

**UNITED STATES DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION**

In the Matter of:

Proposed Rescheduling of Marijuana
to Schedule III

DEA Hearing Docket: 24-44

Submitted by: The Doc App, Inc.,
(d/b/a My Florida Green)

MOTION FOR RECONSIDERATION OF DESIGNATED PARTICIPANT STANDING

*(Addressing the DEA’s Contradictory Reasoning, Advocating for Fair Representation in the
Rescheduling of Marijuana, and Highlighting the DEA’s Actions That Threaten to
Undermine State Dispensary Models While Favoring Big Pharma Through the Unjust
Exclusion of The Doc App)*

COMES NOW, The Doc App, Inc., d/b/a My Florida Green (“The Doc App”), by and through its undersigned counsel, and submits this Motion for Reconsideration in response to the DEA’s Order Regarding Standing, Scope, and Prehearing Procedures (DEA Docket No. 1362, Hearing Docket No. 24-44, Oct. 31, 2024). The DEA’s exclusion of The Doc App as a participant demonstrates not only a fundamental misunderstanding of the role state medical marijuana programs play in patient care but also reveals a deliberate effort to marginalize state-run systems in favor of large pharmaceutical interests.

The DEA’s reasoning inadvertently confirms that post-rescheduling, state medical marijuana programs will continue to operate in violation of federal law, precluding them from accessing the tax and banking relief that would logically follow legalization. This guarantees that only pharmaceutical corporations—operating through federally compliant pharmacists—will

benefit from rescheduling, relegating state dispensaries, small businesses, and patients to the margins.

I. INTRODUCTION: THE DEA’S FLAWED AND CONTRADICTIONARY REASONING

The DEA’s October 31, 2024, Order simultaneously acknowledges and dismisses the significant structural changes its rescheduling proposal introduces. On the one hand, the DEA admits that the proposed pharmacist-prescriber model is incompatible with state-run dispensary systems, stating:

“Patient control... is inconsistent with the regulatory dynamic of prescribing controlled substances” and setting a federal standard for prescribing and dispensing “is well beyond the CSA’s statutory mandate.” (**Order Regarding Standing**, at 28).

On the other hand, the DEA claims The Doc App has not demonstrated adverse impact, asserting:

“A reading of this DP’s POR reflects, at best, mild positivity regarding the NPRM and does not indicate any manner in which it, its customers, or its business interests would be even marginally affected by the proposed rescheduling.” (**Order Regarding Standing**, at 29).

This contradiction exposes the DEA’s failure to account for the devastating effects its proposal will have on state systems, businesses like The Doc App, and the patients they serve.

II. THE DEA’S OWN LANGUAGE REVEALS ITS BIAS

A. Selective Deference to Federal Interests

The DEA’s Order explicitly states:

“Input from commercial interests are a proper and valuable area of consideration in deciding whether to reschedule marijuana or any other drug” (**Order Regarding Standing**, at 30).

Despite this acknowledgment, the DEA excluded The Doc App on the basis that it "did not comply with the DEA Administrator’s directives to state with particularity its interest in the proceeding” (**Order**, at 29). This inconsistency is glaring when compared to the inclusion of entities like Village Farms International (VFI), whose standing was granted despite their focus on commercial profitability rather than public health or patient outcomes.

B. Undermining of State Dispensary Models

The DEA’s reasoning underscores its intent to replace state-run dispensary systems with federally regulated pharmaceutical models. The Order states:

“Patient control ... is inconsistent with the regulatory dynamic of prescribing controlled substances, and setting a federal standard for the dispensing and prescribing of controlled substances is well beyond the CSA’s statutory mandate” (**Order**, at 28).

This framing delegitimizes state dispensaries by labeling them as incompatible with federal law, creating a pathway for their eventual elimination.

C. A Double Standard in Addressing State Interests

The DEA granted standing to Nebraska based on its argument that rescheduling would “supercharge the marijuana industry” and burden state resources (**Order**, at 30). Yet, the DEA ignored the equally compelling argument that rescheduling fails to integrate state programs into the federal framework, leaving them in violation of federal law and unable to access critical tax and banking relief.

III. RESCHEDULING BENEFITS BIG PHARMA WHILE EXCLUDING STATE PROGRAMS

A. Perpetual Noncompliance for State Programs

The DEA’s proposed pharmacist-prescriber model ensures that state dispensary systems remain in conflict with federal law, precluding them from:

1. **Tax Relief:** Section 280E of the Internal Revenue Code continues to deny state-licensed dispensaries the ability to deduct ordinary business expenses, disproportionately burdening small businesses.
2. **Banking Protections:** Without federal alignment, dispensaries remain locked out of traditional banking systems, forcing them to operate in cash-heavy environments prone to fraud and violence.

B. Federal Monopoly for Big Pharma

The Order reveals a clear alignment with pharmaceutical corporations, which are positioned to dominate a federally controlled marijuana market. The DEA's own language confirms:

“The NPRM introduces significant structural changes that would necessitate a pharmacist-prescriber model, inconsistent with state laws allowing dispensary access” (**Order**, at 30).

This approach effectively hands control of the medical marijuana industry to CVS, Rite Aid, and similar corporate entities, sidelining state programs and patient-focused platforms.

IV. THE DOC APP IS UNIQUELY QUALIFIED TO PARTICIPATE

A. Adverse Impacts on The Doc App

The DEA's claim that The Doc App has not demonstrated adverse impact is demonstrably false:

- **Economic Harm:** The pharmacist-prescriber model eliminates the dispensary system, destroying the primary market for The Doc App's platform.
- **Patient Harm:** Patients who rely on The Doc App for real-time data and treatment insights will lose access to critical tools that enhance their care.

B. Critical Perspective Missing Without The Doc App

The DEA's inclusion of entities like VFI, focused solely on commercial profitability, while excluding The Doc App, which operates at the intersection of state systems, patient care, and compliance, is indefensible. As the Order itself acknowledges:

“Input into the process is only enhanced by entities with a potential commercial perspective” (**Order**, at 29).

The Doc App offers precisely this perspective, tailored to the unique challenges of state medical marijuana programs.

V. THE SELECTION OF PARTICIPANTS REVEALS A BIAS FAVORING PROHIBITIONISTS AND PHARMACEUTICAL INTERESTS

The DEA's selection of participants for these proceedings demonstrates a clear preference for prohibitionist viewpoints and pharmaceutical interests while marginalizing state-based stakeholders and patient-focused entities like The Doc App. This bias undermines the legitimacy of the process and highlights the agency's intent to dismantle state dispensary models rather than integrate them into a federal framework.

A. Inclusion of Prohibitionist Organizations

The DEA has granted standing to organizations that have historically opposed marijuana reform, including the International Association of Chiefs of Police, the National Sheriff's Association, and the Drug Enforcement Association of Federal Narcotics Agents. These groups are deeply invested in maintaining the prohibitionist status quo, which conflicts with the goals of state medical marijuana programs and patient access. Their participation skews the hearing

towards preserving outdated, punitive approaches that undermine the progress achieved through state-level systems.

B. Exclusion of State-Focused and Patient-Centered Stakeholders

The exclusion of The Doc App, a platform serving over 43,000 patients within the state-regulated dispensary model, highlights the DEA's deliberate sidelining of stakeholders advocating for patient access and compliance within existing state frameworks. The DEA's assertion that The Doc App lacks standing due to insufficient adverse impact ignores the reality that the proposed rescheduling fundamentally disrupts state dispensaries by leaving them in federal noncompliance.

This exclusion contrasts starkly with the inclusion of participants advocating for prohibitionist policies, creating an imbalance that deprives the proceedings of diverse and meaningful perspectives.

C. Preference for Pharmaceutical Interests

Entities like Village Farms International, which represent large commercial and pharmaceutical interests, were granted standing despite their primary focus on profitability rather than public health or patient outcomes. The DEA's emphasis on a pharmacist-prescriber model further aligns with these interests, setting the stage for a federally controlled system that sidelines state dispensaries and hands the market to pharmaceutical corporations.

D. The Broader Strategy: Undermining State Systems

The DEA's selection process, which prioritizes prohibitionist voices and federally compliant corporations, fundamentally undermines the vision and success of state-regulated

medical marijuana programs. It was the innovation and implementation of these state programs that demonstrated the viability of medical marijuana as a treatment option, paving the way for the very rescheduling process now underway. These programs, operating under state law and serving millions of patients, have been instrumental in fostering public acceptance, gathering scientific data, and proving the medical efficacy of cannabis.

Yet, the DEA's exclusion of state-focused stakeholders like The Doc App—and its prioritization of entities currently operating in compliance with federal law—betrays the very foundation of the recommendation that brought us to this moment. By sidelining the pioneers of medical marijuana programs in favor of pharmaceutical corporations and prohibitionist interests, the DEA discredits the systems that have delivered medical marijuana to patients for over a decade.

This approach is not only shortsighted but contradictory. The recommendation to reschedule marijuana is rooted in the success of state systems, yet the proposed framework effectively excludes these systems from future participation in a federally regulated market. Instead, it favors entities that have only minimally engaged with the medical marijuana market, while pushing out dispensaries, compliance platforms, and patient-centered businesses that have been integral to the progress thus far.

The DEA's actions send a clear message: the federal government is prepared to discard state dispensaries and patient-focused models in favor of federally compliant corporate interests. This strategy undermines not only the progress made by state programs but also the credibility of the recommendation that rescheduling should integrate and respect these programs. Stakeholders like The Doc App, which have operated at the intersection of state law, patient needs, and medical

innovation, are critical to ensuring that the rescheduling process does not destroy the foundation it seeks to build upon.

VII. CONCLUSION

The exclusion of The Doc App and the inclusion of prohibitionist organizations and pharmaceutical interests reveal the DEA's intent to marginalize state programs and patient-centered voices in favor of federal control and corporate monopolization. This bias must be rectified to ensure that the proceedings reflect the full spectrum of stakeholders impacted by rescheduling. The Doc App's participation is essential to providing a balanced perspective that prioritizes patients and state systems over prohibitionist rhetoric and corporate interests.

VIII. RELIEF REQUESTED

For the foregoing reasons, The Doc App respectfully requests that the Administrator:

1. Reconsider its standing as a Designated Participant.
2. Permit The Doc App to independently participate in these proceedings, ensuring that the voices of dispensaries, patients, and compliance platforms are represented.

Sincerely,
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CERTIFICATE OF SERVICE

This is to certify that the undersigned, on November 20, 2024, caused a copy of the foregoing motion to be delivered to the following recipients:

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