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1322 Webster St., Suite 208
Oakland, CA 94612
www.SafeAccessNow.org
Phone: 415-573-7842
Fax: 510-251-2036

Americans for Safe Access

Joseph D. Elford
Chief Counsel
Americans for Safe Access
1322 Webster St., Suite 208
Oakland, CA 94612
(415) 573-7842

October 25, 2005

Hon. Mike Leavitt, Secretary
Department of Health and Human Services
Hubert H. Humphrey Building
200 Independence Ave., S.W.
Washington, DC 20201

Via Facsimile Transmission

**Re: Request for Correction of Information re 1995 Marijuana Rescheduling
Petition**

Dear Mr. Secretary:

I write to inform you of our intent to file suit in the United States District Court to address your department's illegal and unwarranted delay in responding to our appeal of your denial of our Request for Correction under the Data Quality Act, 44 U.S.C. § 3516 Statutory and Historical Notes, P.L. 106-554 ("The Act"). The Act is intended to "ensur[e] the timely flow of vital information from agencies to medical providers, patients, health agencies, and the public," (HHS Guideline D.2.c.2.) and, to this end, the HHS Guidelines require the agency to respond to such requests within 60 calendar days. However, more than a year has passed since Americans for Safe Access ("ASA") filed its initial request and more than five months have elapsed since ASA appealed the denial of this request. The Department of Health and Human Services ("HHS") has flagrantly disregarded its legal obligation to provide a definitive response to our Request for Correction in a timely manner. In order to compel the Department to comply with the law and its own guidelines, and its duty to provide truthful information to the American people, we shall file suit under the

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Defending Patients' Access to Medical Marijuana!

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federal Administrative Procedure Act, 5 U.S.C § 500 *et seq.*, if we do not receive such response by November 30, 2005.

The Data Quality Act is an amendment to the Paperwork Reduction Act of 1995, 44 U.S.C. § 3516, Statutory and Historical Notes. It requires administrative agencies to develop 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.” (44 U.S.C. § 3516, Statutory and Historical Notes.) HHS’s guidelines require it to respond to such requests for correction of information disseminated by it within 60 days.

Pursuant to this law, on October 4, 2004, ASA filed a Request for Correction of information disseminated by HHS regarding the 1995 Marijuana Rescheduling Petition filed by Dr. Jon Gettman. HHS was laggard and only denied this request on April 20, 2005. Four weeks later, on May 19, 2005, ASA filed an appeal of this denial. HHS, then, has twice stated that it needs additional time to decide this appeal in order to “coordinate agency review.” No such review is needed to respond to the circumscribed petition for review filed by ASA. The timeliness requirements of the Data Quality Act preclude this delay. *See* Letter from Joseph D. Elford to Dr. Steven Galston, dated December 20, 2004 (Exhibit C to Appeal). If no substantive response to our appeal is received from you by November 30, 2005, we shall pursue our remedies at law.

Sincerely,



Joseph D. Elford
Chief Counsel
Americans for Safe Access