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October 29, 2026

Jennifer M. Jorgenson

Special Assistant Attorney General / Chief Legal Counsel

South Dakota Department of Health

600 East Capitol Avenue

Pierre, South Dakota 57501

Re: Your Oct. 22, 2026 response to my Petition for Declaratory Ruling (received Aug. 31, 2026); request for review under SDCL 34-20B-27

Dear Ms. Jorgenson:

Thank you for your letter dated October 22, 2026. I write to accept the Department's offer to receive materials and to make a specific request.

1. Request for a scheduling review under SDCL 34-20B-27.

Your letter states that the Department's duty under SDCL 34-20B-27 is "triggered solely by the Department's own determination regarding a substance's potential for abuse," and that the Department "remains willing to receive and review information submitted by members of the public." I respectfully ask the Department to exercise that discretion and determine whether hashish, hash oil, and tetrahydrocannabinol, as listed in Schedule I at SDCL 34-20B-14(10) and (20), have "a different potential for abuse" than their current placement reflects. If the Department so determines, SDCL 34-20B-27 directs it to make a recommendation to the Legislature. I am not asking the Department to reschedule any substance itself.

The enclosed materials bear directly on potential for abuse:

- Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements, 91 Fed. Reg. 22,714 (Apr. 28, 2026). The order places in federal Schedule III “marijuana subject to a state medical marijuana license” and reports HHS’s finding that marijuana “has a potential for abuse less than the drugs or other substances in schedules I and II.” Id. at 22,716.
- The U.S. Department of Health and Human Services’ August 29, 2023 scheduling recommendation and “Basis for the Recommendation to Reschedule Marijuana Into Schedule III of the Controlled Substances Act,” as cited in that order (public docket DEA-1362 at regulations.gov).
- S.D. Att’y Gen. Official Op. No. 26-06 (Oct. 6, 2026), which notes that “[t]he Department of Health is statutorily tasked with making recommendations to the Legislature as to where particular substances should be placed on the Schedule” and that “[t]he Attorney General is not the entity statutorily designated to make determinations on abuse and dependence risks for particular substances.”
- My August 31, 2026 petition and its exhibits, which the Department already has, incorporated by reference.

I ask that these materials be forwarded to the appropriate program staff, as your letter describes, and that the Department tell me in writing whether it will undertake a review under SDCL 34-20B-27 and, if it decides not to, that it say so.

2. Status of the October 22 letter.

So that the record is clear, please confirm whether the Department regards its October 22, 2026 letter as its ruling disposing of my petition under SDCL 1-26-15 and ARSD 44:62:01:02. Absent a different answer, I will treat the letter as the Department’s final disposition of the petition. This letter is not a waiver of any right to judicial review under SDCL chapter 1-26 or other law, and I reserve all such rights.

Thank you for your attention to this request. I am glad to provide any additional information the Department finds useful.

Respectfully,

Jason Karimi

Enclosures: 91 Fed. Reg. 22,714 (Apr. 28, 2026); S.D. Att'y Gen. Official Op. No. 26-06 (Oct. 6, 2026)