

Iowans for Medical Marijuana Recommendations

Des Moines Marijuana Enforcement Task Force

August 7, 2020

Iowans for Medical Marijuana

Iowans for Medical Marijuana was founded in 1990 by George McMahon, Barbara Douglass, and Carl Olsen, for the purpose of assisting patients apply for the federal medical marijuana program that existed between 1978 and 1992. Brief biographies of Mr. McMahon and Ms. Douglass can be found in the Appendix to the decision from the U.S. Court of Appeals for the 9th Circuit, in *Conant v. Walters*, 309 F.3d 629 (9th Cir. 2002)¹. Information about Carl Olsen can be found in the decision from the U.S. Court of Appeals for the DC Circuit, in *Olsen v. DEA*, 878 F.2d 1458 (D.C. Cir. 1989)².

Mr. Olsen is a member of the Ethiopian Zion Coptic Church. The Ethiopian Zion Coptic Church was incorporated in Jamaica in 1976. More information on the Ethiopian Zion Coptic Church can be found in *Town v. State, ex rel. Reno*, 377 So.2d 648 (Fla. 1979)³. Later that same year the church was the subject of a story on CBS Television's 60 Minutes, titled "Holy Smoke."⁴

As the result of Mr. Olsen's membership in the church, in 1988, Mr. Olsen participated in federal marijuana scheduling hearings with the Drug Enforcement Administration (DEA) which resulted in a ruling from an administrative law judge who reached this conclusion, "Marijuana, in its natural form, is one of the safest therapeutically active substances known to man."⁵

Mr. Olsen's appeal from the ruling of the DC Circuit was rejected in *Employment Division v. Smith*, 494 U.S. 872, 889 (1990)⁶ for reasons explained therein.

¹ https://iowamedicalmarijuana.org/legal/conant_2002/

² <https://ethiopianzioncopticchurch.org/cases/olsen1989/>

³ <https://ethiopianzioncopticchurch.org/cases/town/>

⁴ <https://danratherjournalist.org/investigative-journalist/60-minutes/60-minutes-additional-videos/video-holy-smoke>

⁵ DEA Case No. 86-22, September 6, 1988, pp. 58-59.
<https://files.iowamedicalmarijuana.org/imm/young.pdf>

⁶ https://ethiopianzioncopticchurch.org/cases/smith/#494_US_889

Mr. Olsen met Mr. McMahon and Ms. Douglass that same year, in 1990. Mr. Olsen decided to stop using marijuana to avoid jeopardizing the participation of Mr. McMahon and Ms. Douglass in the federal medical marijuana program.

Iowans for Medical Marijuana was founded in 1990. Mr. Olsen, Mr. McMahon, and Ms. Douglass were not violating any state or federal drug laws, so the goal of the organization was to enroll more people in the federal medical marijuana program, which was legal under both state and federal drug laws.

Shortly after the founding of the organization, in 1992, the federal government suspended its medical marijuana program.⁷

The focus of Iowans for Medical Marijuana in 1992 then became lobbying the Iowa legislature to allow Iowa patients to grow their own marijuana.⁸

Senator Berl Priebe and Representative Delores Mertz introduced legislation for the organization in 1993, but after passing by a vote of 50-0 in the Iowa Senate, the bill failed to pass both chambers of the legislature and died.⁹

Another attempt was made in 1995, but the organization's efforts were shot down by the pharmacy board at the subcommittee hearing on the bill.¹⁰

⁷ HHS to Phase Out Marijuana Program, Washington Post, June 21, 1991.

https://iowamedicalmarijuana.org/pdfs/washington_post_19910621.pdf

Marijuana for Ill is Curbed by U.S., New York Times, June 23, 1991.

https://iowamedicalmarijuana.org/pdfs/new_york_times_19910623.pdf

U.S. Rescinds Approval of Marijuana as Therapy, New York Times, March 11, 1992.

https://iowamedicalmarijuana.org/pdfs/new_york_times_19920311.pdf

⁸ Iowans protest with marijuana at Iowa Capitol, Des Moines Register, August 2, 1992.

https://iowamedicalmarijuana.org/pdfs/dmregister_19920802.pdf

⁹ https://iowamedicalmarijuana.org/pdfs/pollak_19930217.pdf

https://iowamedicalmarijuana.org/pdfs/register_sf361.pdf

¹⁰ Group fighting for medicinal use of marijuana, Des Moines Register, August 6, 1995.

https://iowamedicalmarijuana.org/pdfs/dmregister_19950806.pdf

In 1995 and 1996 permits were obtained to hold rallies at the State Capitol. These permits recognized that Mr. McMahon and Ms. Douglass were legally entitled to use marijuana on the State Capitol grounds.¹¹

Ten years later in *State v. Bonjour*, 694 N.W.2d 511 (Iowa 2005)¹², the Iowa Supreme Court held that medical necessity is not a defense for growing marijuana.

Iowans for Medical Marijuana incorporated with the Iowa Secretary of State in 2006 for the purpose of presenting evidence to the Iowa Board of Pharmacy on marijuana's accepted medical use and safety in treatment in the United States.¹³

In 2008, the American Civil Liberties Union of Iowa (www.aclu-ia.org) and Patients Out of Time (www.medicalcannabis.com), assisted the organization in petitioning the Iowa Board of Pharmacy, which determined by a unanimous vote in 2010 (after holding four months of public hearings across the state in 2009) that the current classification of marijuana is invalid.¹⁴

Ms. Douglass died on August 26, 2018, at the age of 62. Mr. McMahon died on November 30, 2019, at the age of 69.

The Iowa legislature has not reclassified marijuana in Iowa. Instead legislators opted to create a state exemption for the medical possession of marijuana extracts in 2014 (previously codified as Iowa Code Chapter 124D), and a medical marijuana extract program in 2017 (currently codified as Iowa Code Chapter 124E and repealing chapter 124D).

In 2019, Mr. Olsen filed petitions with the DEA and the Iowa Department of Public Health to obtain a federal exemption under 21 C.F.R. §1307¹⁵ for Iowa's Medical

¹¹ <https://files.iowamedicalmarijuana.org/imm/gs1995.pdf>
<https://files.iowamedicalmarijuana.org/imm/gs1996.pdf>

¹² https://iowamedicalmarijuana.org/legal/bonjour_2005/

¹³ https://files.iowamedicalmarijuana.org/imm/2006_imm_color.pdf

¹⁴ https://files.iowamedicalmarijuana.org/imm/ibpe_20100217.pdf
<https://iowamedicalmarijuana.org/pdfs/09-1789-2010.pdf>

¹⁵ <https://www.govinfo.gov/app/details/CFR-2019-title21-vol9/CFR-2019-title21-vol9-part1307>

Cannabidiol Program (Iowa Code Chapter 124E).¹⁶ The DEA has not responded to the petition or to a Freedom of Information Act request inquiring about its status. U.S. Senator Joni Ernst is assisting Mr. Olsen in obtaining a response from the DEA.¹⁷

The federal tax penalty for unlawful manufacture and distribution of marijuana under 26 U.S.C. §280E¹⁸ results in an effective tax rate of 70% or greater, and that expense is passed on to Iowans who participate in the program.¹⁹ There are also negative consequences on banking, housing, education, and health care, among other things, because of federal funding. The federal government will deny funding to any business entity that authorizes the violation of federal drug laws. Illegal businesses in Iowa must operate using cash-only, because they can't use banks, which the Attorney General of Iowa says creates a serious threat to public safety.²⁰

In August of 2019, the Iowa Medical Cannabidiol Board, which regulates the Iowa Medical Cannabidiol Program, voted unanimously to recommend the state obtain a federal exemption for its Medical Cannabidiol Program.²¹

The Iowa Department of Public Health²² and the Iowa legislature have not accepted the board's recommendation. In 2020, Mr. Olsen filed another petition with the

¹⁶ <https://files.iowamedicalmarijuana.org/imm/DEA-Petition-2019-January-28.pdf>

¹⁷ <https://iowamedicalmarijuana.org/pdfs/ErnstJoni2020July23.pdf>

¹⁸ <https://www.govinfo.gov/app/details/USCODE-2018-title26/USCODE-2018-title26-subtitleA-chap1-subchapB-partIX-sec280E>

¹⁹ Marijuana remains illegal under federal law - that harms Iowa patients, Adam Sullivan, Cedar Rapids Gazette, August 11, 2019.
<https://www.thegazette.com/subject/opinion/staff-columnist/marijuana-remains-illegal-under-federal-law-x2014-that-harms-iowa-patients-20190811>
<https://iowamedicalmarijuana.org/pdfs/2019-09-21/Petition-2019-October-Exhibit-11.pdf>
<https://iowamedicalmarijuana.org/pdfs/2019-09-21/Petition-2019-October-Exhibit-12.pdf>

²⁰ <https://iowamedicalmarijuana.org/pdfs/States-Act-Letter-2019-09-23.pdf>

²¹ <https://iowamedicalmarijuana.org/pdfs/2020-06-07/Petition-2020-June-Exhibit-01.pdf>
<https://iowamedicalmarijuana.org/pdfs/2020-06-07/Petition-2020-June-Exhibit-04.pdf>
<https://iowamedicalmarijuana.org/pdfs/2020-06-07/Petition-2020-June-Exhibit-05.pdf>

²² https://iowamedicalmarijuana.org/pdfs/C_Olsen_Petition_Response_01_07_2020.pdf

department on June 7, 2020, asking the department to obtain a federal exemption, which is currently pending with the department.²³

Of particular interest, earlier this year the federal government denied federal funding because of medical marijuana in the state of Maine.²⁴

Recommendations

1. Listen to experts. The Iowa Board of Pharmacy found that marijuana is incorrectly classified. The Iowa Medical Cannabidiol Board found that Iowa's medical cannabidiol program should be exempt from federal drug laws.
2. Reduce penalties or eliminate them. Our organization's experience with marijuana informs us that it's relatively safe and punishing users is cruel and inhumane.
3. If penalties cannot be reduced or eliminated, then make enforcement the lowest priority in the city. The expense of enforcement to both city government and citizens is without justification.
4. Request legislators fix our broken medical cannabidiol program. A simple solution exists, 21 C.F.R. §1307. Whatever cannabis laws Iowa enacts need to be consistent with federal drug laws. 21 C.F.R. §1307 provides that option.

Dated: August 7, 2020

Carl Olsen
Iowans for Medical Marijuana
Post Office Box 41381
Des Moines, Iowa 50311-0507
515-343-9933
carl@carl-olsen.com

²³ <https://iowamedicalmarijuana.org/pdfs/2020-06-07/Petition-2020-June-Links.pdf>

²⁴ Federal mental health grants canceled because Maine has legal marijuana, Sun Journal, by Steve Collins, May 10, 2020.
<https://iowamedicalmarijuana.org/pdfs/2020-06-07/Petition-2020-June-Exhibit-07.pdf>