130 E. Aurora Ave.
Des Moines, Iowa 50313-3654
April 23, 2017

Jack Whitver
4019 NE Bellagio Cir
Ankeny, IA 50021

Re: HF 524 (medical use of cannabis)

Dear Sen. Whitver,

On Saturday, April 22, HF 524 passed by a vote of 83-11-6 in the Iowa House and by a vote of 33-7-10 in the Iowa Senate. This bill was poorly drafted without any preparation whatsoever. The bill was not even presented in draft form until 3:00 a.m. and by the time the Iowa Senate considered the bill at 7:00 a.m., the Iowa House had adjourned for the session. No one should be proud of this. It is a disgrace on our state.

HF 524 appears to set up a continuing criminal enterprise in violation of federal law, 21 U.S.C. § 848 (2017). Anyone participating in the program would be in violation of federal law, 21 U.S.C. § 844 (2017). Anyone manufacturing or distributing cannabis products would be committing federal crimes carrying penalties of 10 years to life in federal prison and a fine of $10 to $50 million, 21 U.S.C. § 841 (2017). Penalties double for conspiracy to commit any of these acts, 21 U.S.C. § 846 (2017). Because HF 524 authorizes the cultivation, manufacture, and distribution, and possession of cannabis products in the state of Iowa without explaining how any of it would be in compliance with federal law, HF 524 creates a positive conflict between federal and state law so that the two cannot consistently stand together, 21 U.S.C. § 903 (2017).

By contrast, SF 329, contains an explanation of how it complies with federal law. HF 524 lacks such a statement of compliance with federal law. This is a critical omission that could have severe negative consequences for Iowans seeking to obtain relief from the medical use of cannabis products under this legislation.

Governor Branstad should call the legislature into special session to address this failure before signing HF 524 into law.

Current federal law can be found at 21 U.S.C. §§ 801 et seq., Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236 ("Controlled Substances Act"). Unlike Iowa law, federal schedules of controlled substances are ordinary administrative regulations and cannot be used to interfere with state medical marijuana programs.

> **Alliance for Cannabis Therapeutics v. DEA, 930 F.2d 936, 939 (D.C. Cir. 1991)** ("*neither the statute nor its legislative history precisely defines the term 'currently accepted medical use'; therefore, we are obliged to defer to the Administrator's interpretation of that phrase if reasonable.*")
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> **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.*")
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> **Grinspoon v. DEA, 828 F.2d 881, 886 (1st Cir. 1987)** ("*Congress did not intend 'accepted medical use in treatment in the United States' to require a finding of recognized medical use in every state or, as the Administrator contends, approval for interstate marketing of the substance.*")

I look forward to hearing from you at your earliest convenience.

Thank you very much!

Sincerely,

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cc: Iowa Governor Terry Branstad
U.S. Attorney General Jeff Sessions