

Oregon State Board of Pharmacy reclassifies marijuana
To implement S.B. 728, Board makes marijuana a Schedule II drug

FOLLOW-UP TO JUNE 29, 2010 PRESS RELEASE

Background and Clarification

On June 17, 2010 the Oregon Board of Pharmacy voted to remove marijuana from the list of *Schedule 1 Controlled Substances (C-I)* and place it on the list of *Schedule 2 Controlled Substances (C-II)* pursuant to the Oregon Uniform Controlled Substances Act. The Board was required to remove marijuana from Schedule 1 and place it in one of the four remaining schedules by ORS 475.059 (2009 Senate Bill 728).

The rationale for this requirement, as stated by the 2009 Senate Judiciary Committee, was to correct a technical conflict in Oregon law. Marijuana was listed as a C-I controlled substance, which means it has no accepted medical use while, at the same time, Oregon allows the use of marijuana for medical purposes under the Oregon Medical Marijuana Program (OMMP). Although marijuana is not "prescribed" in Oregon, it may be "recommended" by a physician in compliance with the OMMP.

By moving marijuana from C-1 to C-II, the board intended only to comply with ORS 475.059 to correct the technical conflict in the law and in no way intended to infer or imply that it is or should be available by prescription. In fact, it will not be available by prescription. The " . . . *available by prescription.*" reference in the 6/17/2010 press release was included only to draw a distinction between Schedule 1 substances which are not available by prescription for medical use in the U.S. and Schedule 2 substances which are commercially available drug products approved by the U.S. Food and Drug Administration (FDA) for use by prescription (with the exception of marijuana, now on the Oregon list). **Marijuana or products containing any amount of marijuana will not be available by prescription in Oregon unless they have been approved by the FDA.**

The Controlled Substances Act is a federal law passed by the U.S. Congress and is administered by the Drug Enforcement Administration (DEA). The Oregon Uniform Controlled Substances Act is a

state law passed by the Oregon Legislature and is administered by the Oregon State Police and the Oregon Board of Pharmacy. It authorizes the State Board of Pharmacy to make decisions about changes in or additions to the classification of controlled substances in the State.

The Board of Pharmacy's action to reschedule marijuana on the state list does not supersede federal law or create a direct conflict with federal law. It just simply does not address federal law. It does not compel anybody to violate federal law or to participate in any way in the cultivation, manufacture or distribution of marijuana. However, Oregon pharmacy laws do require pharmacists to comply with all applicable state and federal laws.

Notwithstanding Oregon's classification of marijuana under Oregon law, federal laws regulating controlled substances remain in full effect and federal officials have full authority to enforce federal laws in Oregon.

Under federal law, marijuana may not be grown, cultivated, manufactured or distributed except in the form of a drug product that has been approved by the FDA. Under Oregon state law, marijuana may not be grown cultivated, manufactured, or distributed except in compliance with the OMMP. Under federal law, medical practitioners are prohibited from prescribing marijuana by their DEA registration. Also under federal law, pharmacies and pharmacists are prohibited from possessing marijuana in inventory and from dispensing marijuana by their DEA registration. Marijuana may be legally possessed and used only under the State's approved Oregon Medical Marijuana Program.