In the Iowa District Court for Polk County

Carl Olsen, **Plaintiff,** **vs.** **Kim Reynolds,** **Governor of the State of Iowa,** **Defendant.**	**PETITION FOR ORDER OF MANDAMUS**

Carl Olsen petitions this Court for an order of mandamus.

I. Parties

1. Plaintiff Carl Olsen is a resident of Polk County, Iowa.

2. Defendant Kim Reynolds is the duly elected Governor of the State of Iowa.

II. Applicable law

3. 2020 Iowa Acts Chapter 1116, House File 2589, Section 31, provides that the Iowa Department of Public Health shall request guarantees from the agencies of the federal government providing funding to educational and long-term care facilities that facilities with policies allowing patients to possess medical cannabidiol on the grounds of the facilities consistent with chapter 124E or allowing facility staff to administer medical cannabidiol to a patient shall not lose eligibility for any federal funding due to such policies.[1]

4. Article IV, Section 9 of the Iowa Constitution places in the Governor the mandatory obligation to take care that the laws are faithfully executed.[2]

[1] https://www.legis.iowa.gov/docs/publications/iactc/88.2/CH1116.pdf
[2] https://www.legis.iowa.gov/docs/publications/ICP/1023054.pdf

III. Facts

5. On Friday, February 1, 2019, Carl Olsen asked Iowa Medical Cannabidiol Board whether Iowa Code Chapter 124E authorizes the violation of federal drug law.[3]

6. On Friday, August 2, 2019, the Medical Cannabidiol Board voted unanimously to recommend the state obtain a federal exemption for the medical cannabidiol program.[4]

7. On Sunday, August 11, 2019, the Cedar Rapids Gazette quoted Carl Olsen as saying, "The idea that we're running a program that's illegal is like something only the Mafia could appreciate. It's bizarre." Cedar Rapids Gazette, *Marijuana remains illegal under federal law – that harms Iowa patients*, Adam Sullivan, Sunday, August 11, 2019.[5]

8. On Monday, September 23, 2019, Attorney General of Iowa, Tom Miller, signed a letter to congressional leaders[6] stating,

> Beyond imposing on states' rights, the status quo poses a serious threat to public safety. Under 18 U.S.C. § 1956 and 1957, financial institutions face substantial constraints in providing financial services to the cannabis industry. The result is that much of this industry is forced to conduct business on a cash-only model. In turn, this contributes to a public safety threat as cash intensive businesses are often targets for criminal activity and make it more difficult to track revenues for taxation and regulatory compliance purposes.

[3] https://files.iowamedicalmarijuana.org/imm/mcab/mcab-minutes-2019-02-01.pdf
[4] https://iowamedicalmarijuana.org/pdfs/2019-11-01/mcab-minutes-2019-08-02.pdf
[5] https://www.thegazette.com/subject/opinion/staff-columnist/marijuana-remains-illegal-under-federal-law-x2014-that-harms-iowa-patients-20190811
[6] https://www.politico.com/f/?id=0000016d-5fcd-d49d-ab7f-dfdf7a160000

9. On Wednesday, January 1, 2020, the Medical Cannabidiol Board recommended the state obtain a federal exemption for the medical cannabidiol program in its annual report to the Iowa legislature[7].

10. On Monday, June 29, 2020, Governor Reynolds approved House File 2589, 2020 Iowa Acts Chapter 1116. Section 31 states:

> Sec. 31. PROTECTION OF FEDERAL FUNDING. The department of public health shall request guarantees from the agencies of the federal government providing funding to educational and long-term care facilities that facilities with policies allowing patients to possess medical cannabidiol on the grounds of the facilities consistent with chapter 124E or allowing facility staff to administer medical cannabidiol to a patient shall not lose eligibility for any federal funding due to such policies.

11. On Friday, September 4, 2020, the Iowa Department of Public Health stated[8]:

> In their 2019 Annual Report, the Board recommended that IDPH seek protections for schools and facilities participating in our program and acting in compliance with Chapter 124E.
>
> The General Assembly prescribed in HF2589 that IDPH "seek guarantees" that Federal funding to institutions and facilities acting in compliance with Chapter 124E not have their funding withheld due to participation in Iowa's program.
>
> The Department has determined that it will move forward with seeking an exception for cannabis as a schedule I substance in Iowa from the DEA, in attempt to minimize conflict between State and Federal Law.
>
> The Department will seek this exception using Title 21 Code of Federal Regulations 1307.03.

12. On Friday, January 1, 2021, the Medical Cannabidiol Board reported[9]:

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[7] https://www.legis.iowa.gov/docs/publications/DF/1126149.pdf

[8] https://idph.iowa.gov/Portals/1/Meetings/MeetingFiles/OtherFiles/135/d27d36f9-107f-4688-881c-e61f554be069.pdf

[9] https://www.legis.iowa.gov/docs/publications/DF/1208281.pdf

> The Department is still evaluating the best way to proceed with implementation of the section requiring IDPH to "request guarantees from agencies of the federal government providing funding to educational and long-term care facilities that facilities with policies allowing patients to possess medical cannabidiol on the grounds of the facilities ... shall not lose eligibility for any federal funding due to such policies."

13. After repeated conversations with Anna Hartzog at the Office of the Governor and Owen Parker at the Office of Medical Cannabidiol, Carl Olsen has been unable to obtain any explanation for the delay in the implementation of House File 2589, 2020 Iowa Acts Chapter 1116, Section 31.

IV. Request for relief

14. Governor Reynolds has a legal duty by reason of her office to comply with requirements of law described above.

15. There is no other plain, speedy and adequate remedy in the ordinary course of the law to address the wrong perpetuated by the defendant.

16. It is contrary to the public interest for the Governor to delay mitigating the serious threat to public safety created by enacting the state medical cannabidiol program without making an effort to obtain an exemption from federal drug law. Carl Olsen respectfully requests this Court order the Governor to apply for the federal exemption described by the Iowa Department of Public Health on September 4, 2020.

WHEREFORE, Carl Olsen respectfully requests the order of mandamus be granted as described above.

Carl Olsen
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