cbd oracle

Rescheduling of Cannabis: What the Experts Think

How should cannabis be scheduled? Should it be scheduled at all? We spoke to 11 experts about cannabis rescheduling to find out about the implications for consumers and the industry.

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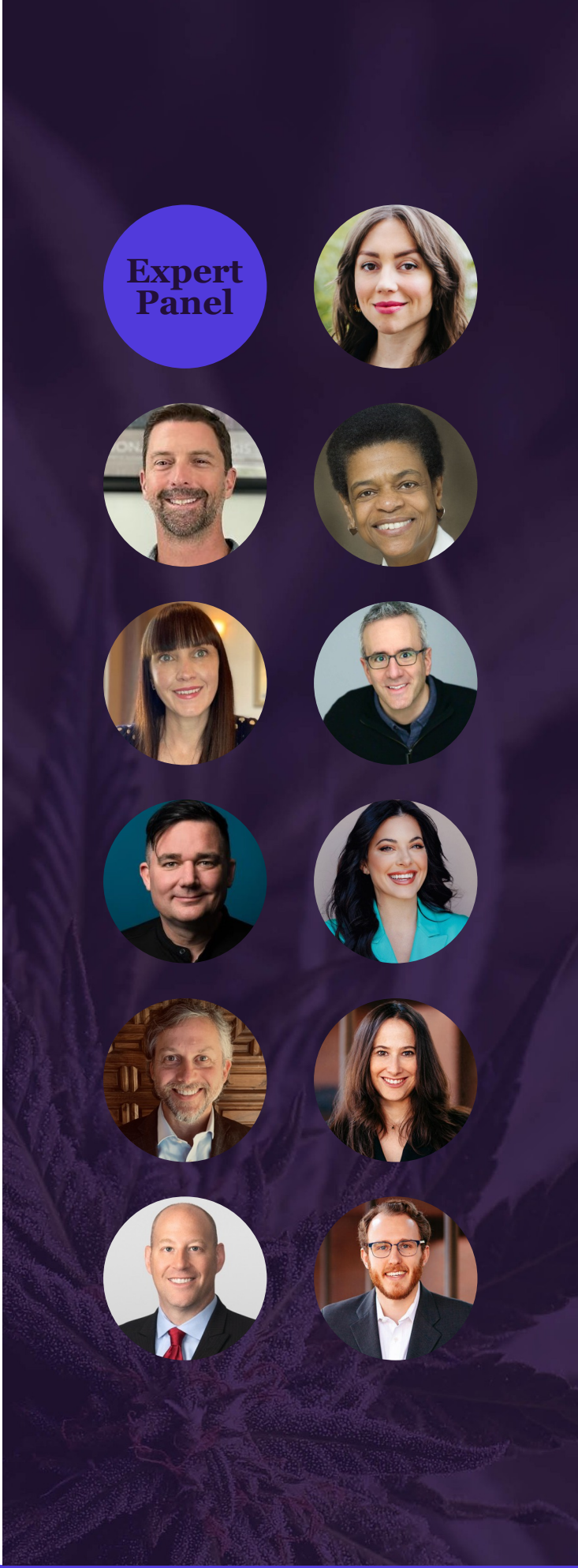
Introduction

With the federal government seemingly on track to reschedule cannabis from Schedule I to Schedule III, it's natural to wonder what this actually means in practice. Will the rescheduling improve things for users, researchers working on cannabis or people having legal difficulty because of the illegality of cannabis? Will it help cannabis businesses? Will it bring us closer to ending the war on drugs?

These are big questions, and the DEA has opened their proposal up to public comments to get people's thoughts on them. But what are the answers? What will it really mean if the plan goes ahead? We've spoken to legal, scientific, economic and cannabis industry experts to get the answers and help anyone who's interested submit a well-informed comment on the issues.

If you think cannabis shouldn't be scheduled at all, or if you think Schedule I was the best place for it, this is your chance to make your voice heard. Here's a run-down of expert opinion on the issues.



What The Experts Think

Adie Rae, PhD

Assistant Scientist,
R.S. Dow Neuroscience Laboratories

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Adie: Cannabis needs to be federally descheduled and removed from the Controlled Substances Act (CSA). States should have the ability to regulate its cultivation, distribution, and sale. Cannabis use by adults and medically-authorized pediatric patients should never be a crime. Civil rights for people who use cannabis (employment, housing) should be protected.

CBD Oracle: *Ignoring how we might want marijuana to be handled in practice, do the risks and benefits of marijuana fit in with the criteria for schedule III, scientifically speaking?*

Adie: To some extent, cannabis does fit the definition of a Schedule III drug because it does pose risks for addiction and dependence, for some people. However, it fails to fit nicely into this category because of the overlap between the DEA's drug regulation and the FDA's medication regulation. Because cannabis does not fit nicely into the FDA's framework, it is therefore incompatible with this system entirely. Thus, practically speaking, the path of least resistance is to remove it from the CSA.

CBD Oracle: *Many people say that the rescheduling will make researching cannabis easier, but is this true?*

Adie: No. As I mention in the LinkedIn post: There is no guarantee that the NIH will make medical cannabis research a funding priority. There is no guarantee that the DEA will issue any Schedule III licenses to cannabis growers to address the deficiencies in the supply of cannabis for research purposes.

CBD Oracle: *Will it be possible to study commercially-available cannabis products?*

Adie: No. Commercial producers/manufacturers/retailers would need to possess a Schedule III license to transfer cannabis to a researcher with a Schedule III license. See my point above. Read deeply into my LinkedIn comments, there are way more details there about University risk aversion and failed state attempts to issue "research licenses."

CBD Oracle: *Will rescheduling have any impact on state-legal medical marijuana programs?*

Adie: Any comment I would offer on this would be pure speculation. We have no idea what states will do as a result of rescheduling. From my perspective, the only thing that

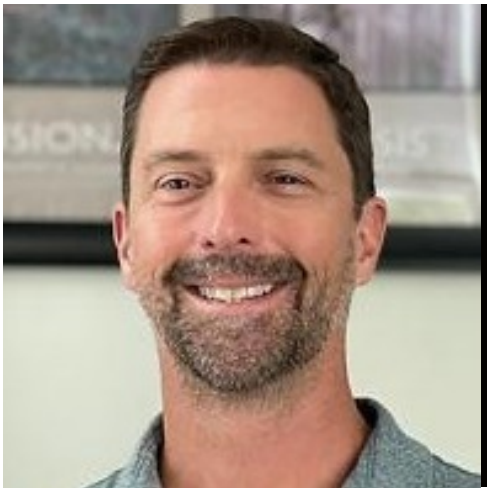
might shift is that for the handful of states which don't yet have regulated cannabis access, they might re-consider and initiate some ballot measures, constitutional amendments, or introduce legislation.

CBD Oracle: *People often argue that cannabis is much stronger now than it was in the past. Is this true? And does this affect the conversation around rescheduling and decriminalization when it comes to risks?*

Adie: Cannabis is undeniably stronger (higher delta-9-THC content) than it was even in 2015, but this has little to do with rescheduling. Although I'm certainly concerned about the strength of products in regulated markets, I'm WAY more concerned about the strength and unknown risks of unregulated products that are derived from hemp (delta-8-THC, HHC, THCO). The 0.3% THC line in the sand (between "cannabis" and "hemp") is arbitrary and meaningless. Cannabis and hemp are the same plant, they need to be regulated in the exact same way: descheduled federally, with regulated access at the state level (e.g. lab testing, accurate labeling, age requirements, child proof packaging).

CBD Oracle: *Are there any particular areas of research we should prioritize to address these issues around the appropriate schedule (or lack of) for marijuana? e.g. do we know enough about its potential for dependence and abuse?*

Adie: We know plenty about cannabis' risks for dependence and abuse. We certainly need more research about high potency products (concentrates, "dabs" etc.), novel cannabinoids (HHC) and novel delivery systems (like vaping). The risks are probably even higher for these new products. The National Institute on Drug Abuse should prioritize research funding for this kind of research. But again, this has very little to do with rescheduling. Alcohol kills 178,000 people every year, and it fits the definition of a Schedule I drug perfectly (no medical value, high risk for abuse). But we tried prohibition with alcohol, and it very quickly failed. When it comes to scheduling any substance, it's not just the evidence that matters. We need to balance the evidence with the practical matters at hand, and practically speaking, prohibition doesn't work.



Ryan G. Vandrey, PhD

Professor of Psychiatry and Behavioral Sciences, Johns Hopkins School of Medicine

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Ryan: Ideally we stop talking about "marijuana" or cannabis as if it is a singular product category. The best path forward is to operationally define different product types, based on chemical composition and intended route of administration. THC-dominant products intended to be inhaled (smoked or vaporized) or oral ingested pose a very different public and individual health risk profile than THC dominant topical products (e.g. lotions, patches, balms) or products that contain negligible or no THC or other intoxicating cannabinoids (e.g., CB1 receptor agonists). Similarly, it makes no sense that delta-8-THC and other semi-synthetic/synthetic cannabinoids purportedly derived from hemp are not currently controlled, but delta-9-THC is because these chemical entities have near identical pharmacology and can produce the same acute effects.

Thus, the entire approach needs to be reconsidered with federal regulation focused on 1) establishing and enforcing minimum quality control requirements (ensure purity and reliability of the drug substance and absence of contaminants), 2) establishing evidence-based requirements for product categorization and labeling, and 3) constraining advertising and health-related claims. The federal control and regulations must also be compatible with the current state-level control of cannabis products.

The main reasons why the current proposal to move cannabis to Schedule III of the Controlled Substances Act does not make sense is that 1) not all cannabis products have abuse liability that requires Schedule III level of control/restriction, 2) this model is not compatible with states that allow for adult non-medicinal use of cannabis products, and 3) aside from the pharmaceutical formulations dronabinol, nabilone, and epidiolex, no cannabis products are FDA approved and can be prescribed, as is the case with other Schedule III medications.

CBD Oracle: *Ignoring how we might want marijuana to be handled in practice, do the risks and benefits of marijuana fit in with the criteria for schedule III, scientifically speaking?*

Ryan: Synthetic Delta-9-THC is currently a Schedule III prescription medication, so, yes, this is an appropriate place for other products containing delta-9-THC that are intended to be inhaled, orally ingested, or used as a suppository. It is not appropriate for topical products (THC is very poorly absorbed transdermally) or for products that do not contain doses of THC or other THC-like CB1 receptor agonists that can produce

intoxication/impairment and have abuse liability commensurate with a Schedule III designation.

CBD Oracle: *Many people say that the rescheduling will make researching cannabis easier, but is this true? Will it be possible to study commercially-available cannabis products?*

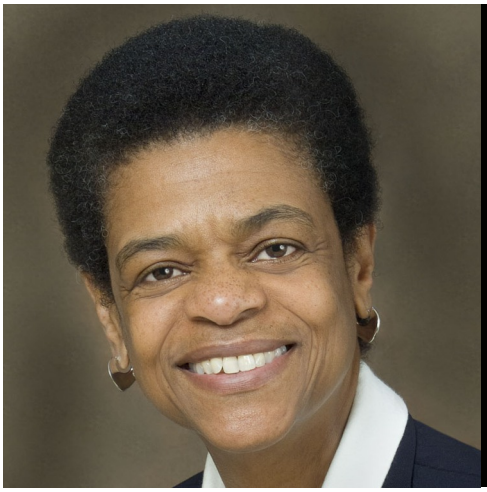
Ryan: Removing all cannabis products from Schedule I will remove the requirement that researchers obtain a Schedule I researcher license from the DEA and the state they work in (if applicable). It also reduces the security requirements for storing the drug and no longer would require DEA approval of individual research studies. All these things are barriers that currently hinder cannabis research. That said, there is no guarantee that these changes will make research easier or that research with commercially-available products will be possible. Right now, the FDA has established incredibly stringent safety criteria for cannabis products to be used in human research that exceed that required for retail sale in any state. Over the past 10 years or so it seems that every policy change that is intended to improve research on cannabis has actually made things more challenging for us on the regulatory front. Thus, I cannot say with any certainty what impact this change will have on research until we know exactly how the rescheduling will be implemented and interpreted by the FDA and other regulatory agencies involved.

CBD Oracle: *People often argue that cannabis is much stronger now than it was in the past. Is this true? And does this affect the conversation around rescheduling and decriminalization when it comes to risks?*

Ryan: This is focused on the concentration of THC in a given product, which is often mistaken for dose. The reality is that people adjust the amount of the product they use relative to the concentration of THC. The higher the concentration, the less that is used. This is an opportunity for research, education and regulation related to product labeling to prevent over consumption, but there is no science that currently shows definitively that cannabis products that contain higher concentrations of THC pose greater risks than those with lower concentrations, or whether there is a threshold concentration limit that should be imposed for public health purposes. Though there are studies that show greater abuse and cannabis-related problems for those who use very high THC containing products, these studies cannot account for individual differences in the types of people that elect to use these kinds of products versus those that elect to use lower THC products. Randomized, controlled research studies have not been done.

CBD Oracle: *Are there any particular areas of research we should prioritize to address these issues around the appropriate schedule (or lack of) for marijuana? e.g. do we know enough about its potential for dependence and abuse?*

Ryan: THC and related CB1 receptor agonists absolutely have abuse potential. However, many other phytocannabinoids like cannabidiol (CBD), cannabigerol (CBG), and delta-9-tetrahydrocannabiverin (THC-V) show little to no abuse liability and others have not been evaluated. The biggest thing needed right now is to differentiate product types using categorization metrics that make sense and are evidence-based and to establish regulations appropriate to the different product categories. Use of the umbrella term “cannabis” or “marijuana” is no longer appropriate in any setting.



R. Lorraine Collins, PhD

Director of the University at Buffalo's Center for Cannabis and Cannabinoid Research

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

R. Lorraine: Ideally, I think that cannabis should be regulated in a manner that is similar to the handling of "legal" drugs like alcohol and nicotine/tobacco. There was no science behind the decision to designate cannabis as a Schedule I substance, in the 1930s. Rather, the designation was a function of efforts to control and stigmatize the drug and link it to "undesirable" groups such as Mexicans (hence the use of the Spanish label "marijuana"), musicians, and Black people. Many of the links between cannabis and harmful behaviors such as being violent or sexually active were a function of the negative stereotypes about these groups.

Schedule I drugs are defined as having "no currently accepted medical use and high potential for abuse." However, research is continuing to show that some components of cannabis have medical uses. An excellent example is provided by the CBD-based drug Epidiolex®, which in 2018 was approved by the FDA for reducing seizures in Dravet syndrome and Lennox-Gastaut syndrome (rare childhood epilepsies). Another cannabis-based drug, Nabiximol/Sativex® (THC+CBD) is available in 29 countries, including in Canada and Europe, for treating symptoms related to multiple sclerosis and is awaiting FDA approval. There also is growing evidence that cannabis can treat chronic pain and other medical conditions.

One final thought, from a scientific perspective, alcohol and nicotine meet criteria for being designated Schedule I drugs. If we apply the definition of Schedule 1, then there is little or no evidence of acceptable medical use and high potential for abuse. In fact, the mortality and abuse rates for either of these "legal" drugs is higher than that for cannabis.

CBD Oracle: *Ignoring how we might want marijuana to be handled in practice, do the risks and benefits of marijuana fit in with the criteria for schedule III, scientifically speaking?*

R. Lorraine: Given the notion that the risks for cannabis use may be lower than substances that the DEA does not schedule (i.e., alcohol and nicotine), then I do not think that cannabis should be considered as a Schedule III drug. The Schedule III designation is for drugs with a low to moderate potential for dependence. They include ketamine, anabolic steroids and testosterone. Even given its "moderate" potential for dependence, ketamine has been studied in randomized clinical trials, including to treat pain. Similar research needs to be done to better understand the benefits of the variety of cannabis products that contain THC and to document the benefits of cannabis for

treating pain and other medical conditions.

CBD Oracle: *Many people say that the rescheduling will make researching cannabis easier, but is this true? Will it be possible to study commercially available cannabis products?*

R. Lorraine: The hope is that having cannabis moved to Schedule III will make it easier to conduct human research that addresses a broad range of questions. Schedule III drugs such as ketamine are studied in randomized clinical trials on pain and other outcomes. We need similar research on various aspects of cannabis so that we can better understand its use for treating a range of medical and psychological conditions.

The Schedule 1 designation has meant that cannabis researchers must register with the DEA, which involves a multistage application and review process that can include having inspectors visit to verify the storage and security of the drug. Access to cannabis products is limited and is managed by the National Institute on Drug Abuse (NIDA). At this time, we do not know the rules that will be in place for Schedule III cannabis products, so I have no idea as to whether commercial cannabis products will be available for human research. The devil is in the details as to the specific rules that the DEA will propose and implement. It is possible that the DEA will allow commercially available cannabis products to be included in research or they could decide to continue to limit the specific products and maintain NIDA as a gatekeeper for access to cannabis products for research.

CBD Oracle: *Are there any particular areas of research we should prioritize to address these issues around the appropriate schedule (or lack of) for marijuana? For example, do we know enough about its potential for dependence and abuse?*

R. Lorraine: Given the decades of federal limits on human cannabis research, we need research on just about every topic. Similar to what we see with alcohol and nicotine, there already is recognition of the development of dependence and cannabis use disorder (CUD) as potential harms, particularly for persons who frequently use cannabis, especially in larger quantities. Even so, we need to study a wide range of basic and clinical research questions related to the medical and psychological and medical uses of cannabis and potential benefits. We need to better understand the effects of different products, ways of using cannabis (e.g., vaping, eating) and doses/potencies of cannabis products which vary in THC content. Finally, let us not forget research questions in areas such as the longstanding social justice harms to individuals and communities, and the need to remove stigma and prioritize the mitigation of those harms. It is difficult for me to prioritize research areas; you name a cannabis-related topic and there will be research questions that we need to pursue.

Carrie Cuttler, PhD

Associate Professor, The Health & Cognition (THC) Lab, Washington State University

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Carrie: I think it should be federally legal as it is in Canada (I am also Canadian). I believe alcohol and tobacco are more harmful than cannabis and neither of them are scheduled drugs.

CBD Oracle: *Ignoring how we might want marijuana to be handled in practice, do the risks and medical benefits of marijuana fit in with the criteria for schedule III, scientifically speaking?*

Carrie: Schedule III drugs are those with a moderate to low potential for physical and psychological dependence which is consistent with what we know about cannabis.

CBD Oracle: *Many people say that the rescheduling will make researching cannabis easier, but is this true? Will it be possible to study commercially-available cannabis products?*

Carrie: Yes this is true! It is far easier to get a Schedule III license from the DEA than it is to get a Schedule I license. Many people have avoided studying cannabis because it is so difficult to get the approvals. It is unclear whether it will be possible to study commercially-available cannabis products if cannabis is rescheduled. I assume it won't be possible.

CBD Oracle: *People often argue that cannabis is much stronger now than it was in the past. Is this true? And does this affect the conversation around rescheduling and decriminalization when it comes to risks?*

Carrie: Yes this is true! In the 70s cannabis had around 1-2% THC. Today most flower has at least 20% THC and some concentrates exceed 90% THC. However, my research indicates that people just use lower doses of higher potency products so this may not increase the risks of THC. Nevertheless, this is still an open research question as it is nearly impossible to study high potency market products under the current regulations.

CBD Oracle: *Are there any particular areas of research we should prioritize to address these issues around the appropriate schedule (or lack of) for marijuana? e.g. do we know enough about its potential for dependence and abuse?*

Carrie: I think the research showing cannabis does not fit the criteria for a schedule I drug has been around for decades. We have known for a long time that cannabis does have medical benefits and a rather low potential for abuse and dependence. This figure comes from NIDA and indicates the risk of dependence is comparable to caffeine.

Benjamin Caplan, MD

Founder and Chief Medical Officer, CED Clinic

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Benjamin: In the ideal, cannabis should be treated as a unique entity under federal law. Unlike any other natural medicine, cannabis has been a part of human history for as long as we have records. The U.S. government's historical stance—holding a patent for cannabis while obstructing access for U.S. citizens—is problematic and calls for reparations.

I've personally seen the medical benefits of cannabis, from eliminating the need for other medications to increasing survival times and reducing suffering from various diseases. The current U.S. approach to cannabis regulation is chaotic, with different components of the same plant being regulated in wildly different ways. For instance, the FDA oversees prescription cannabis-based medicines, the DEA classifies cannabis as a Schedule I controlled substance, the USDA regulates hemp production, and the FTC monitors advertising and marketing claims. This fragmented regulatory landscape exists because no single body has taken control or leadership.

It doesn't seem reasonable for any one part of this disjointed system to assume complete control, as each has only partially addressed the issue. Ideally, the federal government should establish a new framework to manage cannabis. This framework should address intellectual property needs, support expedited national-scale research, and ensure safeguards for regional production. Without such a system, federal legalization could harm local economies that rely on state-specific, vertically integrated systems.

CBD Oracle: *Ignoring how we might want marijuana to be handled in practice, do the risks and benefits of marijuana fit in with the criteria for Schedule III, scientifically speaking?*

Benjamin: Scientifically speaking, cannabis does fit the criteria for Schedule III. This category includes substances with a moderate to low potential for dependence and recognized medical uses. Cannabis has a lower potential for dependence compared to Schedule I and II substances like heroin and cocaine, and substantial evidence supports its medical benefits for conditions such as chronic pain and epilepsy. While cannabis does carry a moderate risk of dependence, it is generally less habit-forming than substances like Xanax and Valium, which are classified as Schedule IV.

Schedule V substances have an even lower potential for abuse and typically include limited quantities of certain narcotics in over-the-counter products. Cannabis's higher THC

content makes it unsuitable for Schedule V because it carries a higher risk of abuse. By placing cannabis in Schedule III, we can maintain tighter control over its distribution and use, ensuring it is managed responsibly while still acknowledging its medical benefits. This classification would also facilitate research and make it easier for patients to access cannabis under medical supervision.

Essentially, Schedule III strikes the right balance between regulation and accessibility. Unlike Schedule IV and V, which would not provide sufficient controls, and Schedule I and II, which overly restrict its medical use and research potential, Schedule III offers a middle ground that recognizes both the medical benefits and the need for regulation.

CBD Oracle: *Many people say that rescheduling will make researching cannabis easier, but is this true? Will it be possible to study commercially-available cannabis products?*

Benjamin: Rescheduling cannabis would simplify the research process tremendously. Currently, researchers encounter exhausting hurdles because cannabis is classified as a Schedule I substance, which suggests a high potential for abuse and no accepted medical use. This classification imposes a complex web of regulations and administrative barriers.

To begin with, researchers must obtain a Schedule I research license from the Drug Enforcement Administration (DEA). This is not a straightforward task; the application process requires detailed information about the research project, security protocols, and the qualifications of the research team. The approval process can extend over several months, sometimes exceeding a year.

In addition to the DEA license, Institutional Review Board (IRB) approval is also required. The IRB ensures that the study meets ethical standards and safeguards the rights and welfare of participants. This approval process can also be time-consuming, often taking several months.

Moreover, researchers are restricted to sourcing cannabis from federally-approved suppliers, such as the National Institute on Drug Abuse (NIDA). Acquiring cannabis from NIDA involves additional applications and wait times, further complicating the research process.

Rescheduling cannabis to Schedule III would alleviate many of these challenges. It would streamline the licensing process, reduce the number of regulatory approvals required, and potentially shorten wait times, making it more feasible for researchers to study cannabis and its effects.

As for studying commercially-available cannabis products, rescheduling would facilitate this as well. It would likely lead to more standardized testing and quality controls, ensuring that these products are consistent and reliable for research purposes. While some states have already implemented regulations to allow the study of commercially available products, federal rescheduling would provide a more uniform framework.

However, the categorization of cannabis—whether as a medicine, a food product, or otherwise—can influence the regulatory landscape and research opportunities. This categorization affects how regulations are applied and what types of research can be conducted. Therefore, a clear and consistent federal framework is essential to support comprehensive cannabis research.

CBD Oracle: *Will rescheduling have any impact on state-legal medical marijuana programs?*

Benjamin: Yes, rescheduling cannabis at the federal level would likely have a significant positive impact on state-legal medical marijuana programs. It would help harmonize

state and federal laws, lending greater legitimacy to state programs and offering legal protections to patients and providers. This alignment would mitigate the legal risks that currently exist due to the discrepancy between state and federal regulations.

Furthermore, rescheduling could eliminate the barriers that prevent medical schools and professional organizations from educating future healthcare providers about the benefits of cannabis and the human endocannabinoid system (ECS). This would enhance the medical community's understanding and acceptance of cannabis as a therapeutic option.

Additionally, federal rescheduling could serve as a catalyst for states without medical cannabis programs to establish them. This would expand access to medical cannabis for individuals in those states who could benefit from its therapeutic properties. Overall, rescheduling would foster a more cohesive and supportive environment for medical cannabis across the United States.

CBD Oracle: *People often argue that cannabis is much stronger now than it was in the past. Is this true? And does this affect the conversation around rescheduling and decriminalization when it comes to risks?*

Benjamin: Yes, it's true that today's cannabis is generally bred to have higher THC content compared to the past. However, it's important to consider whether people are consuming the same amounts or using it for the same durations as they did historically. Additionally, many individuals smoke cannabis, which burns off a significant portion of the THC, meaning the actual consumption might not be as high as lab tests indicate. Without taking these factors into account, it's difficult to argue that the increased potency seen in lab tests translates directly to higher risks in real-life use.

That said, the higher potency does add complexity to the conversation around rescheduling and decriminalization. Stronger cannabis products can increase the risk of dependence and other adverse effects, which necessitates a more cautious approach to regulation and public education. Proper regulation and comprehensive public education are essential to ensure that these more potent cannabis products are used safely and responsibly. This includes clear guidelines on dosage, potential risks, and safe consumption practices to mitigate any adverse effects associated with higher THC levels.

CBD Oracle: *Are there any particular areas of research we should prioritize to address these issues around the appropriate schedule (or lack of) for marijuana? e.g. do we know enough about its potential for dependence and abuse?*

Benjamin: There are several critical areas of research that deserve a sharpened focus to help us make more informed decisions about the appropriate scheduling and regulation of cannabis. Prioritizing these areas will not only aid policymakers but also help the public feel more comfortable exploring cannabis:

- Long-term Health Effects: We need more studies on the long-term clinical impacts of chronic cannabis use, particularly with high-THC products. While public health data suggests that cannabis is relatively benign compared to other treatments, the public deserves concrete data on its long-term effects.

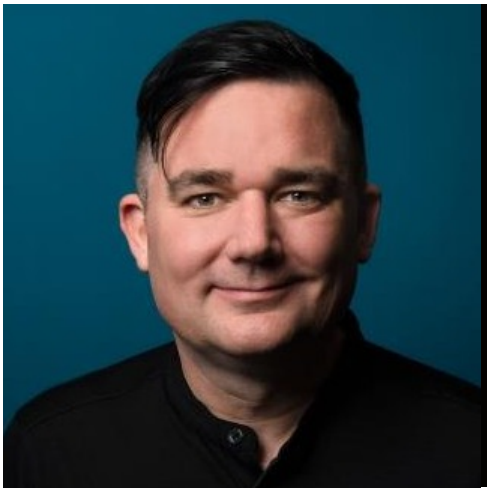
- Dependence and Abuse Potential: More research is necessary to compare cannabis with other substances regarding dependence and abuse potential. From my experience overseeing data collection from hundreds of thousands of cases, cannabis has a relatively low risk of dependence, comparable to caffeine, exercise, and binge-watching TV. However, the definitions of overuse, misuse, and abuse need a complete overhaul, as they are based on outdated measurement tools and a fundamental misunderstanding of cannabis.

- Medical Efficacy: Rigorous clinical trials are essential to better understand the full range of medical benefits cannabis can offer. Recent studies indicate that at least 20% of primary care patients use cannabis regularly for symptom management. We need to better understand what the public uses cannabis for and the associated risks and benefits, both short-term and long-term.

- Public Health Impacts: It's crucial to study how widespread cannabis use affects public health, including mental health and driving safety. We need better methods to measure intoxication, functional alteration, and how individual differences in genetics, consumption, experience, recovery, and metabolism influence these factors.

- Product Safety and Quality: Research is needed to ensure that commercially available cannabis products are safe and of high quality. Different states have different testing parameters, providing a natural experiment we can learn from to improve safety standards nationwide.

With a sharpened focus on these areas, we can address the embarrassing knowledge gaps that currently exist and make more informed decisions about the appropriate scheduling and regulation of cannabis. This will help ensure that cannabis is used safely and effectively, which benefits both the medical community and the general public.



Aaron Smith,

Co-Founder and CEO,
National Cannabis Industry Association

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Aaron: Ideally marijuana should be removed from the Controlled Substances Act and governed by a new federal regulatory framework altogether. Intoxicating cannabis products, both hemp-derived and marijuana-derived, should be regulated in a manner more similar to alcohol and non-intoxicating health and beauty products should be regulated like dietary supplements or cosmetics.

Will the rescheduling have any impact on the discussions surrounding the Farm Bill, or vice-versa? Doesn't having readily-available intoxicating products already declassified render the rescheduling discussion moot?

If efforts, such as the Miller Amendment recently passed in the House Ag Committee, to prohibit intoxicating hemp products succeed then those products will be alongside marijuana as a Schedule III drug. However, I do not believe that rescheduling is having much of an impact on those discussions per se.

CBD Oracle: *Would you agree that rescheduling merely continues the war on drugs?*

Aaron: Rescheduling does not legalize whole plant cannabis or the state-regulated industry already operating throughout the nation. We need Congress to remove cannabis from the Controlled Substances Act in order to harmonize state and federal law. Rescheduling, however, is a good first step toward that goal and really the furthest one could expect the administration to go without Congress.

CBD Oracle: *How well does the proposed rescheduling solve issues surrounding social justice and racial equity?*

Aaron: Rescheduling doesn't solve any of our nation's social justice or racial disparity issues. The vast majority of all marijuana arrests and prosecutions are happening at the state level.

How would you respond to the concern from some that rescheduling will actually increase restrictions on marijuana because it could theoretically bring in more stringent FDA regulations?

NCIA is working to address this concern by advocating within the administration for enforcement guidelines to instruct the DOJ and FDA not to interfere with cannabis businesses that are compliant with state law, even if they are selling a Schedule III drug

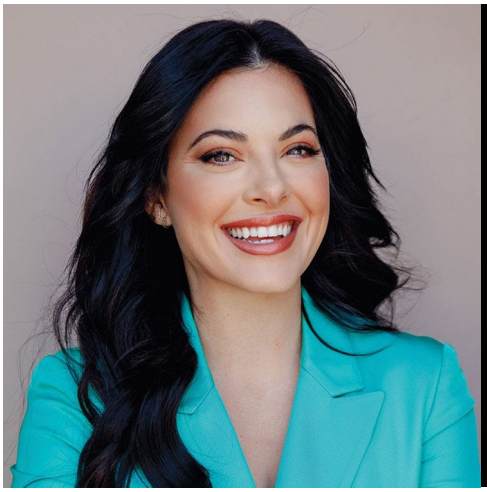
without FDA approval. We are also lobbying Congress to include similar protections in the federal budget.

The majority of Americans have supported legal marijuana for many years now - why do you think it's taken so long for any change at the federal level?

Congress doesn't exactly move quickly on anything and cannabis reform simply hasn't been a priority. That's why it's vitally important the more businesses with a stake in federal legalization make some kind of meaningful investment in the federal lobbying needed to see that through. NCIA membership is a way for businesses to participate in that federal advocacy without the high cost of hiring a lobbyist.

CBD Oracle: *Do you think the rescheduling will encourage further reform in the future, or is there a danger that lawmakers will consider the matter "settled"?*

Aaron: We are working hard to ensure our allies in Congress know that rescheduling is not the end of the road. If the industry keeps its eyes on the prize, we can leverage the momentum of the moment to expedite congressional action on this issue.



Olivia Alexander

CEO and Founder,
Kush Queen

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Olivia: Since the hemp and cannabis industry have been a state issue for the last 20+ years, I would like to see cannabis descheduled at a federal level. I believe descheduling to be the only meaningful way to end prohibition in America and respect the states rights.

CBD Oracle: Was it difficult to run a profitable business under Schedule I?

Olivia: Look, running profitable businesses in this space is one of the hardest things you can do. Can it be done? Yes. I have run a profitable business for years. Is that what big cannabis corporations want people to say? No. Does the federal scheduling of cannabis negatively affect our businesses? Yes. We see issues around funding, banking, merchant processing, and even social media which are all directly related to the Schedule I status of cannabis. But can you run a profitable business under Schedule I? Yes, you very much can.

CBD Oracle: *Will the tax benefits of rescheduling make a big difference to the industry?*

Olivia: We have no idea that there will even be tax benefits. Just because 280e would go away, does not mean we would have any tax benefits related to cannabis and how the industry would be taxed at a federal level.

CBD Oracle: How would you respond to the criticism that big tobacco and alcohol companies have invested heavily in the marijuana industry and are lobbying in its favor, and so opening up the market will lead to them continuing to profit from addiction?

Olivia: Cannabis is not addictive in the same sense as nicotine or even alcohol. Tobacco companies and alcohol companies were some of the first large entities to invest heavily into legalized cannabis back in 2017-2018, all of the big guys already got in, the narrative that they're only now going to invest into the industry is totally silly.

CBD Oracle: *Are you concerned that rescheduling marijuana will lead to increased regulatory oversight of your business?*

Olivia: Yes. Since I lived and ran a business through the major changes around proposition 64 in California's regulated market, it's hard to not fear the cripping realities of increased regulation. The federal government and its agencies have long been bloated, ineffective, and bad for most American industries. Not to mention,

increased regulatory oversight often eliminates small businesses and stifles innovation with increased paperwork, fees and lack of streamlined resources. As a small company, known for innovation I fear changes at the federal level would threaten some of our competitive advantages at Kush Queen.

Rod Kight

Attorney,
Kight Law

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CBD Oracle: How do you think marijuana should be handled under federal law, ideally?

Rod: Marijuana and THC should be completely descheduled and regulated by a federal agency.

Ignoring how we might want marijuana to be handled, do the risks and medical benefits of marijuana fit in with the criteria for schedule III, legally speaking?

Based on my experience as legal editor of a cannabis medical journal, I believe that schedule III is too restrictive.

Given that 24 states and DC have completely legalized marijuana despite it's schedule I status, will the change really impact the situation "on the ground," so to speak? Won't the vast majority of punishments and the applicable rules still ultimately depend on your state?

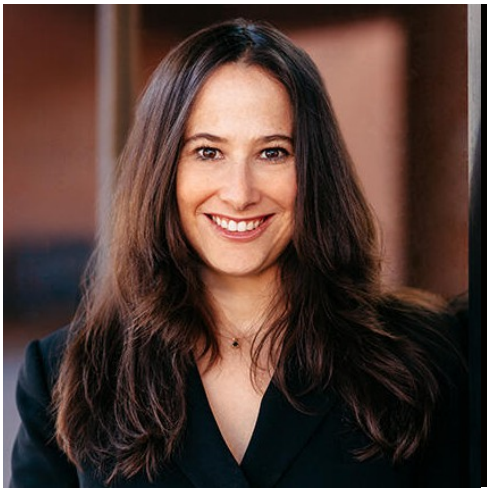
I do not believe that rescheduling will change anything "on the ground" except eliminating 280E penalties, assisting with research, and further normalizing it culturally which will likely result in a larger industry.

CBD Oracle: *Will the rescheduling have any impact on the discussions surrounding the Farm Bill, or vice-versa? Doesn't having intoxicating products already descheduled undermine the rescheduling discussion to some extent?*

Rod: Strangely, the hemp/marijuana dynamic does not seem to be part of the overall discussions with rescheduling. In one context (ie, hemp), the cannabis plant and all cannabinoids, including delta-9 THC in concentrations up to 0.3%, have been completely descheduled since 2018, yet we are still engaged in debates and legal procedures to move cannabis and cannabinoids to schedule III in another context (ie, marijuana). Obviously, this is a bizarre situation. The most straightforward act would be to remove marijuana and THC from the CSA entirely, which no one expects to happen anytime soon. However, since cannabis in the form of hemp has been completely descheduled, the cannabis industry should embrace this fact and work within the hemp framework to further the goals of full cannabis legalization. Unfortunately, some misguided cannabis advocates contend that we should "close the hemp loophole", which would have the effect of rescheduling cannabis and cannabinoids. This is illogical. Why would any cannabis advocate propose to reschedule cannabis while simultaneously advocating for legalization? It does not make any sense.

CBD Oracle: *Some people are concerned that the 1961 Single Convention on Narcotic Drugs prevents cannabis from being placed in anything other than schedule I or II in the CSA - are these concerns valid?*

Rod: No, this is an overblown response to a hyper-technical issue. My understanding is that rescheduling will not violate the Single Convention. Even if it did, there is no enforcement mechanism for it and cannabis legalization is already happening across the globe by signatories. The Single Convention, at least as it relates to cannabis, is antiquated and out of touch with reality.



Shawn Hauser

Partner,
Vicente LLP

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Shawn: Ideally, marijuana is removed from the controlled substances act and federally regulated for medical and adult-use under a federal framework with manufacturing, safety, and marketing standards, while giving states rights akin to alcohol regulation. Federal law should provide an effective framework for botanical and synthetic cannabis drugs intended to treat medical conditions, and for adult-use cannabis in utilizing effective policies from alcohol and state cannabis programs.

CBD Oracle: *Ignoring how we might want marijuana to be handled, do the risks and medical benefits of marijuana fit in with the criteria for schedule III, legally speaking?*

Shawn: While there is certainly some risk and abuse potential for marijuana, (underscoring its need to be appropriately regulated and not sold to minors), evidence indicates it is safer than many drugs on schedules IV and V (i.e, benzodiazepines) and, as the FDA/HHS points out itself, it is safer than alcohol (which is not scheduled).

In FDA's recommendation to reschedule marijuana, it notes "relative finding on abuse liability, when comparing marijuana to heroin, oxycodone, hydrocodone, fentanyl, cocaine, ketamine, benzodiazepines, zolpidem, tramadol, and alcohol in various epidemiological databases that allow for some or all of these comparisons, marijuana is not typically among the substances producing the most frequent incidence of adverse outcomes or severity of substance use disorder.

CBD Oracle: *Given that 24 states and DC have completely legalized marijuana despite its schedule I status, will the change really impact the situation "on the ground," so to speak? Won't the vast majority of punishments and the applicable rules still ultimately depend on your state?*

Shawn: Yes, unfortunately rescheduling will not change state criminal laws or remove federal criminal penalties for marijuana possession. But, it is important incremental movement towards descheduling, which is the end goal. State marijuana businesses will remain in non-compliance with federal FDA and DEA regulations, but we don't expect any changes in federal enforcement priorities where state businesses are operating in compliance with state marijuana laws. And, rescheduling will likely increase momentum for more state and federal reforms by bringing medical legitimacy and engagement by the medical community, as well as shifts in public

opinion. The removal of cannabis from the purview of 280E and likelihood to attract investors will free up industry capital that is needed to fund further reform efforts to achieve this.

CBD Oracle: *Is it true that most marijuana penalties under the CSA won't be impacted by the rescheduling? Would mandatory minimums for federal marijuana offenses still apply?*

Shawn: Yes, rescheduling would not automatically reduce criminal penalties associated with cannabis violations under federal law, which are generally tied to weight and not schedule in the case of marijuana. Mandatory minimums would still apply in certain circumstances.

CBD Oracle: *Will the rescheduling have any impact on the discussions surrounding the Farm Bill, or vice-versa? Doesn't having intoxicating products already descheduled undermine the rescheduling discussion to some extent?*

Shawn: It seems outrageous that marijuana is in Schedule I, when it obviously has medical use and, in reality, it is effectively descheduled via the Farm Bill. The Farm Bill finally allowed us to study the cannabis plant and innovate, which research the DEA blocked for decades. This research and innovation related the development of many cannabinoids and products that a growing number of consumers use for medical and adult-use purposes. It really emphasizes that we have reached the tipping point that we must legalize and regulate, which is what Congress must now vigorously pursue.

This process does not apply to hemp, which excluded from the definition of marijuana (As a schedule 1 or schedule 3 substance) under the controlled substance act.

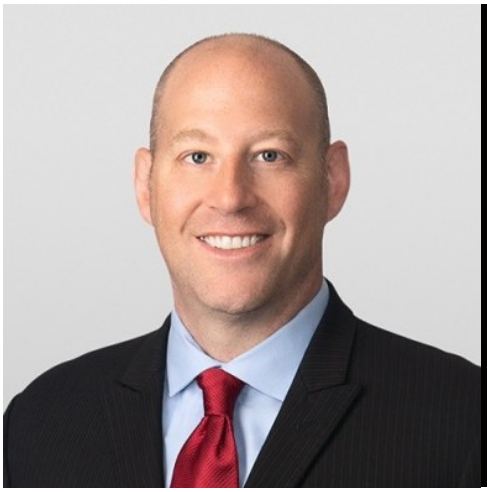
CBD Oracle: How would rescheduling impact non-citizens with immigration-related issues pertaining to marijuana? e.g. the consequences of getting involved with the industry or simply being caught for use or possession.

Shawn: Re-scheduling would not impact immigration issues, although it hopefully signals an era of further reforms.

CBD Oracle: Some people are concerned that the 1961 Single Convention on Narcotic Drugs prevents cannabis from being placed in anything other than schedule I or II in the CSA - are these concerns valid?

Shawn: No, the US can clearly meet its obligations under the international treaties through rescheduling and adopting additional regulations to meet its Single Convention obligations, exactly as it did in the case of Epidiolex. The OLC Memo and Proposed Rule make this clear as well. DEA has cited the treaties as an obstacle in the past, but this argument is not legally sound.

The Treaties do not require a substance to be placed in any particular schedule so long as certain reporting, quota, and other requirements are met. The international treaty system allows Parties to interpret and apply Treaty requirements in the manner they deem most appropriate, including by prioritizing reforms designed to promote public health, safety, and welfare. In light of the failed war on drugs, devastating impacts on communities of color, and the public health risks associated with a dangerous illicit market, placing Marijuana in Schedule III would further the public health, safety, and welfare better than Schedule I or II could.



Craig Small

Senior Counsel,
Clark Hill

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Craig: Federal law has already done substantially all the work it needs to do regarding cannabis legalization and the remaining work is for regulatory agencies to implement regulations that ensure cannabis products adhere to the same public safety standards that other commodities are subject to.

The 2018 Farm Bill defines "hemp" as Hemp is defined as the plant Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (THC) concentration on a dry-weight basis of no more than 0.3%. Delta 9-THC in greater amounts is defined as "marijuana" and subject to the Controlled Substance Act.

This effectively legalized all cannabinoids and shifted the burden to different federal regulatory agencies to enact rules and regulations around these legal cannabinoids. It is now incumbent on federal regulatory agencies to reasonably regulate the various products that come from the plant cannabis sativa L.

The Department of Agriculture regulates cannabis sativa L. cultivation and harvest. These regulations have been in place for several years now and have been very successful in monitoring and controlling cannabis cultivation. There is always room for improvement but, on the whole, they are working.

If the cannabinoid products leaving the Department of Agriculture contain more than 0.3% D9-THC then the DEA can deem the cannabinoid product "marijuana" and impose Controlled Substance Act Schedule III restrictions on the product. However, Department of Agriculture cannabis exiting the cultivation program that does not meet this D9-THC threshold can simply be regulated by the FDA like other commodities are.

The FDA can then regulate the cannabinoid product through public safety measures. There would be a variety of different levels of regulations depending on the cannabinoid profile of the products and their levels of D9-THC but the FDA has these levels of regulation already sorted out; food safety, dietary supplements, prescription and over the counter pharmaceutical medications, etc.

Once cannabinoid products have worked their way through the above federal regulatory agencies there is still work to be done to

reconcile state cannabis regulatory frameworks with the federal regulatory framework but that can be done in a variety of different ways.

In the end, the cannabis industry, hemp and marijuana want a federal and state regulatory path that legalizes and supports the industry while fundamentally addressing public safety concerns.

CBD Oracle: *Ignoring how we might want marijuana to be handled in practice, do the risks and benefits of marijuana fit in with the criteria for schedule III, legally speaking?*

Craig: The bulk of scientific literature supports placing cannabinoid products containing marijuana in no stricter a Controlled Substance schedule than Schedule III. Under the Controlled Substance Act Schedule III drugs, substances, or chemicals are defined as drugs with a moderate to low potential for physical and psychological dependence. The National Institutes of Health thoroughly investigated marijuana in the context of CSA Scheduling and firmly recommend it be listed as Schedule III drug. Therefore, the current state of federal review deems it legally appropriate for marijuana to be listed as a Schedule III Drug. There is still controversy where marijuana belongs within the Controlled Substance Act Schedules and whether it is appropriate to Schedule marijuana at all but that controversy is not going to resolve itself within this debate today.

CBD Oracle: *Will the rescheduling have any impact on the discussions surrounding the Farm Bill, or vice-versa? Doesn't having readily-available intoxicating products already declassified render the rescheduling discussion moot?*

Craig: All legislative and regulatory efforts surrounding the plant cannabis sativa L. are interrelated and need to be approached in a collective manner. Unfortunately, our governing system does not promote the legislative and executive branches working in tandem and resolving cannabis issues with global legal solutions. As stated above, proponents of the cannabis industry posit all cannabinoids are legal and merely require relevant regulatory agencies to regulate cannabinoids within their jurisdictional scope.

An argument can be made that the DEA rescheduling marijuana to Schedule III is just bringing DEA regulations in line with the Farm Bill and recognizing the legality of marijuana. This takes marijuana out of a prohibitionist position and providing a federal framework to regulate marijuana; not forbid it altogether.

CBD Oracle: *Given that 24 states and DC have completely legalized marijuana despite it's schedule I status, will the change really impact the situation "on the ground," so to speak? Won't the vast majority of punishments and the applicable rules still ultimately depend on the situation in your state?*

Craig: Currently, the vast majority of cannabis criminal and civil enforcement is performed by the states and prosecuted under state law. That is not likely to change unless states choose to reduce their penalties for violating cannabis law. Any federal enforcement of cannabis law is minimal as it applies to hemp products but marijuana prosecutions currently fall under Schedule I violations of the Controlled Substance Act. By moving marijuana to Schedule III the federal government is drastically reducing the criminal penalties violators face if they break the law. This does not eliminate exposure to federal criminal penalties but lower the sentencing and fine parameters.

CBD Oracle: *In your Forbes piece, you write, "Frankly, the move to Schedule III could have the effect of rendering our current adult-use marijuana system null and void, and could force all such state-licensed marijuana sector operators to go back to a medical marijuana licensing system and*

scheme" - could you expand on this? Is this likely to happen?

Craig: I am not speaking on behalf of Bob but here is my take. By moving marijuana to Schedule III a new industry is created that legalizes marijuana on a state and federal level; albeit through a medical pharmaceutical model. If states can their medical marijuana regulatory schemes to incorporate this federal model then there will have been created a 100% legal marijuana seed to sale model. Not only will this model will benefit the medical marijuana industry on a domestic level but also open up an international marijuana import/export trade model that would financially eclipse the current US medical marijuana industry.

However, there is no room for state adult use retail marijuana regulatory schemes within a federal medical marijuana pharmaceutical model. State adult use retail marijuana regulatory models are more akin to alcohol and tobacco models; not medicinal models. Therefore, state adult use retail marijuana regulatory models most likely will remain illegal under federal law.

While these two models may seem irreconcilable to one another I am confident stakeholders in the cannabis industry; marijuana advocates, opponents, consumers, industry, government, etc. can put their collective knowledge and experience together to find a way to reconcile these models in a way that allows cannabis consumers to avail themselves of cannabinoid products in a well regulated marketplace.

Andrew Livingston

Director of Economics & Research, Vicente LLP

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CBD Oracle: *How do you think marijuana should be handled under federal law, ideally?*

Andrew: From my mind the original framing of Colorado's Amendment 64 and the vision of Steve Fox and Mason Tvert is still the North Star. Regulate marijuana like alcohol. It should be federally legal with uniform, and not overly onerous, regulations on production and packaging. States should be able to regulate retail sales and onsite consumption how they wish.

CBD Oracle: *Will the tax benefits of rescheduling make a big difference to the industry?*

Andrew: The tax benefits associated with Schedule III removing the applicability of 26 U.S. Code § 280E on state-licensed cannabis businesses are huge. It will make cannabis businesses, and most notably small independent retailers and delivery services, significantly more profitable. This will hopefully result in a major boost to business reinvestment and expansion of the number of people gainfully employed in the cannabis industry.

CBD Oracle: *Will rescheduling make cannabis businesses a more attractive investment opportunity?*

Andrew: With rescheduling removing 280E from the equation, cannabis businesses will be much more profitable and a much more attractive investment opportunity for those seeking to finance state-licensed cannabis operators. This will hopefully attract additional investors into the space thereby increasing the supply of capital and lowering interest rates for licensees.

The penalties from IRS Code Section 280E would no longer apply if the rescheduling goes ahead - won't this make legalization less profitable from the government's perspective? If so, does it undermine one of advocates' major arguments for legalization?

Rescheduling prior to adult-use legalization will make it easier to show that cannabis is tax revenue positive without requiring extraordinarily high federal tax rates. When you analyze a future legalization bill from the vantage point of the Congressional Budget Office (CBO), removing 280E through administrative rescheduling processes a few years before full federal legalization means the CBO must no longer score the tax implications of the bill in a way that considers the loss from 280E. All federal legalization bills remove the applicability of 280E because cannabis would no longer be a scheduled substance (like alcohol and tobacco). But if this descheduling was part of the same bill that taxed and

regulated cannabis federally, the CBO would have to look at the loss of revenue from 280E no longer applying as well as the regulatory costs of implementation and weigh that against the tax revenue the bill would generate. But with 280E being removed prior to legalization through an administrative process, all future legalization bills would only have to weigh the costs of implementation against the tax revenue generated.

Conclusion

The public comment period for the proposed rescheduling ends on July 27th, 2024, and anybody who is interested in the outcome of this process should submit a comment. The expert opinions collected here are an excellent starting point for anybody interested in leaving a comment, but it's important to stress that personal stories and perspectives are very valuable to lawmakers. If this change will affect you, positively or negatively, it's crucial to let your representatives know.

While it is unlikely that the outcome will be anything other than a shift to Schedule III, there are many strong arguments presented here and elsewhere for more radical change. Advocates should be happy that this process will likely be the federal government officially recognizing the medical value of cannabis, but it is crucial we keep fighting for true justice. This change, while positive, ultimately continues the war on drugs, and all of the problems that entails, particularly for minority communities.

Something we can all agree on, whether we come at this issue from a scientific, legal or business perspective, is that the days of people ending up in jail for possession of small amounts of marijuana need to come to an end. With contributions from experts like those we've featured here and the passion and commitment from ordinary members of the community, we will be able to make that dream a reality. The progress may be incremental, but we need to ensure it is continuous.