

130 E. Aurora Ave.
Des Moines, Iowa 50313-3654
April 25, 2017

Jack Whitver
4019 NE Bellagio Cir
Ankeny, IA 50021

Re: HF 524 (medical use of cannabis)

Dear Sen. Whitver,

HF 524 appears to set up a continuing criminal enterprise here in Iowa, in violation of federal law, 21 U.S.C. § 848 (2017). Anyone participating in the program would be in violation of federal law, 21 U.S.C. § 844 (2017). Anyone manufacturing or distributing cannabis products would be committing federal crimes carrying penalties of 10 years to life in federal prison and a fine of \$10 to \$50 million, 21 U.S.C. § 841 (2017). Penalties can double for conspiracy to commit any of these acts, 21 U.S.C. § 846 (2017). Because HF 524 authorizes the cultivation, manufacture, and distribution, and possession of cannabis products in the state of Iowa without explaining how any of it would be in compliance with federal law, HF 524 appears to create a positive conflict between federal and state law so that the two cannot consistently stand together, 21 U.S.C. § 903 (2017).

Please request an opinion from the Attorney General of Iowa, Tom Miller, on the legality of HF 524 before Governor Branstad signs HF 524 into law.

Current federal law can be found at 21 U.S.C. §§ 801 et seq., Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1236 (“Controlled Substances Act”).

In my opinion, federal schedules of controlled substances are ordinary administrative regulations and cannot be used to interfere with state medical marijuana programs, but HF 524 does not address this matter.

Alliance for Cannabis Therapeutics v. DEA, 930 F.2d 936, 939 (D.C. Cir. 1991) (“*neither the statute nor its legislative history precisely*

defines the term 'currently accepted medical use'; therefore, we are obliged to defer to the Administrator's interpretation of that phrase if reasonable.")

Gonzales v. Oregon, 546 U.S. 243, 258 (2006) (*"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."*)

Grinspoon v. DEA, 828 F.2d 881, 886 (1st Cir. 1987) (*"Congress did not intend 'accepted medical use in treatment in the United States' to require a finding of recognized medical use in every state or, as the Administrator contends, approval for interstate marketing of the substance."*)

I look forward to hearing from you at your earliest convenience.

Thank you very much!

Sincerely,

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cc: Iowa Governor Terry Branstad
U.S. Attorney General Jeff Sessions