313-3654

December 21, 2015

Joni Ernst
733 Federal Building
210 Walnut Street
Des Moines, IA 50309

Re: Amendment to S. 683: CARERS Act of 2015

Dear Senator Ernst:

Enclosed is an amendment I would like you to file regarding S. 683.

Please contact me if you have any questions or concerns.

Thank you!

Sincerely,

A handwritten signature in black ink that reads "Carl Olsen". The signature is written in a cursive style with a large, prominent "C" and "O".

Carl Olsen
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515-343-9933
carl-olsen@mchsi.com

1 **Amendment to S. 683 (the CARERS Act):**

2 **Section 1. STRIKE AND REPLACE**

3 Strike Section 2 (page 1, line 7) through Section 7 (page 10, line 21), and
4 replace with the following:

5 **Sec. 2. CONGRESSIONAL FINDINGS AND DECLARATIONS.**

6 The Congress makes the following findings and declarations:

7 (1) Marijuana has “accepted medical use in treatment in the United States”
8 as that phrase is used in Section 202(b)(1)(B) of the Controlled Substances Act (21
9 U.S.C. 812(b)(1)(B)).

10 (2) The term “State” means any State, territory, or possession of the United
11 States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust
12 Territory of the Pacific Islands, and the Canal Zone as that term is used in Section
13 102(24) of the Controlled Substances Act (21 U.S.C. 802(26)).

14 (3) The term “United States” means all places and waters, continental or
15 insular, subject to the jurisdiction of the United States as that term is used in
16 Section 102(26) of the Controlled Substances Act (21 U.S.C. 802(28)).

17 (4) Marijuana, or extracts of marijuana, has been accepted for medical use
18 by forty (40) states and three (3) federal jurisdictions. Twenty-four (24) states have
19 accepted the medical use of marijuana: Alaska, Arizona, California, Colorado,
20 Connecticut, Delaware, Hawaii, Illinois, Louisiana, Maine, Maryland,

1 Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New
2 Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington.
3 Three (3) federal jurisdictions have accepted the medical use of marijuana: the
4 District of Columbia, the Commonwealth of Puerto Rico, and the Territory of
5 Guam. Sixteen (16) states have accepted the medical use of extracts of marijuana:
6 Alabama, Florida, Georgia, Iowa, Kentucky, Mississippi, Missouri, North
7 Carolina, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia,
8 Wisconsin, Wyoming.

9 (5) In *Grinspoon v. DEA*, 828 F.2d 881, 886 (1st Cir. 1987) the United
10 States Court of Appeals for the First Circuit found that Congress did not intend
11 "accepted medical use in treatment in the United States" to require a finding of
12 recognized medical use in every state or approval for interstate marketing of the
13 substance.

14 (6) In *Grinspoon v. DEA*, 828 F.2d 881, 887 (1st Cir. 1987) the United
15 States Court of Appeals for the First Circuit found that it is possible that a
16 substance may have both an accepted medical use and safety for use under medical
17 supervision, even though no one has deemed it necessary to seek approval for
18 interstate marketing.

19 (7) In *Gonzales v. Oregon*, 546 U.S. 243, 258 (2006) the United States
20 Supreme Court found that the Attorney General may not maintain a rule declaring

1 illegitimate a medical standard for care and treatment of patients that is specifically
2 authorized under state law.

3 (8) In Executive Order 13132 of August 4, 1999, Federalism, Federal
4 Register Vol. 64, No. 153, pp. 43255-43259, Tuesday, August 10, 1999, the
5 President of the United States instructed federal administrative agencies to closely
6 examine the constitutional and statutory authority supporting any action that would
7 limit the policymaking discretion of the States.

8 (9) In Presidential Memorandum of May 29, 2009, Preemption, Federal
9 Register Vol. 74, No. 98, pp. 24693-24694, Friday, May 22, 2009, the President of
10 the United States declared that notwithstanding Executive Order 13132 of August
11 4, 1999 (Federalism), executive departments and agencies have sometimes
12 announced that their regulations preempt State law, including State common law,
13 without explicit preemption by the Congress or an otherwise sufficient basis under
14 applicable legal principles.

15 (10) In 2009, Deputy Attorney General Ogden issued a memorandum
16 addressing federal prosecution of CSA violations in states that have accepted the
17 medical use of marijuana. See Memorandum from Deputy Attorney General David
18 W. Ogden to Selected U.S. Attorneys (Oct. 19, 2009). The memorandum affirmed
19 that "[t]he prosecution of significant traffickers of illegal drugs, including
20 marijuana, and the disruption of illegal drug manufacturing and trafficking

1 networks" remain important enforcement priorities for the United States. Id. at 1.
2 The memorandum, however, also instructed U.S. Attorneys that "pursuit of these
3 priorities should not focus federal resources in your States on individuals whose
4 actions are in clear and unambiguous compliance with existing state laws
5 providing for the medical use of marijuana." Id. at 1-2.

6 [http://www.justice.gov/sites/default/files/opa/legacy/2009/10/19/medical-
7 marijuana.pdf](http://www.justice.gov/sites/default/files/opa/legacy/2009/10/19/medical-
7 marijuana.pdf)

8 (13) The Congress has recognized the inherent right of the States to
9 determine their own policies on the medical use of marijuana. Section 538 of the
10 Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-
11 235, 128 Stat. 2217, provides that "[n]one of the funds made available in this Act
12 to the Department of Justice may be used, with respect to [specified States,] to
13 prevent such States from implementing their own State laws that authorize the use,
14 distribution, possession, or cultivation of medical marijuana."

15

16 **Sec. 3. MARIHUANA AND TETRAHYDROCANNABINOLS REMOVED**

17 Marijuana and Tetrahydrocannabinols are hereby removed from Section
18 202(c)(Schedule 1)(c)(10) and (17) of the Controlled Substances Act (21 U.S.C.
19 812(c)(10) and (17)).

20

1 **Sec. 4. DUE PROCESS**

2 (a) The Attorney General of the United States and the United States
3 Secretary of Health and Human Services shall initiate proceedings to remove
4 marijuana and tetrahydrocannabinols from Schedule 1 of the list of controlled
5 substances in the Code of Federal Regulations and place them in a different
6 schedule or remove them entirely from the list after consultation with the states and
7 federal jurisdictions affected by federal scheduling of marijuana and
8 tetrahydrocannabinols.

9 (b) In making a determination on whether to reschedule marijuana and
10 tetrahydrocannabinols or remove them entirely from the list, the Attorney General
11 and Secretary of Health and Human Services consistent with the principles of
12 federalism shall consult with representatives from the states that have enacted laws
13 recognizing marijuana's medical value, and the three federal jurisdictions which
14 have recognized marijuana's medical value: twenty-four (24) states have accepted
15 the medical use of marijuana: Alaska, Arizona, California, Colorado, Connecticut,
16 Delaware, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan,
17 Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New
18 York, Oregon, Rhode Island, Vermont, Washington; three (3) federal jurisdictions
19 have accepted the medical use of marijuana: the District of Columbia, the
20 Commonwealth of Puerto Rico, and the Territory of Guam; sixteen (16) states have

- 1 accepted the medical use of extracts of marijuana: Alabama, Florida, Georgia,
- 2 Iowa, Kentucky, Mississippi, Missouri, North Carolina, Oklahoma, South
- 3 Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin, Wyoming.