130 E. Aurora Ave.
Des Moines, Iowa 50313-3654
April 16, 2017

Jack Whitver
4019 NE Bellagio Cir
Ankeny, IA 50021

Re: SF 506 (medical use of marijuana)

Dear Sen. Whitver,

On Wednesday, April 12, SF 506 passed by a vote of 19-1-1 in the Iowa Senate Appropriations Committee, S.J. 1000. On Thursday, April 13, SF 506 passed by a vote of 14-1 in the Iowa Senate Ways and Means Committee, S.J. 1019.

SF 506 removes marijuana and tetrahydrocannabinols[1] from schedule 1 (substances with no accepted medical use), Iowa Code §§ 124.204(4)(m) (2017) and 124.204(4)(u) (2017), and places them in schedule 2 (substances with currently accepted medical use), Iowa Code §§ 124.206(7)(a) (2017) and 124.206(7)(b) (2017). See the conditions for Iowa schedule 1 and Iowa schedule 2:

> **Iowa Code § 124.203(1)(b) (2017):**
> *Has no accepted medical use in treatment in the United States; or lacks accepted safety for use in treatment under medical supervision.*
>
> **Iowa Code § 124.205(1)(b) (2017):**
> *The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions.*

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[1] The Iowa legislature placed tetrahydrocannabinol products in schedule 3 in 2008. Iowa Code § 124.208(9)(b) (2017). 2008 Acts, chapter 1010, § 4, H.F. 2167, March 5, 2008. See the conditions for Iowa schedule 3: **Iowa Code § 124.207(1)(b) (2017)** ("*The substance has currently accepted medical use in treatment in the United States*").

While the Appropriations and Ways and Means committees should be applauded for this carefully drafted legislation, there is an omission that needs to be corrected.

An example exists in currently pending industrial hemp legislation, SF 329, Page 2, Line 31, Sec. 6. NEW SECTION. 188.5 Compliance with federal law. SF 506 lacks a statement that it complies 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 marijuana under this new legislation, SF 506.

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 our Iowa law, the federal schedules are administrative regulations, not statutes. This is a critical distinction, because a federal administrative interpretation of the term "currently accepted medical use" cannot be an interpretation that interferes with the accepted intrastate medical use of a controlled substance.

> **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.*")

Because SF 506 accepts the medical use of marijuana and tetrahydrocannabinols, and because an obsolete federal regulation says that marijuana and tetrahydrocannabinols have no accepted medical use in treatment in the United States, compliance with federal law requires the state to notify the U.S. Department of Justice that Iowa is “accepting the medical use” of these substances as the term (“currently accepted medical use”) is codified in the federal Controlled Substances Act.

Please amend SF 506 to include a statement that it complies with exiting federal law.

Thank you very much!

Sincerely,

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