NCR NATIONAL CANNABIS ROUNDTABLE

Kathleen Sebelius	John Boehner	James Cole	Saphira Galoob
NCR Honorary Co-Chair	NCR Honorary Co-Chair	NCR Advisory Board	NCR Executive Director

PURPOSE

The Purpose of this Memorandum is to address the current scheduling review that the U.S. Department of Health and Human Services ("HHS") is undertaking pursuant to President Biden's Executive Order [FN] and to urge HHS' consideration of reclassifying cannabis to Schedule III or lower of the Controlled Substances Act, or entirely removing it entirely from the list of controlled substances.

For the first time in more than 50 years, the Secretary of Health & Human Services is uniquely positioned with an historic and critical opportunity to shape drug policy, promote public health, and correct a decades long period of injustices that have negatively impacted the livelihood of millions of Americans.

We have, for more than 10 years, witnessed Congress ignore and avoid addressing an issue that now [xxxxxx] Americans believe deserves a change in legal status. As such, thanks to the Biden Administration's courage and commitment to restoring justice, our Executive Agencies, including HHS under your direction, have a historic opportunity to do what Congress has not been or willing to do on behalf of the American people.

We understand that despite the momentous responsibility of this decision for the Agency under your helm, HHS, nevertheless, has significant limitations of establishing the necessary guardrails that will ensure the health and safety of our communities following its findings and recommendations. As such, Congress will be required to work from any progress that HHS (and other Agencies) establish to develop the additional frameworks that respect and reflect the [38] state programs that currently have legal paradigms for commercial medical and adult consumption of cannabis, as well as the more than [xxxxxx] Americans (many of whom are our Veterans) who rely on cannabis for their health and well being. It is through this lens and understanding the limitation of your Agency that we have prepared the below considerations and recommendations.

SUMMARY

As HHS proceeds with its scheduling consideration of cannabis, we seek to ensure that agency understands the public health consequences of leaving cannabis at the status quo or conducting a review that concludes that moving cannabis to Schedule II. Any review conducted by HHS should at minimum result in a reclassification of cannabis to Schedule III or lower, including the outright removal of cannabis from the list of Controlled Substances.

DISTINGUISHING ANALYSIS TODAY FROM PRIOR PETITIONS FOR RESCHEDULING

While several citizen petitions over the last several decades (including a 2009 Petition from Mr. Bryan Krumm and a 2011 petition from then Governors Lincoln Chafee of Rhode Island and Christine Gregoire of Washington) to reschedule or deschedule petitions were denied under 21 USC 811(c) – the availability and quality of scientific data and amount of research on cannabis today has dramatically expanded, and public perception and consumption of cannabis has evolved.[FN][include our appendix]

CANNABIS SHOULD NOT BE CLASSIFIED LIKE HEROIN AND COCAIN

A determination of Schedule II for cannabis would not appropriately characterize the plant, as substances like cocaine and heroin meet the classification of this category. HHS is currently reviewing the classification of cannabis pursuant to the 8-factors highlighted in 22 USC 812 – and while addressing all eight (8) factors is beyond the scope of this Memorandum to s there are three (3) factors that merit special consideration—Factors 3, 6, and 8.

1) Cannabis' Actual or Relative Potential for Abuse
2) Scientific Evidence of the Pharmacological Effects and General Pharmacology of Cannabis
3) State of Current Scientific Knowledge Regarding the Drug or Other Substance
4) Its History and Current Pattern of Abuse
5) The Scope, Duration, and Significance of Abuse
6) What, if any, Risk There is to Public Health
7) It's Psychic or Physiological Dependence Liability
8) Whether the Substance is an immediate precursor to a substance already controlled.

STATE OF CURRENT SCIENTIFIC KNOWLEDGE REGARDING CANNABIS REQUIRES A DESIGNATION OF HHS FOR A FINDING OF SCHEDULE 3 OR LOWER

Since the last denial of a rescheduling petition (2016), a significant body of evidence of the medical benefits of cannabis is now available. This includes a 2017 report from the NATIONAL ACADEMIES OF SCIENCES, ENGINEERING AND MEDICINE that found cannabinoid medications and cannabis led to a "significant reduction in pain symptoms." [FN] "For adults with multiple sclerosis-related muscle spasms, there was substantial evidence that short-term use … cannabinoid-based medications that are orally ingested – improved their reported symptoms. Furthermore, in adults with chemotherapy-induced nausea and vomiting, there was conclusive evidence that certain oral cannabinoids were effective in preventing and treating those ailment."[FN]

This growing body of evidence continues to support our health care provider's experience in treating their communities that cannabis has therapeutic value and can be a valuable tool in treating a range of medical conditions. Further, throughout the 38 states that have already legalized cannabis for medical use, many states have developed as a part of state statute [#] of qualifying conditions for which cannabis is approved for the treatment of individuals in their states. [enter a FN of the qualifying conditions] Further research has shown that cannabis can be effective in pain, and muscle spasms in reducing chronic, and nausea, among other symptoms. Recent studies are being published every year that correlate that where cannabis is an available option for the treatment of pain, opioid use (and abuse) reduces.

For example, a study published in the JOURNAL OF HEALTH AND ECONOMICS found that states with medical cannabis laws had **2.21 million fewer daily doses of opioids prescribed per year than states without such laws.** [FN] Another study published in the JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION found that states with medical cannabis laws had a **25% lower annual opioid overdose mortality rate than states without such laws.** Given these findings, it is clear that cannabis has the potential to be a valuable tool in combating the opioid epidemic and reducing the harms associated with prescription opioids. However, the current scheduling of cannabis as a Schedule I substance makes it difficult for researchers to study to further study its potential benefits and limits its availability to patients who could be assisted by using cannabis as a medicine.

THE RISK OF CANNABIS TO PUBLIC HEALTH REQUIRES A DESIGNATION OF HHS FOR A FINDING OF SCHEDULE 3 OR LOWER

The fifty (50) year history and ongoing prohibition of cannabis and cannabis products can lead to deleterious public health effects. In 2019, illegal vaporization products that were not subject to state regulation (and therefore not tested) were found to have caused hundreds of hospitalizations and 68 deaths.[FN] Many of these incidences occurred in states without legal cannabis markets. Had consumers had access to regulated tested products, the number of adverse events resulting from these events would have been significantly less. Additionally, recent data from the CDC showed that youth marijuana use was on an upward trend from 2009-2013, but has since declined with the opening of cannabis dispensaries around the country.[1]

Further still, reclassifying cannabis to Schedule III at minimum would also have important implications for criminal justice and public health outcomes. Schedule III substances are subject to less severe criminal penalties than Schedule I substances, which can help reduce the number of people who are incarcerated for non-violent drug offenses.

More permissive cannabis policies can also reduce the negative health consequences associated with prohibition, such as reducing risk of violence associated with illegal drug markets. By shifting towards a more evidence-based and health-focused approach to drug policy, we can improve the lives of millions of Americans and ensure that our laws are aligned with public health and safety goals.

Lastly, when considering Factor 8, in the DEA's own denial petition for rescheduling from 2016 the agency noted that **"overall, research does not support a direct casual relationship between regular marijuana use and other illicit drug use."**[2]

CONCLUSION

Therefore, we urge HHS to consider reclassifying cannabis to Schedule III of the Controlled Substances Act or removing it entirely from the list of controlled substances. Doing so would allow for more research into its therapeutic value and would make it easier for individuals to access cannabis-based treatments that could improve their quality of life and reduce their reliance on opioids.

We applaud HHS' and your leadership's commitment to an evidence-based approach as it relates to the reclassification of cannabis and appreciate the challenging process that the Agency has been charged to undertake given Congressional inaction on such an important issue.

- Bradford AC, Bradford WD. Medical marijuana laws reduce prescription medication use in Medicare Part D. Health Aff (Millwood). 2016 Jul 1;35(7):1230-6. doi: 10.1377/hlthaff.2015.1661. PMID: 27385238.
- Powell D, Pacula RL, Jacobson M. Do medical marijuana laws reduce addictions and deaths related to pain killers? J Health Econ. 2018 Mar;58:29-42. doi: 10.1016/j.jhealeco.2017.12.007. Epub 2018 Jan 6. PMID: 29373211.
- Shi Y. Medical marijuana policies and hospitalizations related to marijuana and opioid pain reliever. Drug Alcohol Depend. 2017 Oct 1; 179: 162-167. doi: 10.1016/j.drugalcdep.2017.06.004. Epub 2017 Jul 26. PMID: 28806

---

[1] *https://www.cdc.gov/healthyyouth/data/yrbs/results.html*

[2] *https://www.govinfo.gov/content/pkg/FR-2016-08-12/html/2016-17960.html*