Wisconsin Department of Safety and Professional Services
Division of Policy Development
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Tony Evers, Governor
Dawn B. Crim, Secretary

CONTROLLED SUBSTANCES BOARD
VIRTUAL/TELECONFERENCE
Virtual, 4822 Madison Yards Way, Madison
Contact: Adam Barr (608) 266-2112
May 14, 2021

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.

AGENDA

9:30 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-3)

B. Approval of Minutes
1) March 12, 2021 **(4-5)**
2) April 16, 2021 **(6-7)**

C. Reminders: Conflicts of Interests, Scheduling Concerns

D. Introductions, Announcements and Recognition

E. Administrative Matters – Discussion and Consideration
1) Department, Staff, and Board Updates
2) Board Members – Term Expiration Dates

F. Administrative Rule Matters – Discussion and Consideration (8)
1) Adoption Orders
   a. CR 20-048 – Scheduling Synthetic Cannabinoids **(9-13)**
   b. CR 20-049 – Scheduling Brexanolone and Solriamfetol **(14-16)**
   c. CR 20-050 – Scheduling Cathinones **(17-20)**
   d. CR 20-051 – Scheduling Noroxymorphone **(21-23)**
   e. CR 20-022 – Scheduling MMB-FUBICA and 4F-MDMB-BIANCA **(24-26)**
   f. CR 20-023 – Scheduling Isotonitazene and 1P-LSD **(27-29)**
2) Scope Statement Related to Scheduling Brorphine **(30-31)**
3) Pending and Possible Rulemaking Projects

G. Planning for the 2021 Annual Law Enforcement Hearing – Discussion and Consideration

H. Prescription Drug Monitoring Program (PDMP) Update – Discussion and Consideration (32)

1) WI ePDMP Operations
    a. 2021 Q1 WI ePDMP Report
    b. Recent and Upcoming Releases **(33-35)**
    c. Status of Grant Projects
        1. FY 2020 Harold Rogers PDMP
        2. Medical College of Wisconsin DataShare
    d. Interstate Data Sharing **(36)**
    e. EHR Integration Status **(37)**
    f. Proactive Prescribing Metrics Notifications **(38)**
    g. Interagency Data Sharing: Department of Justice (DOJ)
2) Gabapentin Reporting
3) Excluding Buprenorphine/Naloxone from Metrics Calculation
4) Updates on Interstate Data Integration Projects
    a. VA & Appriss Health
    b. RxCheck & eHealth Exchange
5) WI PDMP Outreach **(39)**

I. COVID-19 – Discussion and Consideration

J. Board Member Reports – Discussion and Consideration
1) Medical Examining Board
2) Dentistry Examining Board
3) Board of Nursing
4) Pharmacy Examining Board

K. Report from the Referral Criteria Work Group – Discussion and Consideration

L. Deliberation on Special Use Authorizations – Discussion and Consideration

M. Discussion and Consideration of Items Received After Preparation of the Agenda
1) Introductions, Announcements, and Recognition
2) Administrative Matters
3) Election of Officers
4) Appointment of Liaisons and Alternates
5) Delegation of Authorities
6) Informational Items
7) Division of Legal Services and Compliance (DLSC) Matters
8) Education and Examination Matters
9) Credentialing Matters
10) Practice Matters
11) Legislative and Administrative Rule Matters
12) Liaison Reports
13) Appearances from Requests Received or Renewed
14) Speaking Engagements, Travel, or Public Relations Requests, and Reports
15) Consulting with Legal Counsel

N. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider individual histories or disciplinary data (s. 19.85(1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.).

O. Deliberation on Special Use Authorizations – Discussion and Consideration

P. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

Q. Vote on Items Considered or Deliberated Upon in Closed Session if Voting is Appropriate

R. Open Session Items Noticed Above Not Completed in the Initial Open Session

ADJOURNMENT

NEXT MEETING: JULY 9, 2021

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MEETINGS AND HEARINGS ARE OPEN TO THE PUBLIC, AND MAY BE CANCELLED WITHOUT NOTICE.

Times listed for meeting items are approximate and depend on the length of discussion and voting. All meetings are held at 4822 Madison Yards Way, Madison, Wisconsin, unless otherwise noted. To confirm a meeting or to request a complete copy of the board's agenda, please call the listed contact person. The board may also consider materials or items filed after the transmission of this notice. Times listed for the commencement of disciplinary hearings may be changed by the examiner for the convenience of the parties. Requests for interpreters for the deaf or hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, 608-266-2112, or the Meeting Staff at 608-266-5439.

VIRTUAL/TELECONFERENCE
CONTROLLED SUBSTANCES BOARD
MEETING MINUTES
MARCH 12, 2021

PRESENT: Yvonne Bellay, Alan Bloom, David Bryce*, Padmaja Doniparthi, Doug Englebert, Peter Kallio, Herbert Kaske *(arrived at 9:34 a.m.)*, Sandy Koresch, John Weitekamp

EXCUSED: Subhadeep Barman

*(Dr. Padmaja Doniparthi served as the representative for the Medical Examining Board at this meeting. *Dr. David Bryce was present at the meeting but did not attend as a voting member.)*

STAFF: Adam Barr, Executive Director; Jameson Whitney, Board Legal Counsel; Kevyn Radcliffe, Administrative Rules Coordinator; Kimberly Wood, Program Assistant Supervisor-Adv.; and other DSPS Staff

CALL TO ORDER

Doug Englebert, Chairperson, called the meeting to order at 9:30 a.m. A quorum was confirmed with seven (7) members present.

ADOPTION OF AGENDA

MOTION: Peter Kallio moved, seconded by John Weitekamp, to adopt the Agenda as published. Motion carried unanimously.

APPROVAL OF MINUTES FROM JANUARY 15, 2021

MOTION: Peter Kallio moved, seconded by Alan Bloom, to adopt the Minutes of January 15, 2020 as published. Motion carried unanimously.

(Herbert Kaske joined the meeting at 9:34 a.m.)

ADMINISTRATIVE MATTERS

Department, Staff and Board Updates

MOTION: John Weitekamp moved, seconded by Yvonne Bellay, to express the support and encouragement of the Board for its stakeholders to receive a COVID-19 vaccine as soon as they are eligible to do so and the vaccine is available to them. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Review and Consider Scope Statement for CSB 2.78 Relating to Scheduling Crotonyl Fentanyl

MOTION: Yvonne Bellay moved, seconded by Padmaja Doniparthi, to approve the Scope Statement revising CSB 2.78, relating to scheduling Crotonyl Fentanyl, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. If the Board is directed to hold a preliminary public hearing on the Scope Statement, the Chairperson is authorized to approve the required notice of hearing. Motion carried unanimously.

Review and Consider Scope Statement for CSB 2.79 Relating to Scheduling Remimazolam

MOTION: Alan Bloom moved, seconded by Peter Kallio, to approve the Scope Statement revising CSB 2.79, relating to scheduling Remimazolam, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. If the Board is directed to hold a preliminary public hearing on the Scope Statement, the Chairperson is authorized to approve the required notice of hearing. Motion carried unanimously.

ADJOURNMENT

MOTION: Alan Bloom moved, seconded by Peter Kallio, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 10:36 a.m.

VIRTUAL/TELECONFERENCE
CONTROLLED SUBSTANCES BOARD
MEETING MINUTES
APRIL 16, 2021

PRESENT: Yvonne Bellay, Alan Bloom, Doug Englebert, Peter Kallio, Sandy Koresch, John Weitekamp

EXCUSED: Subhadeep Barman, David Bryce, Padmaja Doniparthi, Herbert Kaske

STAFF: Adam Barr, Executive Director; Jameson Whitney, Board Legal Counsel; Kevyn Radcliffe, Administrative Rules Coordinator; Megan Glaeser, Bureau Assistant; and other DSPS Staff

CALL TO ORDER

Doug Englebert, Chairperson, called the meeting to order at 3:00 p.m. A quorum was confirmed with six (6) members present.

ADOPTION OF AGENDA

MOTION: Alan Bloom moved, seconded by Peter Kallio, to adopt the Agenda as published. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Affirmative Action Order for CSB 2.81 Scheduling Brorphine as a Schedule I Controlled Substance

MOTION: Peter Kallio moved, seconded by John Weitekamp, to schedule by affirmative action Brorphine as a Schedule I controlled substance. The order shall take effect on April 26, 2021 to allow for publication in the Administrative Register. Motion carried unanimously.

Possible Germane Modification to CR 20-080, Relating to Designating Gabapentin as a Monitored Drug

MOTION: Peter Kallio moved, seconded by John Weitekamp, to authorize the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to approve a germane modification to CR 20-080, relating to designating Gabapentin as a monitored drug, as follows: to require only those individuals or entities who have a DEA number to report into the PDMP prescriptions for Gabapentin; and to authorize DSPS staff to submit the germane modification to the Wisconsin Senate Committee on Health and the Wisconsin Assembly Committee on Criminal Justice and Public Safety. Motion carried unanimously.

ADJOURNMENT

MOTION: Alan Bloom moved, seconded by Sandy Koresch, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 3:23 p.m.

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and title of person submitting the request:	2) Date when request submitted:
Kevyn Radcliffe, Administrative Rules Coordinator	May 4, 2021 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Controlled Substances Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
May 14, 2021	☒ Yes ☐ No	Administrative Rule Matters – Discussion and Consideration 1. Adoption Orders a. CR 20-048 – Scheduling synthetic cannabinoids b. CR 20-049 - Scheduling Brexanolone and Solriamfetol c. CR 20-050 - Scheduling cathinones d. CR 20 – 051 - Scheduling Noroxymorphone e. CR 20-022 - scheduling MMB-FUBICA and 4F-MDMB-BINACA f. CR 20-023 - Scheduling Isotonitazene and 1P-LSD 2. Scope Statement related to Scheduling Brorphine 3. Pending or Possible Rulemaking Projects

7) Place Item in:	8) Is an appearance before the Board being scheduled? *(If yes, please complete Appearance Request for Non-DSPS Staff)*	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	

10) Describe the issue and action that should be addressed

State of Wisconsin
Department of Safety & Professional Services

11) Authorization	
Kevyn Radcliffe	May 4, 2021
Signature of person making this request	**Date**
Supervisor (if required)	**Date**
Executive Director signature (indicates approval to add post agenda deadline item to agenda)	**Date**

Directions for including supporting documents:

1. **This form should be attached to any documents submitted to the agenda.**
2. **Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.**
3. **If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.**

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE 20-048)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.66 relating to scheduling of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.14, Stats.

Statutory authority: **s**s. 961.11 (1) and (4), Stats.

Explanation of agency authority:

The controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227. [s. 961.11 (1), Stats.]

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). [s. 961.11 (4), Stats.]

Related statute or rule: s. 961.14, Stats.

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

On December 28, 2018, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register placing 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 into Schedule I of the federal Controlled Substances Act.

Plain language analysis:

The Controlled Substances Board did not receive an objection to treating 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 as schedule I controlled substances under ch. 961, Stats., based upon the federal scheduling. The Controlled Substances Board took affirmative action on February 4, 2019 to similarly treat 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 under chapter 961 effective March 11, 2019 to allow for publication in the Administrative Register. The Affirmative Action Order will expire upon promulgation of a final rule.

This rule creates s. 961.14 (4) (tb) 49. to 53., Stats., which adds 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 to schedule I.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule:

A public hearing on the statement of scope was held on January 10, 2020. No one testified at the hearing, or submitted written comments.

Comparison with rules in adjacent states:

Illinois: Illinois has not scheduled 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144.

Iowa: Iowa has scheduled 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 as Schedule I controlled substances.

Michigan: Michigan has not scheduled 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144.

Minnesota: Minnesota has not scheduled 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144.

Summary of factual data and analytical methodologies:

The methodology was to schedule 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 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:

This rule schedules drugs and does not have an effect on small business.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by November 13, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CSB 2.66 is created to read:

CSB 2.66 Addition of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA, and FUB-144 to schedule I. Section 961.14 (4) (tb) 49., 50., 51., 52., and 53., Stats., is created to read:

961.14 (4) (tb) 49. Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, commonly known as 5F-EDMB-PINACA.
50. Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate, commonly known as 5F-MDMB-PICA.

51. N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide, commonly known as FUB-AKB48, FUB-APINACA or AKB48 N-(4-FLUOROBENZYL).
52. 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide, commonly known as 5F-CUMYL-PINACA or SGT-25.
53. (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, commonly known as FUB-144.

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)

Dated _____ _____

Chair
Controlled Substances Board

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE 20-049)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.67 relating to scheduling of brexanolone and solriamfetol.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.20, Stats.

Statutory authority: **s**s. 961.11 (1) and (4), Stats.

Explanation of agency authority:

The controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227. [s. 961.11 (1), Stats.]

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). [s. 961.11 (4), Stats.]

Related statute or rule: s. 961.20, Stats.

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

On June 17, 2019, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register placing brexanolone and solriamfetol into Schedule IV of the federal Controlled Substances Act.

Plain language analysis:

The Controlled Substances Board did not receive an objection to treating brexanolone and solriamfetol as schedule IV controlled substances under ch. 961, Stats., based upon the federal scheduling. The Controlled Substances Board took affirmative action on July 17, 2019 to similarly treat brexanolone and solriamfetol under chapter 961 effective July 22, 2019 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) (ap) and (2m) (g), Stats. which adds brexanolone and solriamfetol to schedule IV.

Comparison with rules in adjacent states:

Illinois: Illinois has not scheduled brexanolone or solriamfetol.

Iowa: Iowa has scheduled brexanolone and solriamfetol as Schedule IV controlled substances.

Michigan: Michigan has not scheduled brexanolone or solriamfetol.

Minnesota: Minnesota has not scheduled brexanolone or solriamfetol.

Summary of factual data and analytical methodologies:

The methodology was to schedule brexanolone and solriamfetol 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:

This rule schedules drugs and does not have an effect on small business.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by November 13, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CSB 2.67 is created to read:

CSB 2.67 Addition of Brexanolone and Solriamfetol to schedule IV. Section 961.20 (2) (ap) and (2m) (g), Stats., are created to read:

961.20 (2) (ap) Brexanolone.
(2m) (g) Solriamfetol.

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)

Dated _____

_____
Chair
Controlled Substances Board

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE 20-050)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.68 relating to scheduling of N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.14, Stats.

Statutory authority: **s**s. 961.11 (1) and (4), Stats.

Explanation of agency authority:

The controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227. [s. 961.11 (1), Stats.]

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). [s. 961.11 (4), Stats.]

Related statute or rule: s. 961.14, Stats.

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

On July 18, 2019, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register placing N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP into Schedule I of the federal Controlled Substances Act.

Plain language analysis:

The Controlled Substances Board did not receive an objection to treating N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP as a schedule I controlled substance under ch. 961, Stats., based upon the federal scheduling. The Controlled Substances Board took affirmative action on August 12, 2019 to similarly treat N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP under chapter 961 effective August 19, 2019 to allow for publication in the Administrative Register. The Affirmative Action Order will expire upon promulgation of a final rule.

This rule creates s. 961.14 (7) (L) 35. to 40., Stats., which adds N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP to schedule I.

Comparison with rules in adjacent states:

Illinois:
Illinois has not scheduled N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP.

Iowa:
Iowa has scheduled N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP as Schedule I controlled substances.

Michigan:
Michigan has not scheduled N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP.

Minnesota:
Minnesota has scheduled MPHP and PV8 has Schedule I controlled substances. Minnesota has not scheduled N-Ethylhexedrone, a-PHP, 4-MEAP, and 4-chloro-a-PVP.

Summary of factual data and analytical methodologies:

The methodology was to schedule N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP 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:

This rule schedules drugs and does not have an effect on small business.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by November 13, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CSB 2.68 is created to read:

CSB 2.68 Addition of N-Ethylhexedrone, a-PHP, 4-MEAP, MPHP, PV8 and 4-chloro-a-PVP to schedule I. Section 961.14 (7) (L) 35. to 40., Stats., is created to read:

961.14 (7) (L) 35. N-Ethylhexedrone.
36. alpha-pyrrolidinohexanophenone, commonly known as a-PHP.
37. 4-methyl-alpha-ethylaminopentiophenone, commonly known as 4-MEAP.
38. 4'-methyl-alpha-pyrrolidinohexiophenone, commonly known as MPHP.
39. alpha-pyrrolidinoheptaphenone, commonly known as PV8.
40. 4'-chloro-alpha-pyrrolidinovalerophenone, commonly known as 4-chloro-a-PVP.

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)

Date _____ _____

Chair
Controlled Substances Board

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE 20-051)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.69 relating to scheduling of noroxymorphone.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

Statutory authority: **s**s. 961.11 (1) and (4), Stats.

Explanation of agency authority:

The controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227. [s. 961.11 (1), Stats.]

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). [s. 961.11 (4), Stats.]

Related statute or rule: s. 961.16, Stats.

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

On August 16, 2019, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register placing noroxymorphone into Schedule II of the federal Controlled Substances Act.

Plain language analysis:

The Controlled Substances Board did not receive an objection to treating noroxymorphone as a schedule II controlled substance under ch. 961, Stats., based upon the federal scheduling. The Controlled Substances Board took affirmative action on November 4, 2019 to similarly treat noroxymorphone under chapter 961 effective November 11 2019 to allow for publication in the Administrative Register. The Affirmative Action Order will expire upon promulgation of a final rule.

This rule creates s. 961.16 (2) (a) 10m., Stats. which adds noroxymorphone to schedule II.

Comparison with rules in adjacent states:

Illinois: Illinois has not scheduled noroxymorphone.

Iowa: Iowa has not scheduled noroxymorphone.

Michigan: Michigan has not scheduled noroxymorphone.

Minnesota: Minnesota has not scheduled noroxymorphone.

Summary of factual data and analytical methodologies:

The methodology was to schedule noroxymorphone 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:

This rule schedules a drug and does not have an effect on small business.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-261-2377; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by November 13, 2020 to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CSB 2.69 is created to read:

CSB 2.69 Addition of Noroxymorphone to schedule II. Section 961.16 (2) (a)10m., Stats., is created to read:

961.16 (2) (a) 10m. Noroxymorphone.

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)

Dated _____ _____

Chair
Controlled Substances Board

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE 20-022)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.70, relating to scheduling MMB-FUBICA and 4F-MDMB-BINACA.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.14, Stats.

Statutory authority: ss. 961.11 (1) and (4m), Stats.

Explanation of agency authority:

The controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227. (s. 961.11(1), Stats.)

The controlled substances board, by rule and without regard to the requirements of sub. (1m), may schedule a controlled substance analog as a substance in schedule I regardless of whether the substance is substantially similar to a controlled substance in schedule I or II, if the board finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any other schedule or no exemption or approval is in effect for the substance under 21 USC 355. Upon receipt of notice under s. 961.25, the board shall initiate scheduling of the controlled substance analog on an emergency basis under this subsection. The scheduling of a controlled substance analog under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors under sub. (1m) (d), (e) and (f), and may also consider clandestine importation, manufacture or distribution, and, if available, information concerning the other factors under sub. (1m). The board may not promulgate a rule under this subsection until it initiates a rule−making proceeding under subs. (1), (1m), (1r) and (2) with respect to the controlled substance analog. A rule promulgated under this subsection lapses upon the conclusion of the rule−making proceeding initiated under subs. (1), (1m), (1r) and (2) with respect to the substance. (s. 961.11 (4m), Stats.)

Related statute or rule: s. 961.14, Stats.

Plain language analysis:

This rule schedules MMB-FUBICA and 4F-MDMB-BINACA as Schedule I controlled substances.

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

MMB-FUBICA and 4F-MDMB-BINACA are not currently scheduled under the Controlled Substances Act.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A

Comparison with rules in adjacent states:

Illinois: Illinois has not scheduled MMB-FUBICA and 4F-MDMB-BINACA as controlled substances.

Iowa: Iowa has not scheduled MMB-FUBICA and 4F-MDMB-BINACA as controlled substances.

Michigan: Michigan has not scheduled MMB-FUBICA and 4F-MDMB-BINACA as controlled substances.

Minnesota: Minnesota has not scheduled MMB-FUBICA and 4F-MDMB-BINACA as controlled substances.

Summary of factual data and analytical methodologies:

Based upon the Green County District Attorney's request for emergency scheduling and the finding of an imminent hazard to the public safety, the Controlled Substances Board decided to schedule MMB-FUBICA and 4F-MDMB-BINACA. In making the findings of imminent hazard to the public safety, the Controlled Substances Board considered the following factors: the history and current pattern of abuse; the scope, duration and significance of abuse; and the risk to the public health.

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

The rule schedules two synthetic drugs as Schedule I controlled substances which will not have any effect on small business.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

The public hearing on this rule was held on August 18, 2020. No comments were received.

TEXT OF RULE

SECTION 1. CSB 2.70 is created to read:

CSB 2.70 Scheduling 4F-MDMB-BINACA and MMB-FUBICA. Section 961.14 (4) (tb) 38m. and 43m., Stats., are created to read:

961.14 (4) (tb) 38m. Methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate, commonly known as 4F-MDMB-BINACA or 4F-MDMB-BUTINACA.
43m. Methyl 2-(1-(4-fluorobenzyl)-1H-indole-3-carboxamido)-3-methylbutanoate, commonly known as MMB-FUBICA or AMB-FUBICA.

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)

Dated: _____ _____

Chair
Controlled Substances Board

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	ORDER OF THE CONTROLLED SUBSTACES BOARD ADOPTING RULES (CLEARINGHOUSE RULE 20-023)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.72, relating to scheduling isotonitazene and 1P-LSD.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.14, Stats.

Statutory authority: ss. 961.11 (1) and (4m), Stats.

Explanation of agency authority:

The controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227. (s. 961.11(1), Stats.)

The controlled substances board, by rule and without regard to the requirements of sub. (1m), may schedule a controlled substance analog as a substance in schedule I regardless of whether the substance is substantially similar to a controlled substance in schedule I or II, if the board finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any other schedule or no exemption or approval is in effect for the substance under 21 USC 355. Upon receipt of notice under s. 961.25, the board shall initiate scheduling of the controlled substance analog on an emergency basis under this subsection. The scheduling of a controlled substance analog under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors under sub. (1m) (d), (e) and (f), and may also consider clandestine importation, manufacture or distribution, and, if available, information concerning the other factors under sub. (1m). The board may not promulgate a rule under this subsection until it initiates a rule−making proceeding under subs. (1), (1m), (1r) and (2) with respect to the controlled substance analog. A rule promulgated under this subsection lapses upon the conclusion of the rule−making proceeding initiated under subs. (1), (1m), (1r) and (2) with respect to the substance. (s. 961.11 (4m), Stats.)

Related statute or rule: s. 961.14, Stats.

Plain language analysis:

This rule schedules isotonitazene and 1P-LSD as Schedule I controlled substances.

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

Isotonitazene and 1P-LSD are not currently scheduled under the Controlled Substances Act.

Summary of public comments received on statement of scope and a description of how and to what extent those comments and feedback were taken into account in drafting the proposed rule: N/A

Comparison with rules in adjacent states:

Illinois: Illinois has not scheduled isotonitazene or 1P-LSD as controlled substances.

Iowa: Iowa has not scheduled isotonitazene or 1P-LSD as controlled substances.

Michigan: Michigan has not scheduled isotonitazene or 1P-LSD as controlled substances.

Minnesota: Minnesota has not scheduled isotonitazene or 1P-LSD as controlled substances.

Summary of factual data and analytical methodologies:

Based upon the Walworth County District Attorney's request for emergency scheduling, additional information from the Milwaukee Medical Examiner and the finding of an imminent hazard to the public safety, the Controlled Substances Board decided to schedule isotonitazene. Based upon the Calumet County District Attorney's request for emergency scheduling and the finding of an imminent hazard to the public safety, the Controlled Substances Board decided to schedule 1P-LSD. In making the findings of imminent hazard to the public safety, the Controlled Substances Board considered the following factors: the history and current pattern of abuse; the scope, duration and significance of abuse; and the risk to the public health.

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

The rule schedules two synthetic drugs as Schedule I controlled substances which will not have any effect on small business.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis is attached.

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 Daniel.Hereth@wisconsin.gov, or by calling (608) 267-2435.

Agency contact person:

Jon Derenne, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, Wisconsin 53708; telephone 608-266-0955; email at DSPSAdminRules@wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

The public hearing was held on August 18, 2020. No comments were received.

TEXT OF RULE

SECTION 1. CSB 2.72 is created to read:

CSB 2.72 Scheduling of isotonitazene and 1P-LSD. Section 961.14 (2) (pe) and (4) (jm), Stats., are created to read:

961.14 (2) (pe) Isotonitazene.
961.14 (4) (jm) 1-propionyl-lysergic acid diethylamide, commonly known as 1P-LSD.

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)

Dated: _____ _____

Chair
Controlled Substances Board

STATEMENT OF SCOPE

CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 2.81

Relating to: Scheduling brorphine

Rule Type: Permanent

1. Finding/nature of emergency:

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to schedule brorphine as a schedule I controlled substance under s. 961.14 (2) (et), Stats.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

On March 1, 2021, the Department of Justice, Drug Enforcement Administration published its temporary scheduling order in the Federal Register listing brorphine into schedule I of the federal Controlled Substances Act. The scheduling action was effective March 1, 2021.

The Controlled Substances Board did not receive an objection to similarly listing brorphine as a schedule I under ch. 961, Stats. within 30 days of the date of publication in the federal register of the interim final order listing brorphine as a schedule I controlled substance.

Pursuant to s. 961.11 (4), Stats., the Controlled Substances Board took affirmative action to similarly treat brorphine under ch. 961, Stats. by creating the following:

961.14 (2) (et) Brorphine

The Affirmative Action order, dated April 16, 2021, took effect on April 26, 2021 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

4. Detailed explanation of statutory authority for the rule:

Section 961.11 (1), Stats. provides that “[t]he controlled substances board shall administer this subchapter and may add substances to or delete or reschedule all substances listed in the schedules in ss. 961.14, 961.16, 961.18, 961.20 and 961.22 pursuant to the rule-making procedures of ch. 227.”

Section 961.11(4), Stats. provides that “[i]f 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)."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:

Approximately 80 hours.

6. List with description of all entities that may be affected by the proposed rule:

Law enforcement, district attorney offices, Dept of Justice, state courts and the Controlled Substances Board.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

On March 1, 2021, the Department of Justice, Drug Enforcement Administration published its temporary scheduling order in the Federal Register listing brorphine into schedule I of the federal Controlled Substances Act. The scheduling action was effective March 1, 2021.

8. Anticipated economic impact of implementing the rule:

None to minimal.

Contact Person: Kevyn Radcliffe, Administrative Rules Coordinator, (608) 266-0797, DSPSAdminRules@wisconsin.gov

Approved for Publication:

_____

Chairperson

_____

Date Submitted

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and title of person submitting the request:	2) Date when request submitted:
Marjorie Liu, Program Lead, PDMP	05/06/2021 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting

3) Name of Board, Committee, Council, Sections:

Controlled Substances Board

4) Meeting Date:	5) Attachments:	6) How should the item be titled on the agenda page?
05/14/2021	☒ Yes ☐ No	Prescription Drug Monitoring Program (PDMP) Updates – Discussion and Consideration

7) Place Item in:	8) Is an appearance before the Board being scheduled? *(If yes, please complete Appearance Request for Non-DSPS Staff)*	9) Name of Case Advisor(s), if required:
☒ Open Session ☐ Closed Session	☐ Yes ☒ No	

10) Describe the issue and action that should be addressed:

1. WI ePDMP Operations
    a. 2021 Q1 WI ePDMP Report
    b. Recent and Upcoming Releases
    c. Status of Grant Projects: FY 2020 Harold Rogers Prescription Drug Monitoring Program, Medical College of Wisconsin DataShare
    d. Interstate Data Sharing
    e. EHR Integration Status
    f. Proactive Prescribing Metrics Notifications
    g. Interagency Data Sharing: DOJ
2. Gabapentin Reporting
3. Excluding Buprenorphine/Naloxone from Metrics Calculation
4. Updates on Interstate Data Integration projects (VA & Appriss Health; RxCheck & eHealth Exchange)
5. WI ePDMP Outreach

11) Authorization

Marjorie Liu — 5/6/2021

Signature of person making this request — Date

Supervisor (if required) — Date

Executive Director signature (indicates approval to add post agenda deadline item to agenda) — Date

Directions for including supporting documents:
1. This form should be attached to any documents submitted to the agenda.
2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.
3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.

2019-2021 Development and Release Summary

Updated 5.3.2021

Release Date	Description
Pending	
HRG 2020 Component 1 **Release date TBD**	Security Enhancements • Multi-Factor Authentication • Proactive Behavioral Based Alerts • Compromised Email Address Check Patient Report and other User Experience Updates Research and analysis of possible GIS mapping changes
R21 **Estimated for May 2021**	**New Design Enhancements** • **Proactive MC/HCP linkage renewals** • **Search enhancements** **Administrative-Related Enhancements** • **Additional administrator tools**
Completed	
R20 **March 2021**	**WI DOJ-Medical College of Wisconsin DataShare Project** • **Automatically send data extracts to DOJ-MCW** • **Automatically receive data extracts from DOJ-MCW** **Administrative-Related Enhancements** • **Additional improvements to query process** • **Additional administrator tools**
R19 **September 2020**	New Design Enhancements • Enhanced MME calculation process • Ability to set map display defaults Administrative-Related Enhancements • Improvements to query approval process Search Engine Optimization Updates to non-user facing parts of the PDMP to optimize search engine results
R18 **July 2020**	New Design Enhancements • Updated layout and design of Patient Report including alerts and dispensing details, based on user feedback • Opioid naïve alert; history of buprenorphine alert Additional EHR Enhancements • Multi-state default settings Prescriber Metrics Notifications Proactive notice to prescribers to review metrics, based on time and/or prescribing thresholds

R17.1 **April 2020**	Pharmacy-Related Enhancements • Display of Date Sold, if provided in the submission • ASAP file processing improvements
R17 **March 2020**	Pharmacy-Related Enhancements • Improvements to workflow for error corrections/void • Display of Date Sold, if provided in the submission New Design Enhancements • Better access to history of recent Patient Reports for Delegates • Additional data element on overdose alerts entered by law enforcement to capture administration of Naloxone • MME calculator Additional EHR Enhancements • Expanded patient search from within EHR • Expanded navigation from within EHR
R16 **Dec 2019**	Patients Panel Improvements • Additional data fields EHR Enhancements • Additional state query from within the EHR, as contractually allowable (initially RxCheck states only) • Delegate Management ability from within EHR • Ability of Delegates to identify as licensed/unlicensed
Minor Interim Release **Oct 2019**	Patient matching updates • Specific improvement for linking patients based on nicknames
R15.1 **Sept 2019**	Performance-Related Enhancements • Performance improvements for Medical Coordinator role
R15 **Aug 2019**	User Management Enhancements • Annual acceptance of Term and Conditions of the WI ePDMP • Renewal process for Medical Coordinator access to metrics • Periodic review of linked delegates
R14 **April 2019**	RxCheck • Technical tasks to establish connection to RxCheck interstate data sharing hub
R12 and R13 **March 2019**	Data Quality Software Stability Work • Technical tasks to simplify workflows and improve identification/resolution of workflow issues

R11 **February 2019**	DHS Extract • Addition of patient geocode latitude and longitude Quality Assurance and Support Items

RxCheck/EHR	PMPi
In Progress	
Connected	
IL, **MD,** NE**,** PA, UT, WA,	AZ, CO, DE, FL, HI, IA, ID, IN, KS, ME, MI, MN, MT, NC, ND, NM, NV, NY, PR, SC, SD, TN, WV, Military Health System

WI ePDMP Integration Services Summary

Current as of 5.3.2021

Pending Health Systems and EHR Platforms
Advanced Pain Management (In Development)
Advent Health (In Development)
Advent Health - Cerner
Athena (In Discussion)
DrFirst (In Discussion)
Essentia (In Discussion/Contracting)
Marshfield EHR System Change (In Discussion/Contracting)
Prairie Clinic (In Discussion)
Connected Health Systems (approx. 50% of monthly patient queries)
Ascension Wisconsin
Aspirus Health Care
Aurora Health Care
Children's Hospital of Wisconsin
Froedtert & the Medical College of Wisconsin
GHC of South Central Wisconsin
Gundersen Health System
HealthPartners
HSHS / Prevea Health
Marshfield Clinic
Mayo Clinic
Mercy Health
Monroe Clinic
NOVO Health Technology Group
ProHealth Care
SSM Health
Thedacare
UnityPoint
UW Health
Wisconsin Statewide Health Information Network

Proactive Prescribing Metrics Notification				
Notification	1/13/2021	4/1/2021	7/1/2021	10/1/2021
Prescriber Metrics not viewed within last 90 days	19,367 (68% of 28,562 Prescribers)	17,544 (61% of 28,768 Prescribers)		
Prescribing Practice compared to other prescribers within the same specialty (95th Percentile)				
Opioid Prescription Orders	458	469		
Benzodiazepine Prescription Orders	356	366		
Stimulant Prescription Orders	355	334		
Opioid & Benzodiazepine	147	152		
Opioid & Stimulant	30	28		
Benzodiazepine & Stimulant	113	114		
Opioid, Benzodiazepine & Stimulant	91	90		

2021 WI PDMP Outreach Calendar

MONTH	EVENT	DESCRIPTION	DATES	NOTES
January				
February				
March				
April	Rx Drug Abuse & Heroin Summit	Panelist, PDMP & Patient Privacy	4/6/2021	Virtual Conference
	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative	4/29/2021	Quarterly Meeting. Inter-agency advisory group for OFR local sites.
May	Law Enforcement Outreach	Self-Paced PDMP Training -- Lake Delton & Fox Point Police Department		Voice-over & Animated Power Point Slides
June	PDMP Roundtable	Advocate Aurora (Kenosha)	6/9/2021	
July				
August				
September				
October				
November				
December				