



## DIVISION OF LICENSURE & ACCREDITATION

---

Legal Services | Policy, Rules, & Legislation | Health Protection | Vital Records |  
Licensure & Certification | Health Data & Reporting | Medical Cannabis |  
Infrastructure & Accreditation | Professional & Occupational Boards

3/19/26

Jason Karimi  
415 N Duluth Ave. #8  
Sioux Falls, SD 57104  
Jahkingdomcome23@gmail.com

### SENT VIA USPS AND EMAIL

RE: Response to “Petition for Declaratory Ruling and Mandatory Scheduling Review of Cannabis”

Jason Karimi,

This letter is in response to your document entitled Petition for Declaratory Ruling and Mandatory Scheduling Review of Cannabis. After reviewing your document and the statutes referenced therein, the South Dakota Department of Health has determined that the petition is insufficient and does not comply with the applicable statutory requirements.

The petition frames the legal question as: “Can cannabis legally remain classified as having ‘no accepted medical use in the United States’ when South Dakota law affirmatively regulates and authorizes its medical use under Chapter 34-20G? Or does the Legislature’s enactment of Chapter 34-20G constitute statutory recognition inconsistent with continued Schedule I classification?”

SDCL 1-26-13 states that an interested person, other than an inmate as defined in § 1-15-20.1, may petition an agency requesting promulgation, amendment, or repeal of a rule. The petition must contain the text or substance of any new rule or amendment sought, the identification of any rule sought to be repealed, reasons for the proposal, and the name and address of the petitioner. The petition does not meet the criteria stated in SDCL 1-26-13.

SDCL 1-26-15 states that each agency shall provide by rule for the filing and prompt disposition of a petition for declaratory ruling as to the applicability of any statutory provision or of any rule or order of the agency. The Department has limited administrative authority under SDCL 1-26-15 and ARSD 44:62:01; this authority is limited and does not include adjudicating whether one statute invalidates or supersedes another statute. *See generally State v. Schroeder*, 2004 S.D. 21, 674 N.W.2d 827 (discussing how the Legislature is tasked with changing controlled substance laws); *State v. Moschell*, 2004 S.D. 35, 677 N.W.2d 551 (“[N]o branch may encroach on the powers of another.”). The petition also does not comply with the substantive requirements of ARSD 44:62:01.

SDCL 34-20B-27 authorizes the Department of Health to make recommendations to the Legislature when it independently determines that a substance’s potential for abuse has changed. The statute does not establish a petition or request process, nor does it require the Department to issue a recommendation based on individual requests.



## DIVISION OF LICENSURE & ACCREDITATION

---

Legal Services | Policy, Rules, & Legislation | Health Protection | Vital Records |  
Licensure & Certification | Health Data & Reporting | Medical Cannabis |  
Infrastructure & Accreditation | Professional & Occupational Boards

The Department is always willing to review information provided by members of the public, and any materials you submit will be forwarded to the relevant program staff. However, any decision to start a review or make a recommendation must be based on the Department's own assessment under the statute.

If you have additional background or data you would like to share for consideration, you are welcome to do so.

Respectfully,

A handwritten signature in black ink that reads 'Jennifer Jorgenson'.

Jennifer M. Jorgenson  
Chief Legal Counsel  
South Dakota Department of Health