

**Conclusion:**

The Florida Cannabis Action Network (FLCAN) has the qualifications and experience to evaluate the proposal to reschedule Cannabis from Schedule 1 to Schedule 3.

Congress began the process of decontrolling the Cannabis plant in 2018. As a result of the US Farm Bill declassifying CBD, a constituent part of whole-plant Cannabis, the plant is already decontrolled. In 2021, the United Nations rescheduled cannabis and cannabis resins from Schedule IV to Schedule I of the Single Convention on Narcotic Drugs, 1961, the equivalent of Schedule V in the US Controlled Substances Act (CSA). Based upon the preponderance of the evidence, we have concluded the Cannabis plant, the seeds thereof, and Cannabis products using Indigenous extraction methods should be fully decontrolled.

Fully decontrolling whole-plant Cannabis without regard to THC content would open the door to industrial uses of working hemp. Products made from whole-plant Cannabis should be subject to existing guidelines for food safety, agricultural production, cosmetic production, and other professional and business regulations for comparable products. A fractured regulatory system breeds uncertainty in the market, leaving the most unscrupulous players to prosper.

Certain finished products containing synthetically derived Cannabinoids and concentrations using hazardous material processes should be created and sold using pharmaceutical standards. Products intended for international sales must be reported and tracked which is a commercial use regulated under Schedule V of the CSA.

Decontrolling whole-plant Cannabis is consistent with the Single Convention Treaty on Drugs which serves to regulate the international trade of narcotics. These laws were not intended to affect individuals not engaged in such trade.

According to the Congressional Research Service's Report titled "The Controlled Substances Act (CSA): A Legal Overview for the 118th Congress" dated January 19, 2023, "[s]cheduling pursuant to international treaty obligations does not require the

factual findings that are necessary for other administrative scheduling actions, and may be implemented without regard to the procedures outlined for regular administrative scheduling.” However, the analysis below demonstrates how the standard for decontrol here is met based on the simple conclusion that whole-plant Cannabis has medical applications at the international level.

**Analysis:**

Under the CSA, when recommending or determining that a drug should be controlled (and if so, under which schedule), the Secretary and the Attorney General must consider eight factors set forth in 21 U.S.C. 811(c). The eight factors are:

1. The drug's actual or relative potential for abuse;
2. Scientific evidence of its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the drug or other substance;
4. Its history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. What, if any, risk there is to the public health;
7. Its psychic or physiological dependence liability; and
8. Whether the substance is an immediate precursor of a substance already controlled.

We proffer that while the Department of Health and Human Services used the eight-factor test to review Cannabis did not go far enough in its determination that Cannabis should be descheduled to Schedule 3. The Department applied the wrong standard to its determination, rather, whole-plant Cannabis and extracts of whole-plant Cannabis more closely resemble the determination of tobacco, namely:

Tobacco and nicotine are not classified as controlled substances primarily due to historical, cultural, and legal reasons. Cannabis like tobacco has recognized medical

applications.

#### 1. Historical Context:

Cannabis, like Tobacco, has been used for centuries, dating back to indigenous cultures in the Americas for religious and medicinal purposes. Its widespread use and economic impact have contributed to its acceptance.

THC, like Nicotine, the addictive component in tobacco, was recognized (discovered) after the plant had already become a significant commodity.

#### 2. Cultural and Social Factors:

Cannabis, like Tobacco, has deep cultural roots in various societies. It has been associated with rituals, social gatherings, and even religious practices.

Industries that profit from the prohibition of Cannabis, particularly drug testing, drug treatment, and private prisons, have also played a significant role in shaping public perception and lobbying against relaxing restrictions.

#### 3. Legal Considerations:

Despite individual freedoms, even simple possession of Cannabis remains a federal crime.

Unlike illicit drugs, Cannabis like tobacco is legally sold and taxed, contributing to government revenue.

#### 4. Public Health Awareness:

Over time, awareness of tobacco-related health risks (such as lung cancer, heart disease, and addiction) has increased. Despite this, the legal status remains unchanged.

Whole-plant Cannabis is safer than many over-the-counter preparations on the shelf. Public awareness of health consequences is a matter of research and education. Age restrictions, product testing, and labeling can significantly reduce health risks.

**Who is Florida Cannabis Action Network:**

The Florida Cannabis Action Network was created in 1998 to give legal standing to advocates seeking redress through the Courts. Today, FLCAN is a statewide advocacy group with supporters throughout the four corners of Florida. The membership includes patients using Cannabis under the state medical program, adult non-medical users of Cannabis, and those who do not use Cannabis but understand the impact of prohibition.

For more information about the Florida Cannabis Action Network, visit <https://flcan.org>.