

Iowa Board of Pharmacy

ANDREW FUNK, PHARM.D.
EXECUTIVE DIRECTOR

May 31, 2017

Carl Olsen
130 E Aurora Ave
Des Moines IA 50313

RE: Petition for Agency Action

Mr. Olsen,

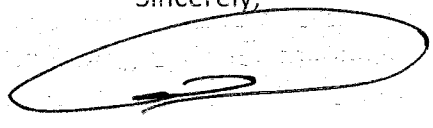
On May 12, 2017, you submitted a Petition for Agency Action to the board requesting the board to determine whether cannabis extracts are new substances designated as controlled substances under federal law, and to take appropriate action. The Iowa Administrative Procedure Act (Iowa Code chapter 17A) does not establish a right or a procedure for an individual to petition for agency action of this nature.

As you are aware, “[i]f any *new* substance is designated as a controlled substance under federal law and notice of the designation is given to the board, the board shall similarly designate as controlled the new substance under this chapter after the expiration of thirty days from publication in the federal register of a final order designating a new substance as a controlled substance, unless within that thirty-day period the board objects to the new designation.” Iowa Code § 124.201(4) (emphasis added). The board regularly receives notices of scheduling changes from the Drug Enforcement Administration (DEA).

On December 14, 2016, the DEA published a final rule establishing a new drug code for marijuana extract. Establishment of a New Drug Code for Marijuana Extract, 81 Fed. Reg. 90,194 (December 14, 2016) (to be codified at 21 C.F.R. 1308.11(d)(58)). According to the publication, the new code number will allow DEA and registered entities to track quantities of marijuana extract separately from quantities of marijuana. The DEA indicated a new drug code was needed because “[t]he United Nations Conventions on international drug control treats extracts from the cannabis plant somewhat differently than marijuana or tetrahydrocannabinols. The creation of a new drug code in the DEA regulations for marijuana extracts will allow for more appropriate accounting of such materials consistent with treaty provisions.” *Id.* at 90,195. The notice indicates “[e]xtracts of marijuana will *continue* to be treated as Schedule I controlled substances.” *Id.* at 90,194 (emphasis added).

Prior to this final rule, marihuana extracts were Schedule I controlled substances under federal law. After enactment of this final rule, marihuana extracts continue to be Schedule I controlled substances under federal law. As a result, no "new" substance has been designated as a controlled substance under federal law. The board declines to take any action as a result of the enactment of 21 C.F.R. section 1308.11(d)(58) or in response to your Petition.

Sincerely,

A handwritten signature in black ink, appearing to be "A. Funk", is enclosed within a hand-drawn oval. The signature is written in a cursive style.

Andrew Funk, Pharm.D.
Executive Director
Iowa Board of Pharmacy