

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING	:	NOTICE OF TIME PERIOD
PROCEEDINGS BEFORE THE	:	FOR COMMENTS FOR THE
CONTROLLED SUBSTANCES BOARD	:	ECONOMIC IMPACT ANALYSIS
	:	

NOTICE IS HEREBY GIVEN of the time period for public comment on the economic impact of this proposed rule of the Controlled Substances Board to create CSB 2.38 relating to scheduling Suvorexant as a schedule IV controlled substance, including how this proposed rule may affect businesses, local government units and individuals. The comments will be considered when the Department of Safety and Professional Services prepares the Economic Impact Analysis pursuant to § 227.137. Written comments may be submitted to:

Sharon Henes, Administrative Rules Coordinator
Division of Policy Development
Department of Safety and Professional Services
PO Box 8935
Madison, WI 53708-8935
Sharon.Henes@wisconsin.gov

The deadline for submitting economic impact comments is January 26, 2015.

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.38 relating to scheduling Suvorexant as a schedule IV controlled substance.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.20, Stats.

Statutory authority: ss. 961.11(2) and (4), Stats.

Explanation of agency authority:

961.11(2) After considering the factors enumerated in sub. (1m), the controlled substances board shall make findings with respect to them and promulgate a rule controlling the substance upon finding that the substance has a potential for abuse.

961.11(4) If a substance is designated, rescheduled or deleted as a controlled substance under federal law and notice thereof is given to the controlled substances board, the board by affirmative action shall similarly treat the substance under this chapter after the expiration of 30 days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under 21 USC 811 (h), unless within that 30-day period, the board or an interested party objects to the treatment of the substance. If no objection is made, the board shall promulgate, without making the determinations or findings required by subs. (1), (1m), (1r) and (2) or s. 961.13, 961.15, 961.17, 961.19 or 961.21, a final rule, for which notice of proposed rulemaking is omitted, designating, rescheduling, temporarily scheduling or deleting the substance. If an objection is made the board shall publish notice of receipt of the objection and the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall make a determination with respect to the treatment of the substance as provided in subs. (1), (1m), (1r) and (2) and shall publish its decision, which shall be final unless altered by statute. Upon publication of an objection to the treatment by the board, action by the board under this chapter is stayed until the board promulgates a rule under sub. (2).

Related statute or rule:

Summary of, and comparison with, existing or proposed federal regulation:

On August 28, 2014, the United States Food and Drug Administration, Drug Enforcement Administration published its final rule in the Federal Register placing Suvorexant into schedule IV of the federal Controlled Substances Act. The scheduling action was effective September 29, 2014.

Plain language analysis:

The Controlled Substances Board did not receive an objection to treating Suvorexant as a schedule IV under ch. 961, Stats. based upon the federal scheduling. The Controlled Substances Board took affirmative action on October 8, 2014 to similarly treat Suvorexant under chapter 961 effective November 1, 2014 to allow for publication in the Administrative Register. The Affirmative Action Order will expire upon promulgation of a final rule.

This rule creates s. 961.20(2)(mr), Stats. which adds Suvorexant to schedule IV.

Comparison with rules in adjacent states:

Illinois: Illinois has not scheduled Suvorexant.

Iowa: Iowa is in the process of promulgating an administrative rule to amend the Iowa statutes to schedule Suvorexant as a schedule IV controlled substance.

Michigan: Michigan has not scheduled Suvorexant.

Minnesota: Minnesota has not scheduled Suvorexant.

Summary of factual data and analytical methodologies:

The methodology was to schedule Suvorexant to conform with the federal Controlled Substances Act.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

Fiscal Estimate and Economic Impact Analysis:

The department is currently soliciting information and advice from businesses, local government units and individuals in order to prepare the Economic Impact Analysis.

Effect on small business:

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Tom.Engels@wisconsin.gov, or by calling (608) 266-8608.

Agency contact person:

Sharon Henes, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 1400 East Washington Avenue, Room 151, P.O. Box 8935, Madison, Wisconsin 53708; telephone 608-266-2377; email at Sharon.Henes@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.36 is created to read:

CSB 2.36 Addition of Suvorexant to schedule IV. Section 961.20(2)(mr), Stats., is created to read:

961.20(2)(mr) Suvorexant.

SECTION 2. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)
