

IOWA BOARD OF PHARMACY

REQUEST TO INTRODUCE)	REQUEST FOR
LEGISLATION ESTABLISHING)	AGENCY ACTION
A MEDICAL CANNABIS PROGRAM)	
IN THE STATE OF IOWA)	

To: Iowa Board of Pharmacy
400 SW Eighth Street, Suite E
Des Moines, Iowa 50309-4688

By provision of law:

Departments and agencies of state government shall, at least forty-five days prior to the convening of each session of the general assembly, submit copies to the legislative services agency of proposed legislative bills and joint resolutions which such departments desire to be considered by the general assembly.

Iowa Code § 2.16 (2013).

INTRODUCTION

In 2010, the Iowa Board of Pharmacy (the “**Board**”) recommended that marijuana be removed from schedule I and placed in schedule II of the Iowa Uniform Controlled Substances Act (the “**IUCSA**”). The Board also recommended that the legislature begin the process of enacting a medical marijuana program in Iowa.

Due to communication issues between the legislature and the Board, the legislature took no action on the Board’s recommendations.

Petitioner, Carl E. Olsen, requests the Board make a more specific recommendation to the Iowa legislature clarifying some of the steps necessary to implement a medical marijuana program in Iowa.

REQUESTED ACTION

This petition requests the Board to pre-file legislation with the Iowa General Assembly that recommends removal of marijuana from Schedule I, Iowa Code § 124.204, and creation of a medical marijuana program modeled on that currently established in New Mexico. A proposed Iowa “Medical Cannabis Act” is attached as Exhibit A. A copy of New Mexico’s medical marijuana act is attached as Exhibit B. A list of New Mexico’s current qualifying conditions for the medical use of marijuana is attached as Exhibit C (<http://nmhealth.org/mcp/> - last accessed July 27, 2013).

PRIOR HISTORY

A. Ruling by the Board on July 21, 2009

On July 21, 2009 the Board adopted a plan to review the classification of marijuana. A copy of the plan is attached as Exhibit D. The objectives of the review included “receiv[ing] evidence and testimony regarding the pros and cons of medical marijuana from the scientific, medical, and legal communities” and reviewing “current federal law and regulations and the

laws and rules of all U.S. states and jurisdictions relating to medical marijuana.”

B. Ruling by the Board on February 17, 2010

On February 17, 2010 the Board ruled unanimously that Iowa should reclassify marijuana to schedule II of the IUCSA and take the necessary steps to enact a medical marijuana program in Iowa. A copy of the ruling is attached as Exhibit E.

C. Position Statement by the Board on March 10, 2010

The Iowa legislature asked the Board to fund an interim study committee, which was impractical due to a pending budget freeze. The Board’s position statement in response to the legislature’s request is attached as Exhibit F. The request from the legislature is mentioned in the Meeting Minutes from the June 1-2, 2010, meeting of the Iowa Board of Pharmacy, II. Reports (A)(2). It is attached as Exhibit G.

D. Correspondence from the Board, June 16, 2010

On June 16, 2010 the Board expressed its frustration with the legislature in a letter to the President of the Iowa Senate. A copy of the letter is attached to this Petition as Exhibit H.

E. Correspondence from the Board, September 28, 2010

On September 28, 2010 the Board communicated with Petitioner and seemingly approved of a medical program like that established in New Mexico. A copy of the letter is attached as Exhibit I.

F. Correspondence from the Board, September 29, 2010

On September 29, 2010 the Board reiterated to Petitioner its recommendation for a medical marijuana program modeled after New Mexico. A copy of the letter is attached as Exhibit J.

G. Ruling by Board on November 24, 2010

In November of 2010, the Board pre-filed LSB 1274DP with the Iowa Legislature (SSB 1016), recommending, among other things, the removal of marijuana, Iowa Code § 124.204(4)(m), from schedule I. The meeting minutes from the November 24, 2010 teleconference meeting of the Iowa Board of Pharmacy, III. Legislation (A), page 2, and Addendum A, dated November 29, 2010 are attached as Exhibit K.

STATEMENT OF SUPPORT FOR LEGISLATION

The proposed legislation accomplishes the two essential objectives of the Board's 2010 recommendation. First, it removes marijuana from schedule I and places it in schedule II in accordance with the Board's finding

that marijuana has accepted medical use. Second, it recommends a medical marijuana program modeled after one tacitly approved by the Board.

The proposed legislation differs from New Mexico's program in one important respect. Marijuana remains a schedule I controlled substance in New Mexico. This means it has *no accepted medical use* in treatment in the United States. See New Mexico Statutes §§ 30-31-5(A)(2) and 30-31-6(C)(10). In Iowa, marijuana would be reclassified instead as a schedule II controlled substance in recognition that it has accepted medical use.

Also, this proposal is distinctive from virtually every other medical marijuana program in the country. Iowa is unique in that our public health department relies on the identical eight factors the federal government uses for scheduling criteria in determining that marijuana no longer belongs in state schedule I. See Iowa Code §§ 124.201, 124.203 (2013); *cf.* 21 U.S.C. §§ 811-12 (2013). Arguably, this proposed legislation will enable Iowa to become the *first* state to enact a medical marijuana program that fully complies with federal law.

CONCLUSION

Petitioner respectfully requests the Board provide guidance to the Iowa legislature, as recognized by the IUCSA, and pre-file the proposed legislation to reschedule marijuana and establish a medical marijuana program.

Dated August 2, 2013.

Respectfully submitted,

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