

United States Senate

WASHINGTON, DC 20510

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By ESEC at 11:02 am, Jun 18, 2019

June 18, 2019

The Honorable William Barr
Attorney General
Department of Justice
950 Pennsylvania Avenue Northwest
Washington, D.C. 20530

The Honorable Kevin McAleenan
Acting Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Attorney General Barr and Acting Secretary McAleenan:

We write to oppose the United States Citizenship and Immigration Services (USCIS) guidance which ignores the will of Americans across the country by considering cannabis-related activities as a factor for the “good moral character” standard required of immigrants seeking to naturalize, particularly in cases where there is no violation of state law.

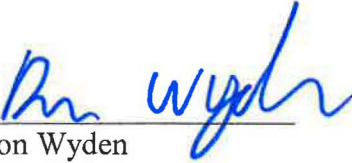
Currently, more than 30 states and territories have legalized some form of cannabis, whether for medical purposes or adult use. These inconsistencies between federal and state cannabis laws are confusing for patients, businesses and other individuals to navigate. We strongly believe that such gaps in policy should not be exploited to penalize otherwise law-abiding legal permanent residents who seek to naturalize.


According to USCIS’s own policy, good moral character “measures up to the standards of average citizens of the community in which the applicant resides.” We remain deeply concerned that the enforcement of USCIS guidance during immigration proceedings will not accurately reflect the values or standards of the applicant’s community, especially if the applicant resides in a state or territory where cannabis is legal and where federal cannabis laws remain unenforced. In fact, this mean-spirited change in guidance would prevent, for example, patients who use cannabis for medical conditions from ever actualizing their dream of becoming an American citizen. Attitudes toward cannabis have significantly shifted in recent years in support of legalization and away from federal interference, as evidenced by the states which implemented the will of their voters. A majority of Americans now support the legalization of the adult use of cannabis and even more support medical usage.

Further, state-legal cannabis businesses have created over 200,000 jobs across the country and its continued expansion generates new employment opportunities for many Americans every day. Additionally, the tax revenue generated by these small businesses is used to invest in communities, supporting public health, education and law enforcement. We fear the recent change in USCIS guidance will prevent individuals from seeking state-legal employment in the cannabis industry and prevent meaningful and legitimate contributions to the American economy.

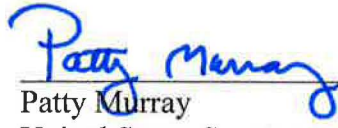
The federal government has long accommodated the different views Americans have across the country and have accordingly deferred to states to define laws and policies which best reflect their communities. To that end, we ask the Department of Justice and the Department of Homeland Security to prevent implementation of this USCIS guidance and to exclude cannabis-related activities as a factor in determining “good moral character” for naturalization purposes.

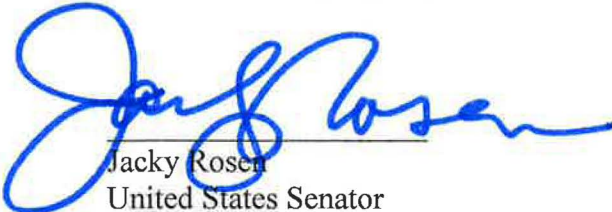
Sincerely,



Ron Wyden
United States Senator

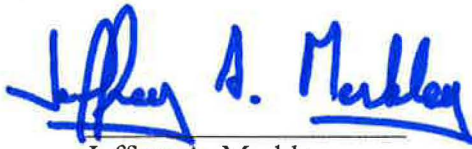

Elizabeth Warren
United States Senator

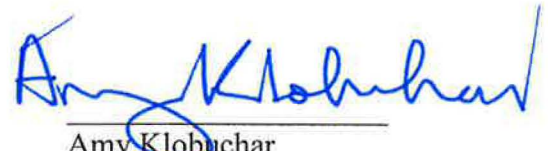

Kirsten Gillibrand
United States Senator


Patty Murray
United States Senator

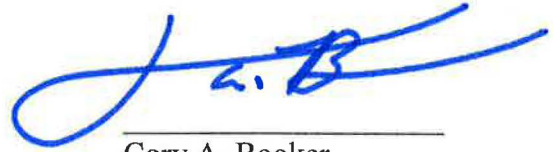

Jacky Rosen
United States Senator


Catherine Cortez Masto
United States Senator


Jeffrey A. Merkley
United States Senator


Amy Klobuchar
United States Senator


Kamala D. Harris
United States Senator


Cory A. Booker
United States Senator



U.S. Citizenship
and Immigration
Services

July 11, 2019

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

Dear Senator Wyden:

Thank you for your June 18, 2019 letter. Acting Secretary McAleenan asked that I respond on his behalf.

Naturalization is the most significant benefit that U.S. Citizenship and Immigration Services (USCIS) bestows. Congress established the requirements for naturalization in the Immigration and Nationality Act (INA). The INA states that to be eligible for naturalization, the individual must be a person of "good moral character" during the statutorily-prescribed period. *See* INA § 316(a), (d)-(e) (8 U.S.C. § 1427(a), (d)-(e)). Furthermore, the statute states that *any* violation of federal controlled substance law, evidenced by conviction or admission, with the single exception of simple possession of 30 grams or less of marijuana, precludes a finding of good moral character. *See* INA §§ 101(f)(3), 212(a)(2)(A)(i)(II) (8 U.S.C. §§ 1101(f)(3), 1182(a)(2)(A)(i)(II)); *see also* 8 C.F.R. § 316.10(b)(2)(iii)-(iv).

The USCIS Policy Manual makes clear that an admission of an offense must meet the long-standing requirements to constitute a valid admission for immigration purposes, while also noting that even if an applicant does not have a conviction or make a valid admission to a marijuana-related (or other controlled substance) offense, he or she may still be unable to meet the burden of proof to show that he or she has not committed such an offense. As you know, under the federal Controlled Substances Act, the possession, manufacture, distribution or dispensing of marijuana is prohibited. The INA does not provide an exception to the requirements for good moral character where the controlled substance is decriminalized under state law. Under federal law, marijuana, among other drugs, remains a Schedule I controlled substance, regardless of its treatment under parallel state laws. It is the applicant's burden to prove that he or she has met the requirements for naturalization, which include establishing that he or she is a person of good moral character as defined in the INA. Accordingly, USCIS respectfully declines to prevent implementation of its guidance on this matter.

The Honorable Ron Wyden
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Thank you again for your letter and interest in this important issue. The co-signers of your letter will receive separate, identical responses. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative and Intergovernmental Affairs at (202) 272-1940.

Respectfully,

A handwritten signature in black ink, appearing to read "Ken C II", with a stylized flourish at the end.

Ken Cuccinelli II
Acting Director