

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

<p>CARL OLSEN, Petitioner, v. IOWA DEPARTMENT OF PUBLIC HEALTH, Respondent.</p>	<p>Case No. CVCV062566  <b>Respondent's Motion to Dismiss Amended Petition</b></p>
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COMES NOW the Iowa Department of Public Health and moves to dismiss this case under Rule 1.421 of the Iowa Rules of Civil Procedure. In support, the Department states:

1. Petitioner Carl Olsen seeks a declaratory judgment against the Iowa Department of Public Health that “[t]he Department shall consider Olsen’s religious use of cannabis as a qualifying condition under Iowa Code section 124E.2(2) and, thereafter, respond to Olsen’s application for a registration” so that he may use medical cannabidiol under Iowa’s medical cannabidiol program. Am. Pet. at 4 ¶ 1.

2. Olsen’s case must be dismissed because his challenge to the Department’s decision on his application for a medical cannabidiol registration card must be brought as a judicial review proceeding under Iowa Code chapter 17A. And he has failed to exhaust his administrative remedies as required to bring any action.

3. Even if the Court could look past these fatal defects, his amended petition still fails to state a claim. Iowa’s marijuana and medical cannabidiol laws are neutral and generally applicable. Thus, they do not violate the free-exercises clauses of the First Amendment or article 1, section 3, of the Iowa Constitution.

4. The Department has filed a brief in support of this motion.

WHEREFORE, the Iowa Department of Public Health requests that the Court dismiss this case, assess all costs to Olsen, and award any other appropriate relief under the circumstances.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

<b>PROOF OF SERVICE</b>	
The undersigned certifies that the foregoing instrument was served upon all parties of record by delivery in the following manner on January 31, 2022:	
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> FAX
<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Federal Express	<input type="checkbox"/> Other
<input checked="" type="checkbox"/> EDMS	
Signature: <u>/s/ Samuel P. Langholz</u>	