

**Congress of the United States**  
**Washington, DC 20515**

October 1, 2024

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

The Honorable Anne Milgram  
Administrator  
United States Drug Enforcement Administration  
8701 Morrisette Dr.  
Springfield, VA 22152

Dear Attorney General Garland and Administrator Milgram:

We write to encourage the Drug Enforcement Administration’s swift action to finalize its proposed rule to transfer marijuana from schedule I to schedule III of the Controlled Substances Act (“CSA”).

On October 6, 2022, President Biden directed the Secretary of Health and Human Services (HHS) and the Attorney General to initiate the administrative process to expeditiously review how marijuana is scheduled under federal law.<sup>1</sup> The Food and Drug Administration (FDA) then considered the eight factors determinative of control of a substance under 21 U.S.C. § 811(c). In conducting this analysis, the FDA found that the “risks to the public health posed by marijuana are low compared to other drugs of abuse,”<sup>2</sup> like heroin (schedule I) and cocaine (schedule II), and that “there is some credible scientific support for the use of marijuana in the treatment” of certain conditions.<sup>3</sup> Further, the HHS Office of the Assistant Secretary for Health found that there is “widespread clinical experience associated with various medical conditions recognized by a substantial number of jurisdictions across the United States.”<sup>4</sup> In fact, FDA has approved three cannabis derived or related drug products – Epidiolex, Marinol, and Syndros – for medical use.<sup>5</sup>

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<sup>1</sup> Statement from President Biden on Marijuana Reform, (Oct. 6, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/06/statement-from-president-biden-on-marijuana-reform/>.

<sup>2</sup> Letter from Rachel L. Levine, USPHS Assistant Secretary of Health, HHS, *Basis for the Recommendation to Reschedule Marijuana Into Schedule III of the Controlled Substances Act* at 57 (Aug. 29, 2023), <https://www.dea.gov/sites/default/files/2024-05/2016-17954-HHS.pdf>.

<sup>3</sup> *Id.* at 28.

<sup>4</sup> *Id.* at 24.

<sup>5</sup> Food and Drug Administration, *FDA and Cannabis: Research and Drug Approval Process* (Feb. 24, 2023), <https://www.fda.gov/news-events/public-health-focus/fda-and-cannabis-research-and-drug-approval-process>

In light of its assessment of the eight factors determinative of control of a substance, the FDA recommended that marijuana be transferred from schedule I to schedule III of the CSA.<sup>6</sup> The National Institute on Drug Abuse reviewed and agreed with FDA's recommendation.<sup>7</sup> Ultimately, HHS determined that marijuana has less potential for abuse than other drugs or substances in schedules I and II, that marijuana has an accepted medical use in treatment in the United States, and that abuse of marijuana may lead to moderate or low physical dependence or high psychological dependence. These findings correspond to placing marijuana in schedule III of the CSA.<sup>8</sup>

We value the Department of Justice's steadfast commitment to prevent the misuse and diversion of controlled substances that pose a threat to public health. Amidst a devastating opioid and overdose crisis, it is imperative that law enforcement and public health agencies focus efforts on the biggest threats to Americans. When Congress passed the CSA, it recognized that our scientific and medical understanding is constantly evolving and granted the Attorney General and the Secretary of HHS important responsibilities in ensuring that the law reflects this knowledge. We applaud the Biden-Harris Administration's efforts in initiating this review, conducting a thorough scientific and medical analysis, and engaging in the rulemaking process. We urge you to swiftly complete this process and transfer marijuana to schedule III. We also call on the Department of Justice and HHS to continue to assess whether schedule IV, schedule V, or descheduling may be appropriate.

Sincerely,



Rep. Jerrold Nadler  
Ranking Member  
Committee on the Judiciary



Rep. Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce

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<sup>6</sup> *Id.* at 62.

<sup>7</sup> Letter from Rachel L. Levine, USPHS Assistant Secretary of Health, HHS, (Aug. 29, 2023), <https://www.dea.gov/sites/default/files/2024-05/2016-17954-HHS.pdf>.

<sup>8</sup> *See* 21 U.S.C. §812(b)(3).