

**IN THE IOWA DISTRICT COURT  
IN AND FOR  
POLK COUNTY IOWA**

CARL OLSEN,  
Petitioner,

No. CV 8682

vs.

STATE OF IOWA,  
Respondent.

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**PETITION FOR DECLARATORY JUDGMENT**

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Comes now the Petitioner, Carl Olsen, and respectfully petitions the Court for a declaratory judgment pursuant to Iowa Rule of Civil Procedure 1.1101 finding that marijuana no longer meets the statutory criteria for inclusion in schedule I, Iowa Code § 124.203, of the Iowa Uniform Controlled Substances Act, Iowa Code Chapter 124, Sections 101 through 602.

**INTRODUCTION**

On May 12, 2008, Petitioner (“Olsen” hereafter) filed an administrative petition with the Iowa Board of Pharmacy (“Board” hereafter) seeking the reclassification of marijuana under the Iowa Uniform Controlled Substances Act. Olsen argued that the classification of marijuana under Iowa Code § 124.204 as having “no accepted medical use in treatment in the United States” (Iowa Code § 124.203) is no longer valid. Olsen argued that because 12 states had accepted the medical use of marijuana as of May 12, 2008, marijuana now has accepted medical use in treatment in the United States. Olsen argued the Board had a statutory

duty to inform the Iowa Legislature that marijuana is currently misclassified as a matter of law.

Olsen expected the Board to deny his petition because the question of law being presented to the Board was outside of the scope of authority granted to the Board under Iowa Code §124.201. Olsen addressed the question of law to the Board because Olsen wanted this court to see that he had given the Board the opportunity to address the question of law before bringing it before the judicial branch.

The Board initially rejected Olsen's argument in its Final Order of October 7, 2008, stating: "While neither accepting or rejecting Olsen's assertion that the medicinal value of marijuana is established by legislation adopted in other states, the Board notes that before recommending to the Iowa legislature that marijuana be removed from schedule I to schedule II, the board would also need to make a finding that marijuana lacks a high potential for abuse." (Case No.2008-105, Final Order, p. 2)

In ***McMahon v. Board of Pharmacy***, No. CV 7415 (Polk County Iowa District Court, April 21, 2009), Polk County District Judge Joel D. Novak ruled the Board's interpretation of the law was erroneous:

Section 124.203 of the Iowa Code requires that any controlled substance have (1) a high potential for abuse, **and** (2) no accepted medical use in treatment in the United States before it may be classified under Schedule 1. Because the Code imposes both criteria as a prerequisite to Schedule I classification, the failure to meet either would require recommendation to the legislature for removal or rescheduling. *See id.* As such, the Board's statement that it "would also need to make a finding that marijuana lacks a high potential for abuse" before it could recommend to the legislature that marijuana be

moved from Schedule I to Schedule II is based upon an erroneous interpretation of law.

Upon remand, the Board again rejected Olsen's argument in its Supplemental Order of July 21, 2009, stating:

More specifically, the Board rejects Olsen's notion that evidence of the adoption of legislation authorizing medical marijuana use in twelve states establishes that marijuana has an accepted medical use in treatment in the United States and does not lack accepted safety for use in treatment under medical supervision. The Board concludes that its statutory responsibility requires more than merely surveying enactments in other states and recommending to the General Assembly that Iowa conform to the latest legislative trend. The Board will make recommendations relating to marijuana scheduling only upon a fully developed administrative record, complete with expert scientific evidence which fully addresses statutory criteria.

(Case No. 2008-105, Supplemental Order, pp. 12-13)

Between May 12, 2008, when the petition was filed with the Board, and June 6, 2011, when this petition for declaratory judgment was filed, an additional 4 states have accepted the medical use of marijuana, Michigan, New Jersey, Arizona, and Delaware. Since 1996, a total of 16 states have now accepted the medical use of marijuana. In addition, last year, in 2010, with the consent of Congress, the medical use of marijuana was accepted in the federal jurisdiction of the District of Columbia.

### **DEVELOPMENT OF AN ADMINISTRATIVE RECORD**

On the same day as the Supplemental Order denying Olsen's petition, July 21, 2009, the Board issued a proposal to hold evidentiary hearings across the state to take public input addressing the scheduling criteria set out in Iowa Code §§ 124.201 and 124.203.

On July 29, 2009, the Board issued a schedule of public hearings to be held: (1) Wednesday, August 19, 2009, 10:00 a.m. to 7:00 p.m., Iowa State Historical Building (Auditorium), 600 East Locust Street, Des Moines, Iowa; (2) Wednesday, September 2, 2009, 10:00 a.m. to 7:00 p.m., The Music Man Square (Reunion Hall), 308 South Pennsylvania Avenue, Mason City, Iowa; (3) Wednesday, October 7, 2009, Noon to 7:00 p.m., University of Iowa, Bowen Science Building (3rd Floor Auditorium), 51 Newton Road, Iowa City, Iowa; (4) Wednesday, November 4, 2009, 10:00 a.m. to 7:00 p.m., Harrah's Casino & Hotel (Ballroom I), One Harrah's Boulevard, Council Bluffs, Iowa.

The series of four public hearings were held, scientific and medical evidence was submitted, and all four public hearings were transcribed by a certified court reporter. On February 17, 2010, the Board concluded unanimously that marijuana should be reclassified from schedule I (Iowa Code § 124.204) to schedule II (Iowa Code § 124.206).

### **OLSEN'S APPEAL DISMISSED AS MOOT**

In *McMahon v. Board of Pharmacy*, No. CV 7415 (Polk County Iowa District Court, October 30, 2009), Polk County District Judge Joel D. Novak ruled the Board's Supplemental Order rejecting Olsen's petition was lawful, stating:

The Court has reviewed the Supplemental Order of the Board in response to the Court's remand. After reviewing same, the Court concludes that the Board has complied with the directive of the Court's remand in that it reviewed the evidence (including testimony and exhibits) presented to the Board in connection with Olsen's petition, and having done so, determined that not only did the evidence presented by Olsen not allow the Board to make a finding relevant to the statutory criteria found in Iowa Code Section 124.201 (2009), it

also was insufficient for a finding by the Board that marijuana has accepted medical use for treatment in the United States and does not lack accepted safety for use in treatment under medical supervision as set forth in Iowa Code Section 124.203 (2009).

In *McMahon v. Board of Pharmacy*, No. 09-1789 (Iowa Supreme Court, May 14, 2010), the Iowa Supreme Court ruled Olsen's appeal was moot:

The petitioners and the intervenor are appealing from the district court's ruling denying them additional judicial review of the pharmacy board's denial of their requests to recommend marijuana's reclassification as a controlled substance under Iowa Code chapter 124. On February 17, 2010, while this appeal was pending, the pharmacy board recommended that the legislature reclassify the scheduling of marijuana as a controlled substance under Iowa Code chapter 124 (2009). The board ultimately made the reclassification recommendation sought by the petitioners and the intervenor. This reclassification decision ended any justiciable existing controversy that an appellate decision on this case could affect. See *Grinnell College v. Osborn*, 751 N.W.2d 396, 398-399 (Iowa 2008) (need for existing controversy to justify an appeal). The appeal brought by the petitioners and the intervenor is moot.

### **DISTORTION OF THE ISSUE PREVENTED IT FROM MOVING FORWARD**

Despite the fact that changing the classification of a controlled substance does not by itself allow access to that controlled substance, the Board constantly connected these two separate issues as if they were the same or so closely related that they could not be separated.

In the Board's initial rejection of Olsen's petition on October 7, 2008, the Board stated: "Although numerous state laws have legalized medicinal use of marijuana, federal laws authorize prosecution of persons engaging in the same activities which are permitted under state law. Thus, if the Board were to recommend moving marijuana from schedule I to schedule II, that action would

create the unfortunate situation described above; specifically, a person in compliance with Iowa law could be prosecuted under the Controlled Substances Act. See, *Gonzales v. Raich*, 545 U.S. 1 (2005).” (Case No.2008-105, Final Order, p. 2).

The Board ignored the fact that none of the states it was referring to had reclassified marijuana under that state’s version of the Uniform Controlled Substances Act. 9 U.L.A. Part II beginning at page 1; See Iowa Code § 124.601.

In the Board’s supplemental rejection of Olsen’s petition on July 21, 2009, the Board stated: “Thus, Olsen's request for movement of marijuana to any controlled substance schedule other than schedule I is the equivalent of seeking ‘legalization’ of marijuana.” (Case No.2008-105, Supplemental Order, p. 9)

In the Board’s final decision on February 17, 2010, recommending rescheduling marijuana from schedule I to schedule II, the Board included a further request that the Iowa Legislature legalize access to marijuana, as follows:

Motion (Maier/ Anliker) the Iowa Board of Pharmacy recommends that the legislature reclassify marijuana from Schedule I of the Iowa Controlled Substance Act (Act) into Schedule II of the Act with the further recommendation that the legislature convene a task force or study committee comprised of various disciplines including but not limited to the following: a representative of a seriously ill patient; a representative of law enforcement; a representative of the Iowa Attorney General; a representative of an HIV organization or a physician caring for an AIDS patient; a substance abuse treatment representative; a person living with a serious illness; a hospice or palliative care representative; a representative of the Iowa Board of Nursing; a representative of the Iowa Board of Medicine; and a representative of the Iowa Board of Pharmacy, for the purpose of making recommendations back to the legislature regarding the administration of a medical marijuana program. Roll call vote. Yes: Anliker, Benjamin, Diehl, Frey, Maier, Whitworth; No: None; Abstain: None; Absent: Oleson. Passed: 6-0-0-1.

(Minutes, Iowa Board of Pharmacy, February 17, 2010, pp. 1-2)

In the Board's pre-filed legislation for 2011 (LSB 1274DP, SSB 1016), the explanation attached to the bill says: "The reclassification of marijuana from a schedule I controlled substance to a schedule II controlled substance permits a physician to issue a prescription for marijuana." LSB 1274DP, p. 3 (lines 2-4); SSB 1016, p. 3 (lines 2-4).

The Board knew, or should have known, that simply reclassifying a substance from schedule I to schedule II in Iowa does not allow a physician to prescribe it or a pharmacy to dispense it. See *Conant v. Walters*, 309 F.3d 629 (9th Cir. 2002), cert. denied, *Walters v. Conant*, 540 U.S. 946 (2003). When I spoke to the Legislative Service Agency employee who wrote the explanation, Joseph McEniry, he told me he thought marijuana was being dispensed from pharmacies by a physician's prescription in all the states where it has been legalized for medical use, which is not true in any of those states. Marijuana is merely recommended by physicians in those states and either grown by the end user or sold in dispensaries which U.S. attorneys across the nation are currently threatening to close down. See *Brewer v. Holder*, No. 11-cv-01072 (U.S. District Court for the District of Arizona, filed on May 27, 2011) (the U.S. attorney letters are attached to complaint as exhibits).

### **A QUESTION OF LAW**

Although the Board never explicitly stated that it was beyond the Board's statutory authority to decide whether marijuana has accepted medical use in the

United State based on twelve states laws accepting the medical use of marijuana enacted between 1996 and 2008 when the petition was filed, the Board clearly avoided answering this question of law. In the Board's trial brief dated March 9, 2009, at pages 13-14, the Board objected to Olsen's request for a finding of fact that marijuana has accepted medical use in treatment in the United States, as follows:

Interestingly, Petitioners' brief invites this court make a finding, as a matter of law, that marijuana has an accepted medical use in the United States. See Petitioners' Brief, p.28. Petitioners submit to this Court - as Olsen did to the Board - that the fact 12 or 13 states have enacted laws legalizing some marijuana use (ignoring the fact that 37 states, and the federal government, have not) proves marijuana is a medical treatment and satisfies any legal or factual test that might be imposed on the assertion. In other words, Petitioners wish this court to make the same factual determination - without the benefit of evidence - that the Board refused to make; a finding of fact that marijuana has an accepted medical use.

Petitioners do not address how this court is to make such a factual finding within the context of its appellate jurisdiction under Iowa Code § 17 A.19 (2007). See *Maschino v. Geo. A. Hormel & Co.*, 372 N.W.2d 256, 258 (Iowa 1985) ("Courts exercise only appellate jurisdiction in undertaking judicial review of administrative proceedings under the Iowa Administrative Procedure Act."). As discussed above, the District Court only reviews agency action for errors of law. *Houck v. Iowa Board of Pharmacy Examiners*, 742 N. W.2d 14, 16 (Iowa 2008). There is no provision in Iowa Code chapter 17A for the District Court to make findings of fact. *Krause v. State ex rel. Iowa Dept. of Human Services*, 426 N.W.2d 161, 165 (Iowa 1988) (evidence offered pursuant to Iowa Code § 17A. 19(7) is not to be used as a "springboard for trying issues of fact de novo in the district court").

Olsen gave the Board the first opportunity to address a question of law.

Olsen did now know for a certainty that a question of law could not be addressed even if it was outside the scope of the Board's authority. After all, the Board is currently recommending the Iowa Legislature legalize the use of marijuana for

medical purposes in Iowa and nothing in the scope of their authority authorizes them to make that recommendation. It is apparent from the Board's response that the Board did indeed refuse to answer the question because it thought the question was outside the scope of its authority. Administrative agencies don't have the authority to make interpretations of statutes that go beyond the authority given to them by the statute they are interpreting. *Leedom v. Kyne*, 358 U.S. 184, 190 (1958) (“[b]ut for the general jurisdiction of the federal courts there would be no remedy to enforce the statutory commands which Congress had written into the Railway Labor Act.”). Olsen believes the Board could have given a legally non-binding opinion on the question of law presented to it without exceeding its statutory authority, if it chose to do so. Olsen was simply asking the Board to give an advisory opinion to the Iowa Legislature that marijuana's current classification as having no accepted medical use in treatment in the United States is no longer valid because marijuana now has accepted medical use in treatment in 16 states and the District of Columbia (with Congressional approval).

During the oral argument on the petition for judicial review held on March 27, 2009, the Board's attorney told the Iowa District Court that Olsen's question of law could only be addressed in an original action for declaratory judgment in Iowa District Court. So be it. The Board could have given an opinion on the question of law presented to it and chose not to. The Board chose to look at the science instead of the question of law and reached the same conclusion, marijuana has accepted medical use in treatment in the United States.

## UNIFORM CONTROLLED SUBSTANCES ACT

Iowa has adopted the Uniform Controlled Substances Act. 1971 Iowa Acts, 64<sup>th</sup> General Assembly, Session 1, Chapter 148, July 1, 1971; 9 U.L.A. Part II (Uniform Controlled Substances Act). Iowa Code §§ 124.601 and 124.602 (2009) state:

### **IC 124.601 Uniformity of interpretation.**

This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.  
*§204.601; C93, §124.601*

### **IC 124.602 Short title.**

This chapter may be cited as the “Uniform Controlled Substances Act”.  
*§204.602; C93, §124.602*

<http://www.law.upenn.edu/bll/archives/ulc/fnact99/1990s/ucsa94.pdf>

What is “uniform” about the uniform act is that it gives a state agency the authority to classify controlled substances in a state, and gives every state the authority to decide scheduling independently of the federal government or any other state. In other words, it respects state sovereignty, or what is commonly referred to as “federalism.” See *Gonzales v. Oregon*, 546 U.S. 243 (2006); *Oregon v. Ashcroft*, 368 F.3d 1118 (9<sup>th</sup> Cir. 2004).

Under the uniform act, a state agency makes the final decision on scheduling which requires an act of the legislature to override, unlike Iowa which requires the legislature to approve a “recommendation” from the Iowa Board of Pharmacy. See the “Comment” directly below § 201 of the Uniform Controlled Substances Act:

The Act vests the authority to administer its provisions in the appropriate person or agency within the State. The “appropriate”

person or agency should have expertise in law enforcement, pharmacology, and chemistry. The appropriate person or agency may be one or more persons, or one or more agencies, or a combination. The enacting State should designate that person or agency that has the means to implement, enforce, and regulate the provisions of the Act. For example, authority could be vested in the Office of the Attorney General, a Department of Health, a Division of Public Safety, or such other agency within the State responsible for regulating and enforcing the drug laws. An alternative might be a division of authority whereby one agency might be responsible for controlling drugs under this article, another agency might be designated to regulate the legitimate industry under Article 3, and still another agency might be charged with enforcement. In any event, the ultimate authority for determining the appropriate person or agency is vested in the enacting State.

This section sets out the factors to be considered for the control and classification of drugs into five schedules. This classification achieves one of the main objectives of the Act, which is to create a coordinated, codified system of drug control and regulation. The Act follows the federal Controlled Substances Act and lists all of the controlled substances in five schedules that are identical with the federal law. Throughout the Act “listed” is used to refer to the controlled substances listed in the Act, while “included” is used to refer to substances controlled under authority of the Act but not necessarily “listed” in the Act. The Act is not intended to prevent a State from adding or removing substances from the schedules, or from reclassifying substances from one schedule to another, provided the procedures specified in this section are followed.

The purpose of the uniform act is set out in the Prefatory Note for Uniform Controlled Substances Act (1990):

The Uniform Controlled Substances Act (1990) is designed to supplant the Uniform Controlled Substances Act adopted by the National Conference of Commissioners on Uniform State Laws in 1970. The 1970 Uniform Act was designed to complement the federal Controlled Substances Act, which was enacted in 1970.

...

This Uniform Act was drafted to maintain uniformity between the laws of the several States and those of the federal government.

...

A main objective of this Uniform Act is to continue a coordinated and codified system of drug control initiated with the federal act and the 1970 Uniform Act.

At the federal level, a federal agency makes the final decision on scheduling which requires an act of Congress to override<sup>1</sup>, unlike Iowa which requires the legislature to approve a “recommendation” from the Iowa Board of Pharmacy. See 21 U.S.C. § 811.

What this shows is that Iowa is not uniform with the other states that have enacted the Uniform Controlled Substances Act, because the due process protection has been weakened. The Iowa Legislature did not even consider the Iowa Board of Pharmacy’s recommendation to reclassify marijuana because it was too busy considering the state budget. See the Board’s pre-filed legislation for 2011 (LSB 1274DP, SSB 1016). Iowa’s failure to conform to the pattern of the Uniform Controlled Substances Act consistent with the federal Controlled Substances Act caused a failure to protect the health and welfare of the citizens of Iowa, contrary to the intent of the Iowa Legislature expressed in Iowa Code §§ 124.601 and 124.602.

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<sup>1</sup> See *Grinspoon v. DEA*, 828 F.2d 881, 890 (1<sup>st</sup> Cir. 1987):

Third, in 1984, Congress legislatively placed the drug methaqualone in Schedule I. Despite its reputation as a widely abused substance, methaqualone was universally acknowledged to have an accepted medical use and had been approved for interstate marketing by the FDA. The House Committee Report concerning the scheduling of methaqualone stated:

the [DEA] does not have authority to impose Schedule I controls on a drug which has been approved by the [FDA] for medical use. The statutory findings required for agency scheduling decisions clearly state that the agency may not, in the absence of Congressional action, subject drugs with a currently accepted medical use in the United States to Schedule I controls.

H.R. Rep. No. 534, 98th Cong., 2d Sess. 4 (1984), reprinted in 1984 U.S. Code Cong. & Ad. News 540, 543.

## STATUTORY DEFINITIONS

The meaning of the phrase “in the United States” in Iowa Code 124.203 comes from the Uniform Controlled Substances Act, which in turn comes from the federal Controlled Substances Act.

The meaning of the phrase “in the United States” is not specifically defined by Congress in the federal Controlled Substances Act. *Grinspoon v. DEA*, 828 F.2d 881, 886 (1<sup>st</sup> Cir. 1987):

The CSA’s definition of “United States” plainly does not require the conclusion asserted by the Administrator simply because section 802(28) defines “United States” as “*all places* subject to the jurisdiction of the United States.” 21 U.S.C. § 802(28) (emphasis supplied). Congress surely intended the reference to “all places” in section 802(28) to delineate the broad jurisdictional scope of the CSA and to clarify that the CSA regulates conduct occurring *any place*, as opposed to *every place*, within the United States. As petitioner aptly notes, a defendant charged with violating the CSA by selling controlled substances in only two states would not have a defense based on section 802(28) if he contended that his activity had not occurred in “all places” subject to United States jurisdiction. We add, moreover, that the Administrator’s clever argument conveniently omits any reference to the fact that the pertinent phrase in section 812(b)(1)(B) reads “*in the United States*,” (emphasis supplied). We find this language to be further evidence that the 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.

Furthermore, Congress did not specifically define “currently accepted medical use” in the federal Controlled Substance Act. *Alliance for Cannabis Therapeutics v. DEA*, 930 F.2d 936, 939 (D.C. Cir. 1991) (“[n]either the statute nor its legislative history precisely defines the term ‘currently accepted medical use’; . . .”).

Clearly, the Board erred as a matter of law on July 21, 2009, when it stated: “Legislation in twelve states does not constitute proof that medical marijuana use is accepted in the United States, which is comprised of fifty states, not twelve.” (Case No. 2008-105, Supplemental Order, pp. 7-8)

There can be no doubt that legislation in even one state does constitute proof that medical marijuana use has been accepted in the United States. *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.”)

Scheduling of controlled substances under both the federal Controlled Substances Act and the Uniform Controlled Substances Act is an administrative function that is accomplished by formal rule making. As the U.S. Court of Appeals for the Ninth Circuit pointed out in *Oregon v. Ashcroft*, 368 F.3d 1118 (9<sup>th</sup> Cir. 2004):

We begin with instructions from the Supreme Court that the “earnest and profound debate about the morality, legality, and practicality of physician-assisted suicide” belongs among state lawmakers. *Washington v. Glucksberg*, 521 U.S. 702, 735, 138 L. Ed. 2d 772, 117 S. Ct. 2258, 117 S. Ct. 2302 (1997).

*Id.*, at 1123-1124.

The principle that state governments bear the primary responsibility for evaluating physician assisted suicide follows from our concept of federalism, which requires that state lawmakers, not the federal government, are “the primary regulators of professional [medical]

conduct.” *Conant v. Walters*, 309 F.3d 629, 639 (9th Cir. 2002); see also *Glucksberg*, 521 U.S. at 737 (O'Connor, J., concurring). The Supreme Court has made the constitutional principle clear: “Obviously, direct control of medical practice in the states is beyond the power of the federal government.” *Linder v. United States*, 268 U.S. 5, 18, 69 L. Ed. 819, 45 S. Ct. 446 (1925); see also *Barsky v. Bd. of Regents*, 347 U.S. 442, 449, 98 L. Ed. 829, 74 S. Ct. 650 (1954) (“It is elemental that a state has broad power to establish and enforce standards of conduct within its borders relative to the health of everyone there. It is a vital part of a state’s police power.”). The Attorney General “may not . . . regulate [the doctor-patient] relationship to advance federal policy.” *Conant*, 309 F.3d at 647 (Kozinski, J., concurring).

*Id.*, at 1124.

The CSA expressly limits federal authority under the Act to the “field of drug abuse.” Pub. L. No. 91-513, 84 Stat. 1236; 21 U.S.C. § 801(2)-(6). Contrary to the Attorney General’s characterization, physician assisted suicide is not a form of drug “abuse” that Congress intended the CSA to cover. [footnote omitted] Physician assisted suicide is an unrelated, general medical practice to be regulated by state lawmakers in the first instance. *Glucksberg*, 521 U.S. at 735, 737 (O'Connor, J., concurring).

*Id.*, at 1125-1126.

## UNITED STATES CONSTITUTION

The “Full Faith and Credit Clause” of the Constitution of the United States states: “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.” U.S. Constitution, Article IV, Section 1.

## FEDERAL COURT RULES

United States Code

**Title 28, Judiciary and Judicial Procedure, § 1652. State laws as rules of decision**

§ 1652. State laws as rules of decision. The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply.

## **IOWA COURT RULES**

### **Iowa Rules of Civil Procedure**

#### **Chapter 1 – Rule 1.415 – Judicial Notice**

Rule 1.415 Judicial notice; statutes. Matters of which judicial notice is taken, including statutes of Iowa, need not be stated in any pleading. A pleading asserting any statute of another state, territory or jurisdiction of the United States, or a right derived therefrom, shall refer to such statute by plain designation and if such reference is made the court shall judicially notice such statute.

[Report October 31, 1997, effective January 24, 1998; November 9, 2001, effective February 15, 2002]

### **Iowa Rules of Evidence**

#### **Chapter 5 – Rule 5.902 – Self-authentication**

Rule 5.902 Self-authentication. Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to the following:

(10) Presumptions under Acts of Congress or statute of Iowa or any other state or territory of the United States. Any signature, document or other matter declared by Act of Congress or statute of Iowa or any other state or territory of the United States to be presumptively or prima facie genuine or authentic.

## **Iowa Civil Procedure**

Iowa Code § 622.59

622.59 Printed copies of statutes.

Printed copies of the statute laws of this or any other of the United States, or of Congress, or of any foreign government, purporting or proved to have been published under the authority thereof, or proved to be commonly admitted as evidence of the existing laws in the courts of such state or government, shall be admitted in the courts of this state as presumptive evidence of such laws.

[C51, §2443; R60, §4063; C73, §3718; C97, §4651; C24, 27, 31, 35, 39, §11312; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §622.59]

### **CONCLUSION**

WHEREFORE, Olsen petitions this Court to declare that marijuana has accepted medical use in treatment in the United States as a matter of law based on 16 state statutes defining marijuana as medicine and that the classification of marijuana as a schedule I substance in Iowa is no longer valid based on statutory requirement that anything in Iowa schedule I have no currently accepted medical use in treatment in the United States.

Dated this 6<sup>th</sup> day of June, 2011.

Respectfully submitted,

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