Exhibit #23

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To the Iowa Board of Pharmacy:

Thank you for considering my petition for marijuana scheduling on Wednesday, November 19, 2014. I would like to thank the members of the subcommittee, Edward Maier, Sharon Meyer, and LaDonna Gratias, for their outstanding work which is both accurate and detailed. I am pleased with the subcommittee's proposed ruling and ask that the full board adopt it as your recommendation to the Iowa legislature at your next regularly scheduled board meeting on January 5, 2015.

At the meeting on November 19, 2014, some members of the board asked for more time to consider the subcommittee's proposal and expressed concern with the relationship between state and federal scheduling. I'm pleased that the board wants to take a closer look at this proposal.

1. BACKGROUND INFORMATION

I will start by mentioning some of the history involved in marijuana's classification at the international, national, and state level. I submitted a document for the subcommittee hearing from the Expert Committee on Drug Dependence (ECDD) of the World Health Organization (WHO) that gives a good summary of the historical background at the international level. I hope you have taken the time to review it.

Our national and state controlled substances acts were written to comply with these international treaties, the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971. Marijuana was added to

schedules 1 and 4 of the Single Convention in 1961 and THC was added to schedule 1 of the Convention on Psychotropic Substances in 1971. The first thing to note is that THC (the principle psychoactive ingredient in marijuana) was scheduled less restrictively than marijuana when it was added in 1971. International schedule 4 is the equivalent of our state schedule 1, and international schedule 1 is the approximate equivalent of our state schedule 2. So, THC was classified as good for limited medical use in 1971, after marijuana had been classified as being good for nothing in 1961.

To provide some contrast, the opium plant, the coca plant, morphine, and cocaine were all placed in schedule 1 of the Single Convention in 1961, because all of them had some limited medical use at that time. When THC was added to international schedule 1 in 1971, the scheduling of marijuana was not adjusted accordingly by removing it from international schedule 4. When THC was down scheduled to international schedule 2 in 1991, marijuana still got left behind in international schedule 4 (the most restrictive schedule).

Transfer of delta-9-THC and its stereochemical variants from Schedule 1 to Schedule 2 of the Convention on Psychotropic Substances, 1971:

https://www.unodc.org/documents/commissions/CND/Drug_Resolutions/1990-1999/1991/CND_Decision-34-2_XXXIV.pdf

https://cms.unov.org/llsulinkbase/contenttree.aspx?nodeID=1832

Schedule 4 of the international treaties is for substances that have no medical use, which raises the obvious question of where THC comes from if you're not getting it from a marijuana plant. Marijuana's classification has not been reviewed by the international health organization since 1935. The World Health Organization is currently reviewing the classification of marijuana. I'm fairly optimistic the WHO is going to recommend down scheduling of marijuana at the international level in 2016, but that's hard to determine at this time. Obviously, the United States is moving us in that direction.

At the federal level, marijuana and THC were both placed in schedule 1 in 1970, and at the state level here in Iowa, marijuana and THC were both placed in schedule 1 of the Iowa Uniform Controlled Substances Act in 1971, consistent

with both having no accepted medical use in treatment anywhere in the United States at that time.

THC (synthetic only) has been down scheduled twice at the federal level, to schedule 2 in 1986, and to schedule 3 in 1999. **51 Fed. Reg. 17476 (May 13, 1986)**; **64 Fed. Reg. 35928 (July 2, 1999)**. Synthetic THC has also been down scheduled twice at our state level here in Iowa, to schedule 2 in 1986, and to schedule 3 in 2000. **1986 Iowa Acts Chapter 1037 § 4 (April 7, 1986)**; **2000 Iowa Acts Chapter 1140 § 10 (April 25, 2000)**.

The unusual thing about THC's scheduling is that both federal and state law made a distinction between naturally occurring THC and synthetic THC, leaving the naturally occurring THC in schedule 1 and transferring only synthetic THC to schedule 2 and then to schedule 3. This distinction has never existed at the international level. Both naturally occurring and synthetic THC were transferred to international schedule 2 in 1991. Iowa has since that time corrected this distinction by transferring naturally occurring THC to state schedule 3 here in Iowa in 2008. **Iowa Code § 124.208(9) (2014)**. **2008 Iowa Acts Chapter 1010 § 4 (March 5, 2008)**. The federal government proposed moving naturally extracted THC in 2010, **75 Fed. Reg. 67054 (2010)**, but naturally occurring THC remains in federal schedule 1 as of this date. So, here you have an example of where Iowa is not following federal scheduling on naturally occurring THC. Iowa is leading instead of following. If you read the federal proposal you'll see the reasoning the federal government makes is that a molecule is still that same molecule whether it occurs naturally or it's made synthetically.

The recent Medical Cannabidiol act our state enacted on July 1, 2014, is another example of where our state is not following federal scheduling. Cannabidiol (CBD) is the main non-psychoactive chemical component of marijuana. The US Department of Health and Human Services (HHS) was awarded United States Patent #6,630,507 for CBD and other cannabinoids on Oct. 7, 2003. Cannabidiol is in federal schedule 1. The federal chemical code for cannabidiol is 7372. See:

http://www.deadiversion.usdoj.gov/drugreg/reg_apps/225/225_instruct.htm

http://www.deadiversion.usdoj.gov/fed_regs/imprt/app/2008/fr08064.htm

Iowa is leading instead of following the federal scheduling of cannabidiol. This is not just some mishap or constitutional abnormality; it's a pattern.

You can see a similar pattern at the international level where it was the United States that requested the down scheduling of THC in 1991. **Report on the 27th session, Expert Committee on Drug Dependence (1991)**, at pages 9-12: http://whqlibdoc.who.int/trs/WHO_TRS_808.pdf?ua=1. The international, national, and state systems of substance control are not designed to be top down. It's a comprehensive system driven from the bottom up. Local government represents the people and this is where the process begins. The international treaties all have limitation clauses in them which protect constitutional due process of the signatory parties.

Marijuana's placement in federal schedule 1 in 1970 was so controversial that Congress appointed a commission to study it. "The Commission recommended that 'the United States take the necessary steps to remove cannabis from the Single Convention on Narcotic Drugs (1961), since this drug does not pose the same social and public health problems associated with the opiates and coca leaf products.'" ***NORML v. DEA***, 559 F.2d 735, 751 n.7 (D.C. Cir. 1977).

Marijuana is the only substance in schedule 1 with a long history of medical use in treatment in the United States.

> First, while California in 1996 became the first of the sixteen states that currently legalize medical marijuana, the history of medical marijuana goes back much further, so that use for medical purposes was not unthinkable in 1990. At one time, "almost all States ... had exceptions making lawful, under specified conditions, possession of marihuana by ... persons for whom the drug had been prescribed or to whom it had been given by an authorized medical person." ***Leary v. United States***, 395 U.S. 6, 17, 89 S. Ct. 1532, 23 L. Ed. 2d 57 (1969). What's more, the Federal government itself conducted an experimental medical marijuana program from 1978 to 1992, and it continues to provide marijuana to the surviving participants. See ***Conant v. Walters***, 309 F.3d 629, 648 (9th Cir. 2002). The existence

> of these programs indicates that medical marijuana was not a concept utterly foreign to Congress before 1996.

James v. Costa Mesa, 700 F.3d 394, 409 (9th Cir. 2012) (Berzon, J., dissenting). And, of course, marijuana is the only substance in schedule 1 that has been accepted for medical use in treatment in any state since 1970. Marijuana now has accepted medical use in treatment in thirty-four states and in two federal jurisdictions, DC and Guam.

2. OUR LEGISLATURE HAS GIVEN THE BOARD EXPLICIT INSTRUCTIONS

Our state legislature has given the board the following instructions. If a substance has a high potential for abuse, it must be placed in either schedule 1 or schedule 2. **Iowa Code §§ 124.203(1)(a) and 124.205(1)(a) (2014)**. If a substance has accepted medical use in treatment in the United States, it cannot be placed in schedule 1 and must be placed in one of the other four schedules or removed from the schedules entirely. **Iowa Code §§ 124.203(1)(b) and 124.203(2) (2014)**. If a substance has both accepted medical use in treatment in the United States with severe restrictions and a high potential for abuse, then it must be placed in schedule 2. **Iowa Code §§ 124.205(1)(a) and 124.205(1)(b) (2014)**.

This is not the first time the board has considered marijuana's classification. As the result of a petition for marijuana scheduling I filed with the board in 2008, the board held a series of public hearings in four cities across the state. These hearings were prompted by an Iowa District Court ruling in ***McMahon v. Iowa Board of Pharmacy***, Polk County No. CVCV007415 (April 21, 2009) (judicial review of my 2008 petition for marijuana scheduling). "Both Schedule 1 and Schedule 2 controlled substances share the same characteristic of having a high potential for abuse. A finding of accepted medical use for treatment in the United States alone would be sufficient to warrant recommendation for reclassification or removal pursuant to the language of Iowa Code section 124.202." ***Id***. at 4 n.1. "The Board must determine whether the evidence presented by Petitioner is sufficient to support a finding that marijuana has accepted medical use in the United States and does not lack accepted safety for use in treatment under medical supervision." ***Id***. at 5.

The only evidence I presented in 2008 was the existence of twelve state laws defining marijuana as medicine. I said that the existence of state laws defining marijuana as medicine proves that marijuana has accepted medical use in treatment in the United States as a matter of law. The board was obviously uncomfortable with accepting a legal argument without looking at the eight factors our legislature has instructed the board to consider in making scheduling decisions. **Iowa Code § 124.201(1)(a)-(h) (2014)**. The board decided to take input from the public over a period of four months (from August of 2009 through November of 2009) and in four public hearings held in various cities across the state. On February 17, 2010, the board voted unanimously to recommend our legislature remove marijuana from state schedule 1 in Iowa.

Our state legislature has not authorized the board to consider federal scheduling in determining whether marijuana continues to meet the conditions for placement in schedule 1. Federal scheduling is not one of the eight factors the legislature has instructed the board to consider. **Iowa Code § 124.201(1)(a)-(h) (2014)**. The only instance where the legislature requires the board to consider federal scheduling is when the federal government adds a new substance to the federal schedules. **Iowa Code § 124.201(4) (2014)**. When the federal government does add a new substance to the federal schedules, the board is not legally bound to make that same recommendation to the Iowa legislature. **Iowa Code § 124.201(4) (2014)**; **657 IAC 10.37(3)**. Similarly, the Iowa legislature is not legally bound to follow federal scheduling decisions. **Iowa Code § 124.201(4) (2014)**. This is no mere accident on the part of our legislature, it is a consistent pattern.

"In our federal system, the National Government possesses only limited powers; the States and the people retain the remainder." ***Bond v. United States***, 572 U.S. ___, ___, 134 S. Ct. 2077, 2087 189 L. Ed. 2d 1, 10 (2014). "It is incumbent upon the federal courts to be certain of Congress' intent before finding that federal law overrides the usual constitutional balance of federal and state powers." ***Gregory v. Ashcroft***, 501 U.S. 452, 460, 111 S. Ct. 2395, 115 L. Ed. 2d 410 (1991) (quoting ***Atascadero State Hospital v. Scanlon***, 473 U.S. 234, 243, 105 S. Ct. 3142, 87 L. Ed. 2d 171 (1985). "Congress normally preserves 'the constitutional balance between the National Government and the States.'" ***Bond v. United States***, 564 U.S. ___, ___, 131 S. Ct. 2355, 2364, 180 L. Ed. 2d 269, 280 (2011).

"The CSA explicitly contemplates a role for the States in regulating controlled substances, as evidenced by its pre-emption provision." ***Gonzales v. Oregon***, 546 U.S. 243, 251 (2006)[1]. "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." ***Id***. at 258. "Congress did not delegate to the Attorney General authority to carry out or effect all provisions of the CSA. Rather, he can promulgate rules relating only to 'registration' and 'control,' and 'for the efficient execution of his functions' under the statute." ***Id***. at 259. "As for the federal law factor, though it does require the Attorney General to decide '[c]ompliance' with the law, it does not suggest that he may decide what the law says. Were it otherwise, the Attorney General could authoritatively interpret 'State' and 'local laws,' which are also included in 21 U.S.C. § 823(f), despite the obvious constitutional problems in his doing so." ***Id***. at 264. "The statute and our case law amply support the conclusion that Congress regulates medical practice insofar as it bars doctors from using their prescription-writing powers as a means to engage in illicit drug dealing and trafficking as conventionally understood. Beyond this, however, the statute manifests no intent to regulate the practice of medicine generally. The silence is understandable given the structure and limitations of federalism, which allow the States 'great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons.' ***Medtronic, Inc. v. Lohr***, 518 U.S. 470, 475, 116 S. Ct. 2240, 135 L. Ed. 2d 700 (1996) (quoting ***Metropolitan Life Ins. Co. v. Massachusetts***, 471 U.S. 724, 756, 105 S. Ct. 2380, 85 L. Ed. 2d 728 (1985))." ***Id***. at 269-270.

"Even though regulation of health and safety is 'primarily, and historically, a matter of local concern,' ***Hillsborough County v. Automated Medical Laboratories, Inc.***, 471 U.S. 707, 719, 105 S. Ct. 2371, 85 L. Ed. 2d 714 (1985), there is no question that the Federal Government can set uniform national

[1] "No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together." 21 U.S.C. § 903 (Pub. L. 91–513, title II, §708, Oct. 27, 1970, 84 Stat. 1284).

standards in these areas. See ***Raich***, supra, at 9, 125 S. Ct. 2195, 162 L. Ed. 2d 1. In connection to the CSA, however, we find only one area in which Congress set general, uniform standards of medical practice. Title I of the Comprehensive Drug Abuse Prevention and Control Act of 1970, of which the CSA was Title II, provides that

> '[The Secretary], after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, shall determine the appropriate methods of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts, and shall report thereon from time to time to the Congress.' § 4, 84 Stat. 1241, codified at 42 U.S.C. § 290bb-2a.

"This provision strengthens the understanding of the CSA as a statute combating recreational drug abuse, and also indicates that when Congress wants to regulate medical practice in the given scheme, it does so by explicit language in the statute." ***Id***. at 271-272.

Transferring marijuana from state schedule 1 to state schedule 2 does not promote drug abuse, because the potential for abuse of substances in our state schedule 1 is identical to the potential for abuse for substances in our state schedule 2. Our state schedule 2 does not promote the unauthorized use (abuse) of any controlled substance.

Likewise, our state schedule 2 does not create any positive conflict with federal law, because it does not authorize anyone to use, prescribe, or dispense any controlled substance without a federal license. Our legislature was not unaware of the 1970 federal scheduling scheme when it adopted the Uniform Controlled Substances Act in 1971. Our state legislature understood that state scheduling can be different than federal scheduling and that is exactly what the legislature intended. This is called due process.

It would be absurd to say that marijuana does not have accepted medical use in treatment in the United States in the face of thirty-four state laws that accept its medical use, as well as the two federal jurisdictions of DC and Guam. Our

legislature saw the possibility of this change in circumstances when it set the conditions for placement in state schedule 1 back in 1971.

The federal courts have provided us with instructions on how to interpret the federal controlled substances act. "Neither the statute nor its legislative history precisely defines the term 'currently accepted medical use.'" ***Alliance for Cannabis Therapeutics v. Drug Enforcement Administration***, 930 F.2d 936, 939 (D.C. Cir., 1991). "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." ***Grinspoon v. DEA***, 828 F.2d 881, 886 (1st Cir. 1987).

3. IOWA'S SCHEDULES ARE NOT IDENTICAL TO THE FEDERAL SCHEDULES

Our state schedule 3 includes products containing natural dronabinol (derived from the cannabis plant), which are in federal schedule 1. **Iowa Code § 124.208(9) (2014)**. **2008 Iowa Acts Chapter 1010 § 4 (March 5, 2008)**. Although the federal government has proposed a rule to transfer products containing natural dronabinol (derived from the cannabis plant) from federal schedule 1 to federal schedule 3, this rule has never been finalized. See **Federal Register, Vol. 75, No. 210 / Monday, November 1, 2010 / Proposed Rules, at page 67054**, "Listing of Approved Drug Products Containing Dronabinol in Schedule III," ("Dronabinol is a name of a particular isomer of a class of chemicals known as tetrahydrocannabinols (THC). Specifically, dronabinol is the United States Adopted Name (USAN) for the (-)-isomer of [Delta]\9\-(trans)-tetrahydrocannabinol [(-)-[Delta]\9\-(trans)-THC], which is believed to be the major psychoactive component of the cannabis plant (marijuana)." ***Id***. at page 67055). Our legislature approved this change over 2 years before the federal government even proposed making the same change in the federal schedules. As of this time, the federal government still classifies products containing naturally derived dronabinol as federal schedule 1 substances.

The inconsistency between state and federal scheduling does not create any positive conflict between our state and federal law. No federal law is broken when a state reclassifies a controlled substance to a different schedule than the federal government. States are not required to have the same schedules or even the same

criteria for inclusion in the schedules. See, for example, ***State v. Eells***, 72 Or. App. 492, 696 P.2d 564 (1985), review denied by 299 Ore. 313, 702 P.2d 1110 (1985) ("Although Or. Rev. Stat. § 475.005(6) states that a controlled substance is defined by reference to the schedules under the Federal Controlled Substances Act, 21 USC §§ 811 to 812, the statute does not adopt the federal criteria, as Oregon has its own standards for amendment of the schedule, as set out in Or. Rev. Stat. § 475.035").

4. STATE MEDICAL MARIJUANA LAWS ARE NOT PREEMPTED BY FEDERAL LAW UNLESS THEY SPECIFICALLY REQUIRE THE VIOLATION OF FEDERAL LAW

A state can create exemptions from its criminal laws without violating any federal law. ***New York v. United States***, 505 U.S. 144, 120 L. Ed. 2d 120, 112 S. Ct. 2408 (1992), and ***Printz v. United States***, 521 U.S. 898, 138 L. Ed. 2d 914, 117 S. Ct. 2365 (1997). Exempting medical use of marijuana is unique because of the reason given for the exemption, "medical use." "Similarly, here, there is no conflict based on the fact that Congress has chosen to prohibit the possession of medical marijuana, while California has chosen not to." ***Garden Grove v. Superior Court***, 157 Cal.App.4th 355, 385, 68 Cal.Rptr.3d 656, 677 (2007), ***cert. denied***, 555 U.S. 1044, 129 S. Ct. 623, 172 L. Ed. 2d 607 (2008). "We further conclude, as to the limited provisions of the MMP that Counties may challenge, those provisions do not positively conflict with the CSA, and do not pose any added obstacle to the purposes of the CSA not inherent in the distinct provisions of the exemptions from prosecution under California's laws, and therefore those limited provisions of the MMP are not preempted." ***San Diego County v. San Diego NORML***, 165 Cal.App.4th 798, 809, 81 Cal.Rptr.3d 461, 468 (2008), ***cert. denied***, 556 U.S. 1235, 129 S. Ct. 2380, 173 L. Ed. 2d 1293 (2009). "Thus, it appears Justice Scalia's interpretation suggests a state law is preempted by a federal 'positive conflict' clause, like 21 U.S.C. section 903, only when the state law affirmatively requires acts violating the federal proscription." ***Id.***, 165 Cal.App.4th at 821, 81 Cal.Rptr.3d at 477.

> Counties appear to argue there is a positive conflict between the identification laws and the CSA because the card issued by a county confirms that its bearer may violate or is immunized from federal laws. However, the applications for the card expressly state the card

> will not insulate the bearer from federal laws, and the card itself does not imply the holder is immune from prosecution for federal offenses; instead, the card merely identifies those persons California has elected to exempt from California's sanctions. (Cf. ***U.S. v. Cannabis Cultivators Club*** (N.D.Cal. 1998) 5 F.Supp.2d 1086, 1100 [California's CUA 'does not conflict with federal law because on its face it does not purport to make legal any conduct prohibited by federal law; it merely exempts certain conduct by certain persons from the California drug laws'].) Because the CSA law does not compel the states to impose criminal penalties for marijuana possession, the requirement that counties issue cards identifying those against whom California has opted not to impose criminal penalties does not positively conflict with the CSA.

Id., 165 Cal.App.4th at 825-826, 81 Cal.Rptr.3d at 481.

The Medical Cannabidiol act that became effective in Iowa on July 1, 2014, does not require anyone to violate any federal law. **641 IAC 154 (2014)**. "A neurologist who has examined and treated a patient suffering from intractable epilepsy may provide, but has no duty to provide, a written recommendation for the patient's medical use of cannabidiol to treat or alleviate symptoms of intractable epilepsy ..." **Iowa Admin. Code 641-154.2(1) (2014)**. A doctor's "recommendation" is not a "prescription" and is protected by the First Amendment's protection of Freedom of Speech. ***Conant v. Walters***, 309 F.3d 629 (9th Cir. 2002), ***cert. denied***, ***Walters v. Conant***, 540 U.S. 946, 124 S. Ct. 387, 157 L. Ed. 2d 276 (2003).

> Our decision is consistent with principles of federalism that have left states as the primary regulators of professional conduct. See ***Whalen v. Roe***, 429 U.S. 589, 603 n. 30, 51 L. Ed. 2d 64, 97 S. Ct. 869 (1977) (recognizing states' broad police powers to regulate the administration of drugs by health professionals); ***Linder v. United States***, 268 U.S. 5, 18, 69 L. Ed. 819, 45 S. Ct. 446 (1925) ("direct control of medical practice in the states is beyond the power of the federal government"). We must "show[] respect for the sovereign States that comprise our Federal Union. That respect imposes a duty on federal courts, whenever possible, to avoid or minimize conflict between federal and

> state law, particularly in situations in which the citizens of a State have chosen to serve as a laboratory in the trial of novel social and economic experiments without risk to the rest of the country." ***Oakland Cannabis***, 532 U.S. at 501 (Stevens, J., concurring) (internal quotation marks omitted).

Id. at 639. In Iowa, a prescription drug is defined as, "A substance for which federal or state law requires a prescription before it may be legally dispensed to the public." **Iowa Code § 155A.3(37)(a)**.

> a. In a prosecution for the unlawful possession of marijuana under the laws of this state, including but not limited to chapters 124 and 453B, it is an affirmative and complete defense to the prosecution that the patient has been diagnosed with intractable epilepsy, used or possessed cannabidiol pursuant to a recommendation by a neurologist as authorized under this chapter, and, for a patient eighteen years of age or older, is in possession of a valid cannabidiol registration card.
>
> b. In a prosecution for the unlawful possession of marijuana under the laws of this state, including but not limited to chapters 124 and 453B, it is an affirmative and complete defense to the prosecution that the person possessed cannabidiol because the person is a primary caregiver of a patient who has been diagnosed with intractable epilepsy and is in possession of a valid cannabidiol registration card, and where the primary caregiver's possession of the cannabidiol is on behalf of the patient and for the patient's use only as authorized under this chapter.

2014 Iowa Acts Chapter 1125 § 7 (May 30, 2014). Nowhere in the Iowa Medical Cannabidiol Act of 2014 does it require or authorize any violation of federal law.

5. STATE RESCHEDULING DOES NOT MAKE MARIJUANA LEGAL IN IOWA – EVEN A CORRESPONDING CHANGE IN FEDERAL SCHEDULING WOULD NOT AUTOMATICALLY MAKE IT LEGAL IN IOWA

Removing marijuana from schedule 1 in Iowa will not make it legal for a medical practitioner to prescribe it and it will not make it legal for a pharmacist to

dispense it. Take opium plants and coca plants for an example. Both of those plants are in both state and federal schedule 2, yet there is no law that makes it legal to prescribe those plants in Iowa.

Iowa law does not allow the prescription of any substance in federal schedule 1 in Iowa (with the limited exception of an FDA approved research study). Iowa law also prevents the dispensing of any substance in federal schedule 1 in Iowa (with the limited exception of an FDA approved research study). **Iowa Code §§ 124.303(1)(c), 124.303(1)(f), 124.303(3), 124.303(4), 124.304(1)(b), 124.304(1)(c), 124.307 (2014)**.

In order to practice medicine in Iowa a practitioner must comply with federal law to maintain a license in Iowa. **Iowa Code §§ 148.6(b), 148.6(c), 148.6(d)**.

In order to practice pharmacy in Iowa a pharmacist must comply with federal law to maintain a license in Iowa. **Iowa Code §§ 155A.15(2)(a), 155A.6(3), 155A.6A(1), 155A.6A(5), 155A.6B(1), 155A.6B(5), 155A.15(2)(a), 155A.15(2)(i), 155A.17(2),155A.24(1)(b), 155A.26, 155A.27(1)(f), 155A.42(4)**; **657 IAC 10.12(1)(c), 657 IAC 10.12(4)(c), 657 IAC 10.12(4)(f)**.

6. OTHER PLANTS WE USE TO MAKE MEDICINE ARE NOT IN SCHEDULE 1

Both opium plants and coca plants are in Iowa schedule 2, and neither of these two plants are approved for prescription under either state law or federal law. These two plants, opium and coca, are the source material for prescription drugs, morphine and cocaine, that are derived from the plants. Iowa now recognizes medical use of two substances made from marijuana plants, cannabidiol (marijuana extract) and dronabinol (marijuana extract). Both of these plant based extracts are in federal schedule 1, which says they have no accepted medical use in treatment in the United States, and, yet, Iowa is a state in the United States which accepts both of them for medical use. Cannabidiol is now recognized by Iowa law as a medicine. Dronabinol (naturally derived from the marijuana plant) is in state schedule 3 in Iowa, which by definition means it has accepted use for medical treatment in the United States (because Iowa is “in the United States”). **Iowa Code §§ 124.207(1)(b), 124.208(9)**.

7. PRECEDENT

This board ruled unanimously in 2010 that marijuana should be transferred from state schedule 1 to state schedule 2. That ruling stands as precedent as long new information does not negate the 2010 ruling. Iowa Code 17A.19(10)(h). In order to reverse position, the board would have to explain why the evidence now shows that marijuana is correctly scheduled in Iowa. The proposed ruling from the subcommittee says the evidence that marijuana has medical use has only gotten stronger, not weaker, since 2010. Prior to 2010, the board has never take any position on whether marijuana is scheduled correctly in Iowa.

8. CONCLUSION

State administrative agencies must follow state law. State administrative agencies cannot disregard the instructions of our legislature. Our state law recognizes marijuana's medical use for both the production of dronabinol and the production of cannabidiol, which requires that marijuana be removed from state schedule 1. There is no violation of federal law by removing marijuana from state schedule 1, and, therefore, it is required by our state law unless there new evidence showing that marijuana is scheduled correctly in Iowa.

Because marijuana now has accepted medical use in treatment in thirty-four states (including Iowa), and two federal jurisdictions, DC and Guam, the board is bound by law to recognize that marijuana now has accepted medical use in treatment in the United States and must be removed from state schedule 1.

Thank you for considering my petition. If there is anything further I can assist you with in making your decision on January 5, 2015, please let me know.

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