

Carl Olsen

From: Carl Olsen <carl-olsen@mchsi.com>
Sent: Monday, December 05, 2011 4:40 PM
To: 'McGill, Jason (GOV)'
Subject: RE: The problem with Washington's federal rescheduling petition

I know, but you have it backward.

Let's just stay in touch.

I have couple documents I want to share with you.

From: McGill, Jason (GOV) [<mailto:Jason.McGill@gov.wa.gov>]
Sent: Monday, December 05, 2011 2:58 PM
To: carl-olsen@mchsi.com
Subject: RE: The problem with Washington's federal rescheduling petition

I want the DEA to reschedule it first to deal with the pharmacy issues, which they hold clear preemptive powers. If DEA reschedules it, I believe our board will follow because it clears the ways for pharmacy dispensing.

From: carl-olsen@mchsi.com [<mailto:carl-olsen@mchsi.com>]
Sent: Monday, December 05, 2011 12:43 PM
To: McGill, Jason (GOV)
Subject: Re: The problem with Washington's federal rescheduling petition

Jason,

There are various elements to the scheduling criteria, and one of those is "accepted medical use in treatment in the United States".

Think about it.

Your board of pharmacy can only decide whether something has accepted medical use in Washington. They don't have any authority to decide what is accepted in California or Oregon. They would have to look at California statutes and Oregon statutes to answer that question. It's not a question of science. It's a question of law. It's exactly the same for the DEA. Federal scheduling is administrative rulemaking and the U.S. Supreme Court has made it clear that states decide what is or is not accepted for medical use in their own state.

You need to get a state decision on this question of law as well as a federal decision.

I think I see what you are trying to do. You want to the DEA to deny your petition so you can say Congress needs to fix it. That is a legitimate strategy, but I don't like it. I'd rather see the system work the way it was intended to work.

Thanks for talking with me!

Carl

----- Original Message -----

From: carl-olsen@mchsi.com

To: "Jason McGill (GOV)" <Jason.McGill@gov.wa.gov>
Sent: Monday, December 5, 2011 2:29:15 PM GMT -06:00 US/Canada Central
Subject: Re: The problem with Washington's federal rescheduling petition

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.

----- Original Message -----

From: carl-olsen@mchsi.com
To: "Jason McGill (GOV)" <Jason.McGill@gov.wa.gov>
Sent: Monday, December 5, 2011 12:50:08 PM GMT -06:00 US/Canada Central
Subject: Re: The problem with Washington's federal rescheduling petition

Jason,

I will call you.

Thanks!

Carl

----- Original Message -----

From: "Jason McGill (GOV)" <Jason.McGill@gov.wa.gov>
To: "Carl Olsen" <carl-olsen@mchsi.com>
Sent: Monday, December 5, 2011 12:34:08 PM GMT -06:00 US/Canada Central
Subject: RE: The problem with Washington's federal rescheduling petition

Carl, I appreciate the healthy dialogue. At this point, let's take it up by phone: (360) 902-0448. I have too many emails to follow.

Thanks,

Jason

Jason T. McGill
Executive Policy Advisor for Health Care
Governor's Executive Policy Office

Office: (360) 902-0448
Jason.McGill@gov.wa.gov