Exhibit #24

OFFICE OF DRUG CONTROL POLICY

CORRECTION TO ERRONEOUS INTERPRETATION OF LAW	))	**PETITION FOR AGENCY ACTION**

ERRONEOUS INTERPRETATION OF LAW

On Monday, November 19, 2014, the Governor's Office of Drug Control Policy (ODCP), through its Associate Director, Dale Woolery, submitted the following written statement into the record at a hearing before the Iowa Board of Pharmacy (IBPE) regarding my Petition to have marijuana removed from schedule 1 of the Iowa Uniform Controlled Substances Act (IUCSA)[1]:

> *Also, down-scheduling a whole drug-type whose potency and abuse potential is rising would send a dangerous message, particularly to young Iowans that this addictive drug is somehow relatively safe. Even if unintentional, that could lead to more teen marijuana use and even greater public health and safety challenges in Iowa.*

A copy of Mr. Woolery's full remarks are attached hereto as **Exhibit #1**.

BACKGROUND

As the result of a Petition I filed with IBPE in May of 2008 to have marijuana removed from schedule 1, IBPE ruled unanimously in February of 2010 to recommend that marijuana be removed from schedule 1 and placed in schedule 2.

Prior to IBPE's ruling in 2010, litigation in the Iowa District Court for Polk County established that the abuse potential for schedule 2 is identical to the abuse potential for schedule 1 and that IBPE made an erroneous interpretation of Iowa law when it asked for evidence from the petitioner on marijuana's abuse potential. The question of marijuana's potential for

[1] Iowa Code Chapter 124.

abuse is not relevant to the question of removing marijuana from schedule 1 because the abuse potential for schedule 2 is exactly the same as it is for schedule 1. A copy of Judge Novak's April 21, 2009, ruling is attached hereto as **Exhibit #2**.

The argument submitted by Mr. Woolery is an erroneous interpretation of law and is in direct conflict with the decision of the Iowa District Court in ***McMahon v. Iowa Board of Pharmacy***, Polk County No. CV 7415, Ruling on Petition for Judicial Review, April 21, 2009.

ARGUMENT

The interpretation of the scheduling criteria for controlled substances is vested by law with IBPE, not with ODCP. The issue of marijuana's potential for abuse has already deemed by IBPE and the Iowa District Court not to be a factor in the limited question of whether marijuana belongs in schedule 1 or schedule 2. Down-scheduling marijuana to schedule 2 does not send a message that marijuana is relatively safe, because the relative safety of schedule 1 and schedule 2 are legally the same. Down-scheduling to schedules 3, 4, or 5, or removing marijuana entirely from all of the schedules would send a message that marijuana is relatively safe compared to substances in schedule 1 or schedule 2, but IBPE is not considering schedule 3 or lower at this time. IBPE is proposing schedule 2, as it did in 2010. A copy of IBPE's proposed ruling is attached as **Exhibit #3**. A copy of IBPE's 2020 ruling is attached as **Exhibit #4**.

At the hearing on my petition on November 21, 2014, IBPE postponed the decision on my petition until January 5, 2015. ODCP's unlawful interpretation of law is a serious injury to the administrative process being conducted by IBPE. It is imperative that ODCP correct its erroneous statement of law before IBPE reconsiders this issue on January 5, 2015. The administrative process should not be subverted by a sister executive branch agency that has no vested authority to interpret the scheduling criteria. I met with Mr. Woolery for an hour on Friday, December 5, 2014, to discuss this matter. I expect that this error will be corrected well before IBPE reconsiders this matter on January 5, 2015.

CONCLUSION

Please withdraw and/or correct the erroneous statement of law submitted by Mr. Woolery to IBPE on Monday, November 19, 2014.

Respectfully Submitted:

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