

Congress of the United States

Washington, DC 20515

April 24, 2024

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice 950
Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

The Honorable Anne Milgram
Administrator
U.S. Drug Enforcement Administration
8701 Morrisette Drive
Springfield, Virginia 22152

Dear Attorney General Garland and Administrator Milgram:

We urge you to promptly remove marijuana from Schedule I of the Controlled Substances Act (CSA). In recent months, we have sent you multiple letters explaining the importance of doing so.¹ We are now nearing eight months since the Department of Health and Human Services (HHS) recommended rescheduling marijuana to Schedule III — and 18 months since President Biden directed HHS and the Department of Justice (DOJ) to begin the process of reviewing marijuana’s scheduling.² It is time for the Drug Enforcement Administration (DEA) to act.

Though marijuana is widely used and, according to HHS, is associated with fewer adverse outcomes than alcohol,³ it remains in the most restrictive schedule of the CSA.⁴ This placement produces a cascade of severe penalties for marijuana users and businesses, including for criminal records, immigration statuses, employment, taxation, health care, public housing, social services, and more. As explained in our prior letters, while a move to Schedule III would be a meaningful improvement, the only way to remedy the most concerning consequences of marijuana prohibition is to deschedule marijuana altogether.⁵

¹ Letter from Senator Elizabeth Warren, et al., to Attorney General Merrick Garland and DEA Administrator Anne Milgram, January 29, 2024, <https://www.warren.senate.gov/imo/media/doc/2024.01.29%20Letter%20to%20DEA%20on%20descheduling%20marijuana.pdf>; Letter from Representative Earl Blumenauer, et al., to DEA Administrator Anne Milgram, October 27, 2023, <https://blumenauer.house.gov/sites/evo-subsites/blumenauer.house.gov/files/evo-media-document/2023-10-27-dea-letter-on-scheduling-review.pdf>.

² The White House, “Statement from President Biden on Marijuana Reform,” October 6, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/06/statement-from-president-biden-on-marijuana-reform/>; Department of Health and Human Services, “Basis for the Recommendation to Reschedule Marijuana into Schedule III of the Controlled Substances Act,” August 29, 2023, <https://www.dropbox.com/scl/fi/pw3rfs9gm6lg80ij9tja6/2023-01171-Supplemental-Release-1.pdf?rlkey=v5atj0tcnhxhnszyzcwdcvvt&dl=0>.

³ Department of Health and Human Services, “Basis for the Recommendation to Reschedule Marijuana into Schedule III of the Controlled Substances Act,” August 29, 2023, p. 7, <https://www.dropbox.com/scl/fi/pw3rfs9gm6lg80ij9tja6/2023-01171-Supplemental-Release-1.pdf?rlkey=v5atj0tcnhxhnszyzcwdcvvt&dl=0>.

⁴ 21 U.S.C. § 812.

⁵ Letter from Senator Elizabeth Warren, et al., to Attorney General Merrick Garland and DEA Administrator Anne Milgram, January 29, 2024, <https://www.warren.senate.gov/imo/media/doc/2024.01.29%20Letter%20to%20DEA%20on%20descheduling%20marijuana.pdf>.

As President Biden recently highlighted, this “Administration has taken historic steps to end America’s failed approach to marijuana” — including by asking HHS and DOJ to “formally review[] how marijuana is scheduled under Federal law.”⁶ The DEA now has the power to determine whether it will continue the failed approach of keeping marijuana in Schedule I.

On August 29, 2023, HHS recommended that the DEA move marijuana from Schedule I to Schedule III.⁷ The DEA has said that it is now conducting “an administrative review of the scheduling of marijuana,” a process that entails considering HHS’s recommendation.⁸ Although some at the DEA have indicated that the agency’s review of an HHS scheduling recommendation often takes up to six months,⁹ almost *eight months* have now passed since the DEA received HHS’s recommendation. While we understand that the DEA may be navigating internal disagreement on this matter,¹⁰ it is critical that the agency swiftly correct marijuana’s misguided placement in Schedule I. The longer marijuana remains scheduled in the CSA, the longer our communities face senselessly severe penalties and the longer the marijuana laws of the majority of U.S. states remain in conflict with federal law. Right now, the Administration has the opportunity to resolve more than 50 years of failed, racially discriminatory marijuana policy.

We trust that the DEA is working as quickly as possible toward a decision on how marijuana is scheduled, as Vice President Kamala Harris recently reassured stakeholders.¹¹ We are also hopeful that the DEA will not make the unprecedented choice to disagree with HHS’s medical finding that a drug does not belong in Schedule I.

Finally, we applaud President Biden for recently raising this issue during his State of the Union address for the first time during his presidency.¹² It is time for the DEA to make good on the President’s commitments. April 2024 — proclaimed “Second Chance Month” — is a prime

⁶ The White House, “A Proclamation on Second Chance Month, 2024,” March 29, 2024, <https://www.whitehouse.gov/briefing-room/presidential-actions/2024/03/29/a-proclamation-on-second-chance-month-2024/>.

⁷ Department of Health and Human Services, “Basis for the Recommendation to Reschedule Marijuana into Schedule III of the Controlled Substances Act,” August 29, 2023, <https://www.dropbox.com/scl/fi/pw3rfs9gm6lg80ij9tja6/2023-01171-Supplemental-Release-1.pdf?rlkey=v5atj0tcnhxhnszyzcvvt&dl=0>.

⁸ Letter from DEA Office of Legislative Affairs Acting Chief Michael D. Miller to Senator Elizabeth Warren, April 16, 2024, <https://www.warren.senate.gov/imo/media/doc/Final%20Outgoing%20Letter%20to%20Senator%20Warren%20and%2011%20other%20Senators-Signed.pdf>.

⁹ Marijuana Moment, “DEA Officials Discuss Marijuana Scheduling Timeline, Seeking To ‘Correct Misperceptions’ That Decisions Are Made In A ‘Shroud Of Secrecy,’” Kyle Jaeger, March 28, 2024, <https://www.marijuanamoment.net/dea-officials-discuss-marijuana-scheduling-timeline-seeking-to-correct-misperceptions-that-decisions-are-made-in-a-shroud-of-secrecy/>.

¹⁰ Wall Street Journal, “Biden Push to Ease Marijuana Restrictions Sparks Tensions,” Sadie Gurman, March 9, 2024, <https://www.wsj.com/politics/policy/biden-push-to-ease-marijuana-restrictions-sparks-tensions-051759f7>.


¹¹ Politico, “Vice president criticizes federal cannabis restrictions during White House weed event,” Natalie Fertig, March 15, 2024, <https://www.politico.com/news/2024/03/15/vice-president-to-hold-cannabis-roundtable-00146564>.

¹² New York Times, “Biden Makes a Rare Mention of Marijuana in the State of the Union,” Zach Montague, March 8, 2024, <https://www.nytimes.com/2024/03/08/us/politics/biden-marijuana-state-of-union.html#:~:text=Buried%20in%20President%20Biden's%20fiery,was%20the%20first%20time%20Mr>.


opportunity to finally begin remedying the harms of marijuana's scheduling by removing marijuana from Schedule I.

We look forward to your prompt action and appreciate your attention to this important matter.

Sincerely,



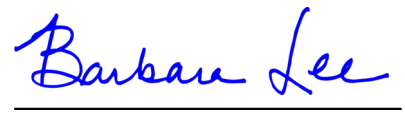
Elizabeth Warren
United States Senator




Earl Blumenauer
Member of Congress




John Fetterman
United States Senator




Barbara Lee
Member of Congress



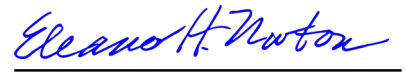
Charles E. Schumer
United States Senator



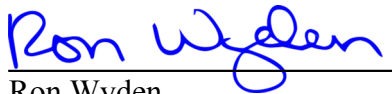
Robert Garcia
Member of Congress



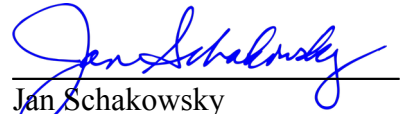
Kirsten Gillibrand
United States Senator



Eleanor Holmes Norton
Member of Congress



Ron Wyden
United States Senator



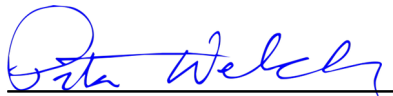
Jan Schakowsky
Member of Congress



Alex Padilla
United States Senator



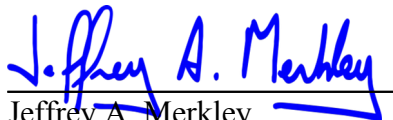
Dina Titus
Member of Congress



Peter Welch
United States Senator



Katie Porter
Member of Congress



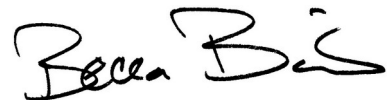
Jeffrey A. Merkley
United States Senator



Val Hoyle
Member of Congress



John Hickenlooper
United States Senator



Becca Balint
Member of Congress



Cory A. Booker
United States Senator



James P. McGovern
Member of Congress



Bernard Sanders
United States Senator



Department of Justice
Drug Enforcement Administration

Office of Congressional Affairs

Springfield, VA 22152

April 16, 2024

The Honorable Elizabeth A. Warren
United States Senate
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your January 29, 2024, letter regarding your interest in the scheduling of marijuana. We appreciate the opportunity to receive your concerns and questions.

For the Department of Justice (Department), and by delegation the Drug Enforcement Administration (DEA), to take an administrative scheduling action, it must follow the procedures that Congress set forth in the Controlled Substances Act, including an opportunity for a public comment period and a hearing. The Department of Justice is carefully following those procedures as it conducts an administrative review of the scheduling of marijuana.

On August 29, 2023, DEA received a letter from the Department of Health and Human Services (HHS) providing its findings and recommendation on marijuana scheduling, pursuant to President Biden's request for an administrative review. As part of this process, HHS first conducts a scientific and medical evaluation, and then DEA conducts its own review. DEA has the final authority under this administrative path to reschedule a drug under the Controlled Substances Act, after considering relevant statutory and regulatory criteria and HHS' scientific and medical evaluation.

We appreciate your ongoing interest in the Department's work.

Sincerely,

Michael D. Miller

Michael D. Miller
Acting Chief
Office of Congressional Affairs