

February 19, 2017
130 E Aurora Ave
Des Moines, Iowa 50313-3654

Andrew Funk, Executive Director
Iowa Board of Pharmacy
400 S.W. Eighth Street, Suite E
Des Moines, IA 50309-4688

Dear Mr. Funk,

SF 282 was recently filed in the Iowa legislature and section 1 does not make sense.

<https://www.legis.iowa.gov/legislation/BillBook?ga=87&ba=sf282>

Section 1 says the Iowa Board of Pharmacy will reclassify cannabidiol, but only if cannabidiol is placed in federal schedule 2.

The first issue is that no one knows whether cannabidiol will be federally scheduled.

The second issue is that if cannabidiol is federally scheduled, no one knows whether federal schedule 2 will be the schedule cannabidiol is placed in.

The Iowa Board of Pharmacy already makes recommendations that generally follow federal scheduling. The board is not required by state law to follow federal scheduling. Even in the single instance where the state law says the board must react to federal scheduling of a new substance that has never been previously scheduled, state law requires the board to make an independent decision on whether to follow federal scheduling.

Iowa Code § 124.201(4) (2017):

If 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. In that case the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing the board shall announce its decision. Upon publication of objection to a new substance being designated as a controlled substance under this chapter by the board, control under this chapter is stayed until the board publishes its decision. If a substance is designated as controlled by the board under this paragraph the control shall be temporary and if within sixty days after the next regular session of the general assembly convenes it has not made the corresponding changes in this chapter, the temporary designation of control of the substance by the board shall be nullified.

I spoke with Congressman Young and Senator Whitver about this SF 282 on Friday morning and I suggested to them that SF 282 should be amended if it is going to move forward. I live in Senator Whitver's district.

I would appreciate it if the board would consider SF 282 and request an amendment that would remove any language forcing the Iowa Board of Pharmacy to adopt federal scheduling decisions. The board has not shown any pattern of ignoring federal scheduling decisions that would warrant corrective action.

I realize the board did recommend the reclassification of marijuana in 2010, and the reclassification of cannabidiol in 2015, but the board exercised its independent authority, given to it by our legislature in 1971, to consider scheduling independently of federal scheduling. The board reached these independent conclusions after careful consideration.

A total of forty-four states have now enacted medical marijuana laws or laws legalizing cannabidiol, so the board's decisions not to follow federal schedule decisions are justified. These decisions are consistent with the huge majority of state laws.

Congress has obviously seen merit in leaving these decisions to the states.

As long as Congress has not pre-empted state controlled substances acts, the board should retain its independent authority to make schedule decisions, which was clearly the intent of our legislature in enacting this law in 1971, 1971 Acts, Chapter 148 (SF 1) (March 5, 1971).

Thank you!

Sincerely,

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