BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE
INFORMATION QUALITY GUIDELINES STAFF

Re: DEA's "The Dangers and Consequences of Marijuana Abuse" and "Drugs of Abuse"	)

REQUEST FOR CORRECTION OF INFORMATION DISSEMINATED BY DEA REGARDING MARIJUANA (CANNABIS)

INFORMATION QUALITY ACT REQUEST FOR CORRECTION

DATE: DECEMBER 5, 2016

SUBMITTED BY: AMERICANS FOR SAFE ACCESS FOUNDATION

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Request for Correction Pursuant to the DOJ's Information Quality Guidelines

ISSUE

The Drug Enforcement Agency's ("DEA") website (dea.gov) contains inaccurate statements that do not meet the standards of quality required by the Department of Justice ("DOJ") and Office of Management and Budget ("OMB") under the Information Quality Act ("IQA"). In particular, the DEA continues to disseminate certain statements about the health risks of medical cannabis use that have been incontrovertibly refuted by the DEA itself in its recent "Denial of Petition to Initiate Proceedings to Reschedule Marijuana" (the "DPR"), issued August 12, 2016. In fact, the DEA's recent statements confirm scientific facts about medical cannabis that have long been accepted by a majority of the scientific community. Accordingly, Americans for Safe Access ("ASA") requests that the DEA correct or remove from the dea.gov website the inaccurate statements described below in Section II (a)-(d). At minimum, the corrections should comport with the DEA's statements in the DPR.

PETITIONER

Americans for Safe Access Foundation ("ASA"), a non-profit advocacy group that represents the interests of medical cannabis patients and caregivers, files this Request for Correction of inaccurate information, disseminated by the DEA, relating to certain purported health effects of cannabis use. ASA brings this action on behalf of patients, their families, medical providers, scientists, and veterans across the United States who are deeply and immediately affected by the DEA's controverted statements. The seriously ill patients that ASA represents suffer variously from cancer and the side-effects of its treatments, multiple sclerosis, HIV/AIDS, spinal injury, chronic seizures, and other medical conditions that produce chronic pain, nausea, loss of appetite and spasticity. Many of these persons who use medical cannabis to treat these symptoms do not respond to conventional treatment options, cannot tolerate certain medications, or have serious health needs not treatable by pharmaceutical medicine. If patients, who currently have access to medical cannabis under state programs, were to lose access, they would be irreparably harmed. And, patients in need of medical cannabis, but without access, are already being seriously harmed.

The DEA's misinformation informs the opinions and actions of Congress. As a result of this misinformation, there is a substantial risk that Congress will fail to reauthorize the Rohrabacher-Farr Medical Cannabis Amendment ("the Amendment") (discussed below)—failure to reauthorize would encourage the DOJ to dismantle state medical cannabis systems and prosecute medical cannabis users and providers throughout the nation. Furthermore, the CARERS Act (discussed below) has yet to receive a vote, due in part to the dissemination of DEA misinformation. ASA's members reside in every United States Congressional District—they have been negatively affected by Congress' continuing refusal to hold a vote on the CARERS Act, and they will be negatively affected by Congress' failure to reauthorize the Amendment.

RELIEF REQUESTED

ASA requests corrections to DEA disseminated information as described in Section II (a)-(d).

ASA files this Request for Correction pursuant to the Information Quality Act amendments to the Paperwork Reduction Act, 44 U.S.C. § 3516 Statutory and Historical Notes, P.L. 106-554 ("Information Quality Act"), as implemented through the Office of Management and Budget's "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies," 67 Fed. Reg. 8452 (Feb. 22, 2002) ("OMB Guidelines"), and the "DOJ Information Quality Guidelines," https://www.justice.gov/iqpr/information-quality ("DOJ Guidelines").

FACTUAL BACKGROUND

For years, the DEA has published scientifically inaccurate information about the health effects of medical cannabis, directly influencing the action – and inaction – of Congress. The Compassionate Access, Research Expansion, and Respect States Act ("CARERS") is a prime example. Three senators introduced CARERS in March 2015 and an identical bill was introduced in the House later that month. The legislation seeks to protect patient access to medical cannabis in states with existing medical cannabis programs from federal intervention, thereby codifying the collection of DOJ memoranda that currently govern federal policy of medical cannabis enforcement against the states.[1] Notably, CARERS would also reschedule cannabis from Schedule I to Schedule II status, thus easing current restrictions on medical and scientific research of the substance.[2] Furthermore, the Act would exclude cannabidiols (cannabis derivatives with less than 0.3% THC content) from the definition of cannabis entirely,[3] permit businesses acting in conformity with state cannabis laws to access banking services,[4] mandate the issuance of additional licenses to cultivate cannabis for FDA approved research,[5] and grant VA dependent veterans access to state medical cannabis programs.[6]

Since the CARERS Act was introduced in March of 2015, it has received additional support in the Senate and House, but it seems unlikely that there will be a formal vote on the bill before the new administration commences in January 2017. Proponents of the Act believe that it is less likely to pass once the new Congress is sworn in and the new administration takes control. The House bill is sitting in four committees and subcommittees; the Senate analog sits in the Senate Judiciary Committee.[7] Committee leadership in both chambers have denied the respective bills a

[1] https://www.congress.gov/bill/114th-congress/senate-bill/683/text, at Section 2 (The Controlled Substances Act, "shall not apply to any person acting in compliance with State law relating to the production, possession, distribution, dispensation, administration, laboratory testing, or delivery of medical marihuana.").

[2] *Id.* at Section 3.

[3] *Id*. at Section 4.

[4] *Id*. at Section 6.

[5] *Id*. at Section 7.

[6] *Id*. at Section 8.

[7] H.R. 1538 has been assigned to the (1) House Energy and Commerce Subcommittee on Health; (2) House Judiciary Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; (3) House Financial Services

hearing. House leadership has been hostile to medical cannabis legislation with the surreptitious removal of a medical cannabis amendment to the Military Construction and Veterans Affairs Appropriations Act in June 2016, after being approved by votes from the Senate Appropriations Committee and House Floor.[8] Changes in the Senate Judiciary Committee for the 115th Congress include the ascension of CARERS opponent Dianne Feinstein to Ranking Member of the Senate Judiciary Committee, while fellow CARERS opponent Chuck Grassley remains committee chair. Representatives and senators that have commented unfavorably on the bills have cited, implicitly and explicitly, the inaccurate DEA information on the supposed dangers of medical cannabis.

The CARERS Act is not the only attempt to protect medical cannabis patients. In 2014, Congress included the Amendment in the Commerce, Justice, and Science Appropriations Bill.[9] The Amendment prevents the DOJ from spending federal funds to inhibit the implementation of state medical cannabis laws. Without the Amendment, the DOJ could restrict or eliminate patients' access to medicine legally available to them under their states' laws. The Amendment was reauthorized in 2015, and a functionally identical amendment was introduced in April 2016 as part of the 2017 Commerce, Justice, Science, and Related Appropriations Act.[10] While the Amendment was approved by the Senate Appropriations Committee in May 2016 by a vote of 21-8, it has yet to receive a vote in the House for Fiscal Year 2017. Congress' failure to pass the CARERS Act or to reauthorize the Amendment, could destroy patients' access to vital medicine in states where medical cannabis is currently legal and available. Also, even if patients are not the direct target of federal enforcement actions, they can be caught in harm's way during a raid. And, even if they are not present at the raid, losing access to their dispensary means a disruption in their supply of medicine that may not be restored through access to another dispensing facility. As a result, patients are terrified of losing access to essential medicine and providers live in constant fear of federal criminal prosecution.

Elected representatives in Congress are using inaccurate DEA published information to inform their votes on the CARERS Act and the Amendment. In the Denial of Petition to Initiate Proceedings to Reschedule Marijuana[11] ("DPR"), the DEA directly contradicted a multitude of previously disseminated statements, which are currently available on the dea.gov website. The following sections detail (1) the inaccurate information and requested changes, (2) how the inaccurate information adversely impacts affected persons (i.e. ASA's members), and (3) how the requested changes will benefit affected persons.

Committee; and (4) House Veterans' Affairs Subcommittee on Health; *available at* https://www.congress.gov/bill/114th-congress/house-bill/1538/all-actions.

[8] *See* http://www.militarytimes.com/story/veterans/2016/06/28/marijuana-provision-stripped-veterans-affairs-funding-bill/86471448/.

[9] https://www.congress.gov/bill/113th-congress/house-bill/4660/text, at Section 558.

[10] https://www.congress.gov/bill/114th-congress/senate-bill/2837/text, at Section 537.

[11] *See* https://www.federalregister.gov/documents/2016/08/12/2016-17954/denial-of-petition-to-initiate-proceedings-to-reschedule-marijuana#p-81.

ARGUMENT

I. LEGAL STANDARDS

Passed as an amendment to the Paperwork Reduction Act, 44 U.S.C. § 3501, the Information Quality Act requires administrative agencies to devise guidelines to ensure the "quality, objectivity, utility, and integrity of information" they disseminate and to "[e]stablish administrative mechanisms allowing affected persons to seek and obtain correction of information maintained and disseminated by the agency that does not comply with the guidelines."[12]

The DOJ Guidelines quote the OMB Guidelines, which define "quality" as "an encompassing term comprising utility, objectivity, and integrity."[13] The term "utility" refers to the "usefulness of the information to be disseminated to the public," achieved by "continuously monitoring information needs and developing new information sources or by revising existing methods, models, and information products where appropriate."[14] "Objectivity" assures that, as a "matter of substance and presentation," disseminated information is "accurate, reliable, and unbiased."[15] In short, the agency is required, prior to dissemination of information, to ensure "compliance with the OMB and DOJ Guidelines" and "that the information fulfills the intentions stated and that the conclusions are consistent with the evidence."[16]

Additionally, where the agency is responsible for disseminating "influential" scientific or statistical information, the DEA has heightened responsibilities under the Act to ensure that such disseminated information is reproducible and accurate. Indeed, the accuracy of this information is "significant due to the critical nature of these decisions."[17] "Influential information" is that which is "expected to have a genuinely clear and substantial impact at the national level, or on major public and private policy decisions as they relate to federal justice issues."[18] To determine that there is a clear and substantial impact, the agency must "have greater certainty than would be the case for many ordinary factual determinations that the impact is occurring or will occur."[19]

Furthermore, the DOJ Guidelines require that statistical information disseminated by the agency be based on the promotion of sound statistical methods. "Sound" scientific methods "produce information (data and analysis results) that is accurate, reliable, and unbiased. Guidelines to promote sound statistical methods would cover the planning of statistical data

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[12] 44 U .S.C. § 3516, Statutory and Historical Notes.

[13] https://www.justice.gov/iqpr/information-quality, at "Standards for Disseminated Information."

[14] *Id.* at "Utility."

[15] *Id*. at "Objectivity."

[16] *Supra* Note 11.

[17] *Id*. at "For Influential Information."

[18] *Id*.

[19] *Id*.

systems, the collection of statistical data, and the processing of statistical data (including analysis)."[20]

II. THE DEA'S STATEMENTS ABOUT MEDICAL CANNABIS IN THE DPR DIRECTLY CONTRADICT STATEMENTS CURRENTLY BEING MADE BY THE DEA ELSEWHERE

Each of the DEA's statements about medical cannabis set forth below have been directly refuted by the DEA's own statements in the DPR. Given its own recent contradiction of these statements, the DEA cannot credibly maintain that they are "accurate," "reliable," "unbiased," or "reproducible." Moreover, the statements are based on scientifically inaccurate data and result in denying patients access to vital medicine. Accordingly, each of these statements violate the IQA's utility and objectivity standards and should be corrected.

ASA requests that the DEA replace the following scientifically inaccurate statements – currently disseminated by the DEA on its website in publications entitled "The Dangers and Consequences of Marijuana Abuse"[21] and "Drugs of Abuse"[22] – with the DEA's own scientifically accurate statements made in the DPR.

a. The DEA's statements in the DPR directly contradict its scientifically inaccurate statements about cannabis' alleged capacity to induce psychosis

The DEA is disseminating information about cannabis use and psychosis that lacks both objectivity and utility. At the time the inaccurate statements were originally made, they may have been supported by some evidence. But, the DEA recently admitted that the *only* association between cannabis use and psychotic illness is in cannabis' potential to increase the risk for psychosis among individuals *already predisposed to develop a psychotic disorder.*[23] Thus, in light of numerous statements made by the DEA in the DPR, information suggesting that cannabis use causes psychosis no longer satisfies the objectivity and utility standards required by the DOJ and OMB Guidelines.

The DEA is making the following inaccurate statements regarding cannabis' alleged capacity to induce psychosis and psychotic illness:

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[20] *Id*. at "Sound Statistical Methods."

[21] https://www.dea.gov/docs/dangers-consequences-marijuana-abuse.pdf.

[22] https://www.dea.gov/pr/multimedia-library/publications/drug_of_abuse.pdf#page=73.

[23] *Supra* Note 9, at 53696-97 (citing Andreasson et al., *Curr Med Chem.* 18(7): 1085-99 (2011); Schimmelmann et al., *Schizophr Res* 129(1): 52-56 (2011); Schiffman et al., *Psychiatry Res*.134(1): 37-42 (2005); Pelayo et al., *Curr Pharm Des* 18(32): 5024-35 (2012); Degenhardt et al., *Drug and Alcohol Depend* 71(1): 37-48 (2003)) ("The authors concluded that marijuana use increased the risk for psychosis only among individuals predisposed to develop the disorder […] Additionally, the conclusion that the impact of marijuana may manifest only in individuals likely to develop psychotic disorders has been shown in many other studies.") (emphasis added).

1. "According to an Australian study, there is now conclusive evidence that smoking cannabis hastens the appearance of psychotic illnesses by up to three years […] it makes it very clear that cannabis is playing a significant role in psychosis."[24]

2. "Evidence of the damage to mental health caused by cannabis use—from loss of concentration to paranoia, aggressiveness and outright psychosis—is mounting and cannot be ignored."[25]

3. "Marijuana use can worsen depression and lead to more serious mental illness such as schizophrenia, anxiety, and even suicide."[26]

4. "[T]eenage cannabis users are more likely to suffer psychotic symptoms and have a greater risk of developing schizophrenia in later life."[27]

5. "Dr. John MacLeod, a prominent British psychiatrist states: 'If you assume such a link (to schizophrenia with cannabis) then the number of cases of schizophrenia will increase significantly in line with increased use of the drug.' He predicts that cannabis use may account for a quarter of all new cases of schizophrenia in three years' time."[28]

6. "Compared with those who had never used cannabis, young adults who had six or more years since first use of cannabis were twice as likely to develop a non-affective psychosis (such as schizophrenia) […] They were also four times as likely to have high scores in clinical tests of delusion."[29]

7. "Researchers have also found an association between marijuana use and increased risk of depression, an increased risk and earlier onset of schizophrenia, and other psychotic disorders, especially for teens that have a genetic predisposition."[30]

The following statements, taken directly from the DPR, contradict the aforementioned statements. Thus, in order to maintain the objectivity and utility standards, ASA requests that the DEA replace the aforementioned inaccurate statements with the following accurate statements, or in the alternative, delete the inaccurate statements in their entirety:

[24] *Supra* Note 21, at 12 (quotations omitted).

[25] *Id*. at 8.

[26] *Id*. at 10.

[27] *Id*.

[28] *Id*. at 12.

[29] *Id*.

[30] *Supra* Note 22, at 73.

1. "At present, the available data do not suggest a causative link between marijuana use and the development of psychosis."[31]

2. "Numerous large, longitudinal studies show that subjects who used marijuana do not have a greater incidence of psychotic diagnoses compared to those who do not use marijuana."[32]

3. "[M]arijuana *per se* does not appear to induce schizophrenia in the majority of individuals who have tried or continue to use marijuana. However, in individuals with a genetic vulnerability for psychosis, marijuana use may influence the development of psychosis."[33]

b. The DEA's statements in the DPR directly contradict its scientifically inaccurate statements about cannabis' alleged capacity to induce lung cancer and cause damage comparable to that caused by tobacco use

The DEA is disseminating information about cannabis use and lung cancer that lacks both objectivity and utility. At the time the inaccurate statements were originally made, they may have been supported by some evidence. But, the DEA recently admitted that the worst possible respiratory effects associated with long-term cannabis use are "chronic cough, increased sputum, as well as increased frequency of chronic bronchitis and pharyngitis."[34] Thus, in light of numerous statements made by the DEA in the DPR, information suggesting that cannabis use causes lung cancer and tobacco-like respiratory damage no longer satisfies the objectivity and utility standards required by the DOJ and OMB Guidelines.

The DEA is making the following inaccurate statements regarding cannabis's alleged capacity to induce lung cancer and cause damage comparable to that caused by tobacco use:

1. "Marijuana smoking has been implicated as a causative factor in tumors of the head and neck and of the lung."[35]

2. "Marijuana takes the risks of tobacco and raises them. Marijuana smoke contains more than 400 chemicals and increases the risk of serious health consequences, including lung damage."[36]

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[31] *Supra* Note 11, at 53696.

[32] *Id*.

[33] *Id*. at 53696-97.

[34] *Id*. at 53751 (citing HHS 2015; Adams and Martin, *Addiction* 91(11): 1585-1614 (1996); Hollister, *Pharmacological Rev* 38, 1-20 (1986)).

[35] *Supra* Note 21, at 16.

[36] *Id*.

3. "A study from New Zealand reports that cannabis smoking may cause five percent of lung cancer cases in that country."[37]

4. "According to researchers at the Tale School of Medicine, long-term exposure to marijuana smoke is linked to many of the same kinds of health problems as those experienced by long-term cigarette smokers."[38]

5. "Smoking marijuana can cause changes in lung tissue that may promote cancer growth, according to a review of decades of research on marijuana smoking and lung cancer."[39]

6. "Nevertheless, researchers indicate […] that smoking pot could indeed boost lung cancer risk."[40]

7. "The Foundation warned that smoking one cannabis cigarette increase the chances of developing lung cancer by as much as an entire packet of 20 cigarettes."[41]

8. "Like tobacco smokers, marijuana smokers experience serious health problems such as bronchitis, emphysema, and bronchial asthma. Extended use may cause suppression of the immune system. Because marijuana contains toxins and carcinogens, marijuana smokers increase their risk of cancer of the head, neck, lungs, and respiratory tract."[42]

The following statements, taken directly from the DPR, contradict the aforementioned statements. Thus, in order to maintain the objectivity and utility standards, ASA requests that the DEA replace the aforementioned inaccurate statements with the following accurate statements, or in the alternative, delete the inaccurate statements in their entirety:

1. "The DEA further notes the publication of recent review articles critically evaluating the association between marijuana and lung cancer. Most of the reviews agree that the association is weak or inconsistent." [43]

2. "The HHS concluded that new evidence suggests that the effects of smoking marijuana on respiratory function and cancer are different from the effects of smoking tobacco." [44]

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[37] *Id*. at 14.

[38] *Id*. at 15.

[39] *Id*.

[40] *Id*.

[41] *Id*. at 18.

[42] *Supra* Note 22, at 73.

[43] *Supra* Note 11, at 53751 (internal citation omitted).

[44] *Id*. (internal citation omitted).

3. "[O]verall association is weak between marijuana use and lung cancer especially when controlling for tobacco use." [45]

4. "[I]n a large clinical study with 1,650 subjects, no positive correlation was found between marijuana use and lung cancer. This finding held true regardless of the extent of marijuana use when both tobacco use and other potential confounding factors were controlled."[46]

5. "The authors reported that occasional use of marijuana (7 joint-years for lifetime or 1 joint/day for 7 years or 1 joint/week for 49 years) does not adversely affect pulmonary function."[47]

c. The DEA's statements in the DPR directly contradict its scientifically inaccurate statements regarding the "gateway theory" and cannabis

The DEA is disseminating information about cannabis use and the gateway theory that lacks both objectivity and utility. The "gateway theory" – that cannabis use causes users to abuse more serious drugs in the future – was never supported by epidemiological scientific evidence.[48] And, in light of numerous statements made by the DEA in the DPR, information suggesting that cannabis is a "gateway drug," no longer satisfies the objectivity and utility standards required by the DOJ and OMB Guidelines.

The DEA is making the following inaccurate statements regarding cannabis and the gateway theory:

1. "Legalization of marijuana, no matter how it begins, will come at the expense of our children and public safety. It will create dependency and treatment issues, and open the door to use of other drugs, impaired health, delinquent behavior, and drugged drivers."[49]

2. "Teens who experiment with marijuana may be making themselves more vulnerable to heroin addiction later in life, if the findings from experiments with rats are any indication."[50]

3. "Marijuana is a frequent precursor to the use of more dangerous drugs and signals a significantly enhanced likelihood of drug problems in adult life."[51]

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[45] *Id*. (internal citation omitted).

[46] *Id*. (internal citation omitted).

[47] *Id*.

[48] *Id*. at 53705.

[49] *Supra* Note 21, at 6.

[50] *Id*. at 22.

[51] *Id*.

4. "[T]eens who used marijuana at least once in the last month are 13 times likelier than other teens to use another drug like cocaine, heroin, or methamphetamine and almost 26 times likelier than those teens who have never used marijuana to use another drug."[52]

5. "Marijuana use in early adolescence is particularly ominous. Adults who were early marijuana users were found to be five times more likely to become dependent on any drug, eight times more likely to use cocaine in the future, and fifteen times more likely to use heroin later in life."[53]

6. "Healthcare workers, legal counsel, police and judges indicate that marijuana is a typical precursor to methamphetamine."[54]

7. "Teens past month heavy marijuana users [sic] are significantly more likely than teens that have not used marijuana in the past to: use cocaine/crack (30 times more likely); use Ecstasy (20 times more likely); abuse prescription pain relievers (15 times more likely); and abuse over the counter medications (14 times more likely)."[55]

The following statements, taken directly from the DPR, contradict the aforementioned statements. Thus, in order to maintain the objectivity and utility standards, ASA requests that the DEA replace the aforementioned inaccurate statements with the following accurate statements, or in the alternative, delete the inaccurate statements in their entirety:

1. "Overall, research does not support a direct causal relationship between regular marijuana use and other illicit drug use."[56]

2. "The HHS cited several studies where marijuana use did not lead to other illicit drug use. Two separate longitudinal studies with adolescents using marijuana did not demonstrate an association with use of other illicit drugs."[57]

3. "Little evidence supports the hypothesis that initiation of marijuana use leads to an abuse disorder with other illicit substances. For example, one longitudinal study of 708 adolescents demonstrated that early onset marijuana use did not lead to problematic drug use." [58]

4. "Although many individuals with a drug abuse disorder may have used marijuana as one of their first illicit drugs, this fact does not correctly lead to the reverse inference

[52] *Id*.

[53] *Id*. at 22-23.

[54] *Id*. at 23.

[55] *Id*.

[56] *Supra* Note 11, at 53705.

[57] *Id*. (internal citations omitted).

[58] *Id*.

that most individuals who used marijuana will inherently go on to try or become regular users of other illicit drugs."[59]

5. "[B]ecause the gateway hypothesis only addresses the order of drug use initiation, the gateway hypothesis does not specify any mechanistic connection between drug 'stages' following exposure to marijuana and does not extend to the risks for addiction."[60]

6. "Degenhardt et al. (2009) examined the development of drug dependence and found an association that did not support the gateway hypothesis. Specifically, drug dependence was significantly associated with the use of other illicit drugs prior to marijuana use."[61]

d. The DEA's statements in the DPR directly contradict its scientifically inaccurate statements regarding the alleged permanency of cannabis-associated cognitive deficits

The DEA is disseminating information about the alleged permanency of cannabis-associated cognitive deficits that lacks both objectivity and utility. At the time the inaccurate statements were originally made, they may have been supported by some evidence. But, the DEA recently noted that cannabis associated cognitive deficits are not apparent in those who initiate use after the age of 15 years.[62] Thus, in light of numerous statements made by the DEA in the DPR, information suggesting that cannabis use causes permanent cognitive deficits no longer satisfies the objectivity and utility standards required by the DOJ and OMB Guidelines.

The DEA is making the following inaccurate statements regarding the alleged permanency of cannabis-associated cognitive deficits:

1. "Those who started using marijuana regularly after age 18 showed minor [cognitive] declines."[63]

2. "Memory, speed of thinking, and other cognitive abilities get worse over time with marijuana use."[64]

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[59] *Id*.

[60] *Id*.

[61] *Id*.

[62] *Id*. at 53695 (citing Fontes, et al., *Br. J Psychiatry* 198(6): 442-7 (2011)) ("Individuals with a diagnosis of marijuana misuse or dependence who were seeking treatment for substance use, who initiated marijuana use before the age of 15 years, showed deficits in performance on tasks assessing sustained attention, impulse control, and general executive functioning compared to non-using controls. *These deficits were not seen in individuals who initiated marijuana use after the age of 15 years*.") (emphasis added).

[63] *Supra* Note 21, at 8.

[64] *Id*. at 11.

3. "This study is the first to show that long-term cannabis use can adversely affect all users, not just those in the high-risk categories such as the young, or those susceptible to mental illness, as previously thought."[65]

The following statements, taken directly from the DPR, contradict the aforementioned statements. Thus, in order to maintain the objectivity and utility standards, ASA requests that the DEA replace the aforementioned inaccurate statements with the following accurate statements, or in the alternative, delete the inaccurate statements in their entirety:

1. "[T]he adult-onset chronic marijuana users showed no significant changes in IQ compared to pre-exposure levels whether they were current users or abstinent for at least 1 year." [66]

2. "[C]annabis-associated cognitive deficits are reversible and related to recent cannabis exposure, rather than irreversible and related to cumulative lifetime use." [67]

3. "The effects of chronic marijuana use do not seem to persist after more than 1 to 3 months of abstinence. After 3 months of abstinence, any deficits observed in IQ, immediate memory, delayed memory, and information processing speeds following heavy marijuana use compared to pre-drug use scores were no longer apparent."[68]

4. "Similarly, following abstinence for a year or more, both light and heavy adult marijuana users did not show deficits on score of verbal memory compared to non-using controls."[69]

5. "According to a recent meta-analysis looking at non-acute and long-lasting effect of marijuana use on neurocognitive performance, any deficits seen within the first month following abstinence are generally not present after about 1 month of abstinence."[70]

III. THE INACCURATE DEA INFORMATION LACKS BOTH OBJECTIVITY AND UTILITY MAKING IT THE PROPER SUBJECT OF A REQUEST FOR CORRECTION UNDER THE IQA

The overwhelming majority of the objective scientific studies – *including studies cited by the DEA in the DPR*[71] – disprove the inaccurate DEA statements described in Section II (a)-(d).

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[65] *Id*.

[66] *Supra* Note 11, at 53695.

[67] *Id*.

[68] *Id*. (internal citation omitted).

[69] *Id*.

[70] *Id*.

[71] Minozzi et al., *Drug Alcohol Rev* 29(3): 304-317 (2010); Fergusson et al., *Addiction* 100(3): 354-366 (2005); Kuepper et al., *Psychol Med* 41(10): 2121-2129 (2011); Van Os et al., *Am J Epidemiol* 156(4): 319-327 (2002); American Medical Association, *AMA Policy: Medical Marijuana* H-95-952 (2009); Degenhardt et al., *Drug Alcohol Depend* 71(1): 37-48 (2003); Department of Health and Human Services, *Basis for the recommendation for maintaining marijuana in Schedule I of the Controlled Substances Act* (2015); Huang et al., *Cancer Epidemiol*

Because the DEA itself made statements in the DPR that directly contradict information in "The Dangers and Consequences of Marijuana Abuse" and "Drugs of Abuse," it is undeniable that the DEA information at issue lacks utility and objectivity.[72]

The DEA information lacks utility. Utility requires that information disseminated by the DEA be useful to the public. Information that is admittedly incorrect – such as the DEA's statements regarding the gateway hypothesis and that marijuana causes psychosis, lung cancer and permanent cognitive deficits – inherently lacks usefulness. While there may be some demonstrable negative effects associated with cannabis abuse, the presentation of scientifically unfounded information alongside scientifically accurate information obscures and diminishes the utility of the accurate information and can jeopardize public health. Furthermore, the disingenuous presentation of the inaccurate information described above makes it difficult for public officials and medical providers to make informed decisions regarding the viability of medical cannabis treatment options.

Utility also requires continuous monitoring of information and the correction and updating of information where appropriate. The statements made by the DEA in the DPR described above, as well as the studies cited by the DEA, demonstrate that the DEAs statements on its website regarding the gateway theory, psychosis, lung cancer and permanent cognitive deficits need to be corrected and updated.

The DEA information lacks objectivity. The information described in Section II (a)-(d) is neither accurate, reliable, nor unbiased, as evidenced by the DEA's contradictory statements in the DPR. For example, as demonstrated above, the DEA makes numerous inaccurate, unreliable and biased statements regarding the gateway theory and the health risks of marijuana use, including that it causes psychosis, lung cancer and permanent cognitive deficits. The DEA itself has disproven each of these statements in the DPR as described above. The contradictory statements made in "The Dangers and Consequences of Marijuana Abuse" and in "Drugs of Abuse," evince a strong bias against medical cannabis and represent a dereliction of responsibility. The documents cite outdated and unreliable studies, and fail to discuss contrary authorities or the documented benefits of medical cannabis.

Biomarkers Prev 24(1): 15-31 (2015); Zhang et al., Int J Cancer 136(4): 894-903 (2015); Gates et al., *Respirology* 19(5): 655-662; Hall and Degenhardt, Drug Test Anal 6(1-2):39-45; Tashkin et al., *American Thoracic Society International Conference* A777 (2006); Lee and Hancox *Exp Rev Resp Med* 5(4): 537-546 (2011); Kandel and Chen *J Stud Alcohol* 61(3): 367-378 (2000); von Sydow et al., *Drug Alcohol Depend* 68(1): 49-64 (2002); Nace et al., *Arch Gen Psychiatry* 32(1): 77-80 (1975); Degenhardt et al., *Alcohol Depend* 108(1-2): 84-97 (2010); Vanyukov et al., *DrugAlcohol Depend* 123 Suppl 1:S3-17 (2012); Degenhardt et al., *PLoS Medicine* 6(9): e1000133 (2009); Meier et al., *Proc.Natl.Acad.Sci* U.S.A 109(40): E2657-E2664 (2012); Fried et al., *Neuotoxicol Teratol* 27(2): 231-239 (2005).

[72] *See* https://www.justice.gov/iqpr/information-quality ("Utility: DOJ components will assess the usefulness of the information to be disseminated to the public. Utility is achieved by continuously monitoring information needs and developing new information sources or by revising existing methods, models, and information products where appropriate. Objectivity: DOJ components will ensure disseminated information, as a matter of substance and presentation, is accurate, reliable, and unbiased. Objectivity is achieved by using reliable data sources, sound analytical techniques, and documenting methods and data sources.").

Moreover, as discussed in the next section, the DEA has a heightened burden of ensuring the accuracy of its statements regarding the risk of marijuana use because the information is highly influential and affects national public policy. The DEAs failure to update and correct admittedly outdated and incorrect information does not meet this heightened burden. Moreover, because of the need for greater certainty for influential information, the results of any studies and information relied on by the DEA must be reproducible. The DPR demonstrates that the studies and information relied on by the DEA for each of the categories discussed above is not reproducible.

Because the inaccurate information is neither useful nor objective, it must be changed to more accurately reflect the current scientific consensus surrounding medical cannabis. At the very least, the DEA should update its public information to comport with the statements it made in the DPR—namely, that *(1) the gateway drug hypothesis is invalid; (2) cannabis use does not cause irreversible cognitive decline in adults; and cannabis use does not cause (3) psychosis or (4) lung cancer.*

IV. THE INACCURATE DEA STATEMENTS REQUIRE A HIGHER LEVEL OF SCRUTINY BECAUSE THEY ARE "INFLUENTIAL INFORMATION" AFFECTING NATIONAL PUBLIC POLICY

The DOJ Guidelines require an "added level of scrutiny" for information deemed "influential."[73] The responsibility for determining whether information is influential lies with the component of the DOJ responsible for disseminating the information.[74] Here, because the relevant DOJ component (the DEA) has not designated medical cannabis information as a "class" of information that is "influential," the DEA must determine whether information is influential on a case-by-case basis.[75] As stated above, the Guidelines define "influential" information as that which has a "genuinely clear and substantial impact at the national level, or on major public and private policy decisions as they relate to federal justice issues."[76] The DEA should find that the inaccurate information described in Section II has a "clear and substantial impact" if it is firmly convinced that the information has a high probability of impacting public or private "policy, economic, or other decisions."[77]

The incorrect information on medical cannabis published by the DEA clearly meets this standard. The DEA is one of the most respected and influential federal agencies providing information on drug use, drug abuse, and the health risks surrounding drug use. Unsurprisingly, many elected officials rely on DEA information in making policy decisions and in educating their colleagues regarding the risks and rewards of medical cannabis. In fact, members of the House of Representatives have repeatedly cited to "The Dangers and Consequences of Marijuana Abuse," which is the primary subject of this request for correction. As such, the maintenance of the inaccurate DEA information described in Section II has a *genuinely clear and substantial*

[73] *Supra* Note 13, at "For Influential Information."

[74] *Id*.

[75] *Id*.

[76] *Id*.

[77] *Id*.

impact at the national level and on important public policy decisions related to federal justice issues.

Indeed, the "high probability" of impact has already materialized – via Congress' continuing failure to pass the 2015 CARERS Act– and is likely to continue occurring given the incoming administration's stance on medical cannabis. Recent statements made on the floor of the House of Representatives indicate that elected officials are being directly influenced to vote against the interests of medical cannabis patients as a result of the DEA's inaccurate statements. During a May 28, 2014 House discussion regarding the "Commerce, Justice, Science and Related Agencies Appropriation Act of 2015," Representatives John Fleming (R-LA) and Frank Wolf (R-VA)[78] directly cited to the DEA's document "The Dangers and Consequences of cannabis Abuse," to support inaccurate propositions regarding the gateway theory and cannabis' health effects:

> "I would like to close by reading the following statement from the Drug Enforcement Agency's DEA May 2014 booklet on the ugly truth about marijuana: 'Legalization of marijuana, no matter how it begins, will come at the expense of our children and public safety. It will create dependency and treatment issues and opens the door to use of other drugs, impaired health, delinquent behavior, and drugged drivers.' I think the DEA got it right. It is time for the rest of the Justice Department to do their job and enforce current U.S. law that recognizes marijuana's devastating impact on our children and society. I am hopeful that my amendment will encourage DOJ to take steps necessary to correct any misunderstanding regarding the Federal enforcement of the CSA and the BSA. I now urge my colleagues to join me in supporting this amendment." [79]
>
> …
>
> "[M]arijuana is highly addictive, is closely linked to altered brain development; schizophrenia; mental illness […]"[80]
>
> …
>
> "I was just reading the dangers and consequences of marijuana abuse. What is happening to our country? […] I strongly support the amendment." [81]

[78] Frank Wolf retired in January 2015.

[79] https://www.congress.gov/congressional-record/2014/5/28/house-section/article/h4868-1?q=%7B%22search%22%3A%5B%22marijuana%22%5D%7D&resultIndex=4, at H4907.

[80] *Id*.

[81] *Id*.

…

> "And trust me, my friend, I will tell the gentleman that whether it is marijuana or heroin or methamphetamines, as a drug addict once told me: All addicting substances are gateways to other addicting substances." [82]

These opinions were directly influenced by the inaccurate statements in the "Dangers and Consequences of Marijuana Abuse," discussed in Section II above. [83] The Congressmen were speaking in support of Rep. Fleming's proposed amendment to H.R. 4660, which would have reduced the DOJ's general legal account by $866,000 until the Attorney General enforced the Controlled Substances Act ("CSA") by prosecuting medical cannabis providers and patients operating under State laws.[84] Because outspoken and active members of the House use the aforementioned DEA statements in support of federal criminal justice legislation, the subject information is highly influential and can be expected to have a genuinely clear and substantial impact at the national level on important public policy decisions related to federal justice issues. While this particular amendment did not pass, Congress could pass a similar amendment or simply refuse to reauthorize the Rohrabacher-Farr Medical Cannabis Amendment[85]—an amendment that prohibits the DOJ from using funds under the Act to interfere with providers and patients acting in accordance with state medical cannabis laws. This injury could occur as soon as December 2016 when Congress passes 2017 appropriations acts. It is highly likely that Congress will (1) refuse to reauthorize the Amendment; and/or (2) refuse to pass the CARERS Act.

Similar statements made by other US representatives demonstrate the pervasiveness of inaccurate beliefs regarding medical cannabis that are being perpetuated by DEA misinformation.

In a July 2016 Hearing, the House Subcommittee on Crime and Terrorism discussed researching the potential medical benefits and risks of cannabis. Representative Lindsey Graham, the Chairman of the subcommittee, made statements about the refuted gateway drug theory:

> "I also hear about how marijuana is a gateway drug that gets people going down the wrong road." [86]

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[82] *Id*.

[83] *See generally supra* Note 21.

[84] *Supra* Note 79, at H4906.

[85] https://www.congress.gov/bill/113th-congress/house-bill/4660/text, at Section 558.

[86] http://www.judiciary.senate.gov/meetings/researching-the-potential-medical-benefits-and-risks-of-marijuana, at 30:40.

…

"I have also been a prosecutor and I understand that this has been a gateway drug." [87]

While these statements do not explicitly reference DEA documents, they mirror DEA misinformation and strongly suggest that Sen. Graham believes that the gateway theory surrounding cannabis remains scientifically accurate. As a former prosecutor, it is likely that Sen. Graham was influenced by inaccurate DEA information in forming his opinions about the gateway theory. Yet, as a CARERS Act cosponsor, Sen. Graham believed he was presenting a balanced view regarding the potential benefits and harms of medical cannabis. This hearing took place approximately one month prior to the DEA's August 2016 acknowledgement that the gateway theory is not supported by science. Had Sen. Graham been aware of the invalidity of the gateway theory, it is likely that he would have presented more nuanced and fact-based evaluation of the risks and benefits associated with medical cannabis and the CARERS Act.

Additionally, Sen. Graham has a major influence on public policy and on other representatives (especially republicans). And, while he seems willing to consider the medical potential of cannabis and cannabis derivatives, his willingness to support (1) research using federal funds, (2) institutional access to cannabis for research, or (3) medicinal access for patients in need is stymied by his belief in the gateway theory. Declining to allow or fund medical research at a national level certainly qualifies as a major public policy decision. As such, Rep. Graham's statements suggest that inaccurate DEA information about the gateway theory has a genuinely clear and substantial impact at the national level on important public policy decisions.

In a June 24, 2015 Senate Drug Caucus Hearing on Barriers to Cannabidiol Research, Senator Dianne Feinstein (D-CA) stated:

> "It concerns me greatly because young people use it … it is also a gateway drug … they go onto other things … and it's problematic." [88]

Sen. Feinstein is the Co-Chair of the Senate Drug Caucus, and she is under the impression that cannabis is a gateway drug that leads users to abuse more serious drugs. Again, while the Senator did not directly reference DEA materials, it is likely that the DEA's dissemination of inaccurate information regarding cannabis and the gateway theory contributed to her incorrect views. And, it is highly likely that she would reconsider her beliefs about the gateway theory if she were exposed to correct information from a nationally trusted source like the DEA. As the Co-Chair on the Senate Drug Caucus, Sen. Feinstein is in a unique position to influence federal drug policy and national research efforts; thus, her statements suggest that inaccurate DEA information about the gateway theory has a genuinely clear and substantial impact at the national level on important public policy decisions related to federal justice issues.

Senator Chuck Grassley's (R-IA) views further demonstrate the "high probability" of impact posed by DEA misinformation. For example, Sen. Grassley's spokeswoman noted specific

[87] *Id*. at 01:05:21.

[88] http://www.drugcaucus.senate.gov/content/drug-caucus-hearing-barriers-cannabidiol-research-0, at 02:00:51.

reasons that Sen. Grassley did not support the CARERS Act, stating that he believes "marijuana users [are] much more likely to take up heroin and other serious drugs than non-users."[89] The impact of Sen. Grassley's belief in the gateway theory is particularly acute – as the Chairman of the Senate Judiciary Committee, Sen. Grassley is the proverbial gatekeeper to any Senate hearing on the CARERS Act. And, given his general support for research into cannabidiol medicines,[90] Sen. Grassley's belief in the gateway theory is likely a primary impediment preventing him from facilitating a vote on the CARERS Act.

At the April 5, 2016 Drug Caucus hearing, Senator Jeff Sessions (R-AL) made several references to the gateway theory without specifically mentioning the theory by name. In a conversation with hearing witness Benjamin B. Wagner, U.S. Attorney for the Eastern District of California, Sen. Sessions asserted that "good people do not smoke marijuana" and described the damage that could ensue if more people use cannabis:

> "You can see that it is in fact a very real danger, you can see the accidents traffic deaths related to marijuana jumped by 20%. These are the kind of things we're going to see throughout the country and you'll see cocaine and heroin increase more than it would have I think had we not talked about it […]"[91]
>
> …
>
> "Lives will be impacted, families will be broken up, children will be damaged because of the difficulties their parents have, and people may be psychologically impacted the rest of their lives with marijuana. And if they go on to more serious drugs which tends to happen, and you can deny it if you want to, but it tends to happen […]"[92]

As the probable incoming attorney general, Sen. Sessions will dictate whether the DOJ does or does not interfere with state medical cannabis systems. He clearly harbors a strong hatred for cannabis generally; nevertheless, his erroneous views on the gateway theory and the alleged permanency of cannabis associated cognitive deficits are likely informed by DEA misinformation, as Sen. Sessions has displayed a sense of trust in the opinions of "the Drug Czar and the DEA leadership."[93] Notably, Sen. Sessions' comments were made approximately four months before the DEA formally acknowledged that the gateway theory is not supported by science. Because Sen. Sessions – the apparent incoming attorney general – likely draws his opinions about the gateway theory from DEA misinformation, the maintenance of such

[89] http://beeherald.com/news/local-farmer-taking-grassley-over-medical-marijuana.

[90] http://www.grassley.senate.gov/news/news-releases/bill-introduced-expand-research-potential-medical-benefits-cannabidiol-and.

[91] https://www.youtube.com/watch?v=gg0bZvIS0K8&feature=youtu.be&t=38m47s, at 39:48.

[92] *Id*. at 42:13.

[93] *Id*. at 42:35.

inaccurate information has a genuinely clear and substantial impact at the national level on important public policy decisions related to federal justice issues.

During a May 29, 2014 House discussion regarding the "Commerce, Justice, Science and Related Agencies Appropriation Act of 2015," Representative Andy Harris (R-MD) stated:

> "This is dangerous for [children]. How do we know this? The health risks: brain development, schizophrenia, increased risk of stroke."[94]

As part of the House Committee on Appropriations, Representative Harris is charged with allocating dollars to federal agencies. As such, he has power to influence DOJ enforcement of federal cannabis laws by withholding DOJ funds.[95] Rep. Harris believes that cannabis causes schizophrenia, an admittedly false fact[96] currently being promulgated by DEA literature. Moreover, Rep. Harris believes in the gateway theory, as demonstrated by his statements at a National Rx Drug Abuse Summit on April 8, 2015:

> "That's not the way we should deal with such a dangerous drug […] marijuana is pretty clearly a gateway drug that has not been shown to be safe or medically effective."[97]

Because of his belief in the psychosis and gateway theories, Rep. Harris opposed the Amendment.[98] Rep. Harris' statements suggest that currently accessible DEA information continues to promote the unfounded psychosis and gateway theories, thus creating a genuinely clear and substantial impact at the national level on important public policy decisions related to federal justice issues.

During a June 2, 2015 House discussion regarding the "Commerce, Justice, Science and Related Agencies Appropriation Act of 2016," Representative John Fleming (R-LA) stated:

> "It [marijuana] is known to have brain development alterations; schizophrenia and other forms of mental illness, psychosis; heart complications; and an increased risk of stroke."[99]

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[94] https://www.congress.gov/congressional-record/2014/5/29/house-section/article/h4968-2?q=%7B%22search%22%3A%5B%22marijuana%22%5D%7D&resultIndex=3, at H4983.

[95] *See e.g.*, *supra* Note 79, at H4906.

[96] *See supra* Note 11, at 53696.

[97] http://halrogers.house.gov/news/documentsingle.aspx?DocumentID=398203.

[98] "I rise to oppose the amendment." *Supra* Note 94.

[99] https://www.congress.gov/congressional-record/2015/6/2/house-section/article/h3700-2?q=%7B%22search%22%3A%5B%22marijuana%22%5D%7D&resultIndex=2, at H3746.

…

> "It means the younger a child is exposed to it, the more likely that child will later become an addict to something else, like methamphetamine, prescription drugs, heroin." [100]

As the Co-Chair of the Addiction, Treatment, and Recovery Caucus, Rep. Fleming is charged with raising awareness and increasing education regarding substance abuse and addiction treatment. As such, he is in a unique position to educate other members of Congress and the public about the dangers and benefits of medical cannabis. As illustrated by his statements in the May 28, 2014 and June 2, 2015 House discussions, [101] he is directly influenced by inaccurate DEA information and promulgates this shoddy information in support of strict anti-medical cannabis laws and stronger enforcement of the CSA amongst the states. It is clear that inaccurate DEA information regarding the gateway theory and cannabis' alleged ability to cause psychosis has a genuinely clear and substantial impact at the national level on important public policy decisions related to federal justice issues.

Representative Frank Wolf (R-VA) opposed the Amendment in a floor speech on May 9, 2012 discussing the Commerce, Justice, Science, and Related Agencies Appropriations Act of 2013.[102] Representative Jerrold Nadler (D-NY) pointed out why this was the case:

> "I heard [Rep. Wolf] say that the DEA says there is no medical use for marijuana. That's true that they've said it. The DEA has no credibility with people who have looked at [medical cannabis] . . . We know that, for people suffering pain, for people suffering nausea from AIDS and cancer, marijuana is the only thing that produces relief and enables them to eat and get sustenance and to regain weight and to, perhaps, regain health. . . . The DEA doesn't know [this] because it refuses to see it and refuses to allow systematic research." [103]

Rep. Wolf's opposition to the Amendment is directly influenced by DEA misinformation, as he has directly cited[104] to the DEA's faulty document: "The Dangers and Consequences of Marijuana Abuse." The statement above lends further credence to the fact that DEA misinformation has a genuinely clear and substantial impact at the national level on important public policy decisions related to federal justice issues.

Due to the widespread acceptance of inaccurate DEA information amongst the United States Congress, the information at issue has a genuinely clear and substantial influential impact on federal public policy decisions. This is especially true when considering DEA statements which

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[100] *Id*. at H3747.

[101] *See Supra* Notes 79-80 & 99-100.

[102] https://www.congress.gov/congressional-record/2012/5/9/house-section/article/h2515-3?q=%7B%22search%22%3A%5B%22marijuana%22%5D%7D&resultIndex=1, at H2525.

[103] *Id*. at H2526.

[104] *Supra* Note 81.

perpetuate the false notions that cannabis use causes psychosis and acts as a gateway drug to more serious drug abuse. Affected persons (i.e. ASA members) have already been affected by Congress' continuing refusal to hold a vote on the CARERS Act, and they will be further affected if the Amendment is not reauthorized. Because the information at issue is "influential information" within the meaning of the Guidelines, the DEA should review the inaccurate DEA information with an added level of scrutiny, to ensure that it is reproducible.

V. ASA REPRESENTS SERIOUSLY ILL "AFFECTED PERSONS" WHO ARE DEEPLY AND IMMEDIATELY AFFECTED BY THE DEA'S INCORRECT AND CONTROVERTED STATEMENTS

a. ASA's members are "affected persons" within the meaning of the DOJ's Information Quality Guidelines

According to the DOJ and OMB Guidelines, affected persons are allowed to "seek and obtain, where appropriate, timely correction of information maintained and disseminated by the agency that does not comply with OMB or agency guidelines."[105] And, an "affected person" is an "individual or entity that may use, benefit, or be harmed by the disseminated information at issue."[106] ASA is composed of the following affected persons: (1) patients who are unable to access medical cannabis or are at risk of losing access; (2) doctors who are unable to recommend medical cannabis or are at risk of losing their ability to recommend it; (3) patients and providers who have been criminally prosecuted or are at risk of prosecution; and (4) scientists who are unable to obtain cannabis for research or are at risk of losing access.[107] On behalf of these affected persons, ASA seeks to obtain correction of DEA information that fails to comply with the Guidelines. ASA and its individual members are currently being harmed by – and are at risk of future harm from – the DEA's dissemination of inaccurate information regarding medical cannabis. Specifically, the DEA's aforementioned statements regarding the gateway theory, cannabis' supposed tendency to induce psychosis and lung cancer, and the alleged permanency of cannabis associated cognitive deficits have harmed and continue to harm ASA and its members. The harm results because the inaccurate information obfuscates legitimate medical cannabis research, which would otherwise inform our elected official's opinions and actions.

As described in Section III, elected officials across the nation rely on DEA information when forming opinions about the safety and efficacy of medical cannabis. These officials have made public policy decisions based, at least in part, on inaccurate DEA information. These policy decisions include failing to reschedule cannabis via passage of the CARERS Act, which has the effect of denying patients access to medical cannabis, preventing doctors from prescribing medical cannabis, and criminally prosecuting medical cannabis users/providers. And, while there are many states that have implemented their own medical cannabis systems, medical cannabis remains federally illegal, in part due to elected officials' inaccurate perceptions that

[105] *Supra* Note 13, at "Introduction and Purpose."

[106] *Id*. at "Process for Citizen Complaint."

[107] ASA has members residing in every United States Congressional District.

cannabis is a gateway drug and that it causes psychosis, lung cancer, and permanent cognitive deficits. The federal status of medical cannabis has prevented multiple states from allowing healthcare providers to recommend medical cannabis in those states. Furthermore, there is a substantial risk that a misinformed Congress will either repeal or refuse to reauthorize the Amendment, thereby urging the DOJ to enforce the CSA in states with legal medical cannabis systems.

The inaccurate perceptions of at least several outspoken United States Congressmen originate from DEA information lacking both objectivity and utility. These representatives often push for stricter enforcement of the CSA in the states and maintenance of cannabis as a Schedule I drug. A correction of the erroneous DEA information would benefit ASA, its members, and millions of medical cannabis patients by shifting US representatives' perceptions of the true risks of medical cannabis. Such a shift could result in many benefits, including but not limited to: (1) patients' continued access to medical cannabis in states that currently permit its use;[108] (2) patients' access to medical cannabis in states which currently prohibit its use;[109] (3) elimination of criminal penalties for medical cannabis physicians and patients;[110] and (4) more federal funding and access to cannabis for medical research. [111]

[108] There were approximately 2,045,888 registered medical cannabis patients as of Dec. 2015, based on available patient registry statistics compiled by ASA. *Available at* https://american-safe-access.s3.amazonaws.com/documents/EstimatedNumberOfMMJPatientsDec2015.pdf.

[109] There are currently 6 states with no medical cannabis and an additional 15 states with limited CBD-focused laws. Only one of the CBD-focused laws allows for patients to obtain the medical cannabis-derived products from a dispensary in the state, all other CBD-focused laws only protect patients from arrest if they obtain and possess products acquired from a state with licensed distribution and reciprocity access.

[110] According to the FBI, there were 643,121 cannabis arrests in 2015, over 89% of which were for possession alone – this is the crime patients are most likely to violate. However, the FBI does not provide any information on how many of those arrests involved a defendant claiming medical necessity. While medical cannabis physicians are rarely targeted for arrest, the chilling effect of its Schedule I status creates stigma that suppresses the number of physicians who are willing to recommend medical cannabis under state law. *Available at* https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/home.

[111] Researchers have commented on the lack of federal funding available for medical cannabis research. University of Pennsylvania professor Marcel Bonn-Miller said, "[f]rom the National Institutes of Health to the VA to whatever, there was nothing," referring to the available funding for medical cannabis research. Ethan Russo, Former GW Pharmaceuticals researcher and current medical director at the Los Angeles biotechnology firm Phytecs, elaborated on the problem facing medical cannabis researchers: "Traditionally, if you had a compelling reason to do research, you could get funding … Now nothing is getting funded unless you have something really sexy. And marijuana is like kryptonite." Between 1999 and 2012, the number of studies approved for funding dropped from 34% to 19%. *Available at* http://www.ibtimes.com/marijuana-news-2016-scientists-frustrated-funding-shortfalls-launch-institute-2379921.

VI. CONCLUSION

ASA makes this narrow request for correction with the goal of educating our elected officials and the public at large about the verifiable health effects associated with cannabis use. ASA does not claim that cannabis is entirely harmless and devoid of risk. However, medical cannabis provides relief to a substantial portion of our population and it provides hope to many who live with chronic and incurable ailments. ASA merely requests that the DEA change its public information to better comport with its *own expressed views in the DPR*, so that Congress has access to the tools to make informed decisions about public health. In the alternative, ASA requests that the DEA simply remove the inaccurate statements or the documents in their entirety.

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