Wisconsin Department of Safety and Professional Services
Division of Policy Development
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Tony Evers, Governor
Dan Hereth, Secretary

VIRTUAL/TELECONFERENCE
CONTROLLED SUBSTANCES BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
May 12, 2023

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 March 10, 2023 (4-5)

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
   a. Alton, Troy – Dentistry Examining Board Representative
   b. Barman, Subhadeep – 5/1/2019
   c. Bellay, Yvonne – DATCP Representative
   d. Bloom, Alan – 5/1/2020
   e. Englebert, Doug – DHS Representative
   f. Koresch, Sandy – AAG Representative
   g. Weinman, Robert – Board of Nursing Representative
   h. Weitekamp, John – Pharmacy Examining Board Representative
   i. Yerby, Lemuel – Medical Examining Board Representative
3) Alternates
   a. Bistan, Matthew – Dentistry Examining Board Representative
   b. Ferguson, Kris – Medical Examining Board Representative
   c. McFarland, Rosalyn – Board of Nursing Representative
   d. Parish, Michael – Medical Examining Board Representative
   e. Wasserman, Sheldon – Medical Examining Board Representative
   f. Zentz, Emily – Board of Nursing Representative

F. Administrative Rule Matters – Discussion and Consideration (6)
1) Adoption Order:
   a. CSB 2.78, Relating to Scheduling Crotonyl Fentanyl **(7-9)**
   b. CSB 2.79, Relating to Scheduling Remimazolam **(10-12)**

c. CSB 2.81, Relating to Scheduling Brorphine **(13-15)**
d. CSB 2.82, Relating to Scheduling Serdexmethylphenidate **(16-18)**
e. CSB 2.83, Relating to Scheduling 10 Fentanyl Related Substances **(19-22)**
f. CSB 2.84, Relating to Scheduling Alfaxalone **(23-25)**
g. CSB 2.85, Relating to Excluding 6-beta-naltrexol **(26-29)**
h. CSB 2.86, Relating to Scheduling Fospropofol **(30-32)**
i. CSB 2.87, Relating to Scheduling Embutramide **(33-35)**
j. CSB 2.88, Relating to Scheduling Lacosamide **(36-38)**
k. CSB 2.89, Relating to Scheduling Perampanel **(39-41)**
l. CSB 2.90, Relating to Transferring 1-phenycyclohexylamine and 1-piperidinoocyclohexanecarbonitrile, Immediate Precursors to Phencyclidine, Also Known as PCP **(42-45)**
m. CSB 2.91, Relating to Scheduling 4,4'-Dimethylaminorex **(46-48)**

2) Scope Statements
a. CSB 2.96, Relating to Scheduling Amineptine **(49-50)**
b. CSB 2.97, Relating to Scheduling Zipeprol **(51-52)**
c. CSB 2.98, Relating to Excluding [18 F] FP-CIT **(53-54)**
d. CSB 2.99, Relating to Scheduling Mesocarb **(55-56)**
e. CSB 4, Relating to Monitored Prescription Drug History Reports **(57)**

3) Pending and Possible Rulemaking Projects
a. Rule Projects Chart **(58-60)**

G. Prescription Drug Monitoring Program (PDMP) Updates – Discussion and Consideration (61)

1) WI ePDMP Operations
a. CSB PDMP Report Q1 2023
b. Recent and Upcoming Releases **(62-63)**
c. Status of Grant Projects:
a. FY 2020 Harold Rogers Prescription Drug Monitoring Program
b. FY 2021 Harold Rogers Prescription Drug Monitoring Program
a. EHR Integration Status **(64-66)**
c. FY 2022 Harold Rogers Prescription Drug Monitoring Program

2) WI ePDMP Outreach **(67)**

H. Board Member Reports – Discussion and Consideration

1) Medical Examining Board
2) Dentistry Examining Board
3) Board of Nursing
4) Pharmacy Examining Board

I. Liaison Reports

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

K. Deliberation on Special Use Authorizations – Discussion and Consideration

L. 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) Public Health Emergencies
14) Appearances from Requests Received or Renewed
15) Speaking Engagements, Travel, or Public Relations Requests, and Reports
16) Consulting with Legal Counsel

M. 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.).

N. Deliberation on Special Use Authorizations – Discussion and Consideration

O. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT MEETING: JULY 14, 2023

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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 virtually unless otherwise indicated. In-person meetings are typically conducted at 4822 Madison Yards Way, Madison, Wisconsin, unless an alternative location is listed on the meeting notice. In order to confirm a meeting or to request a complete copy of the board's agenda, please visit the Department website at https:\\dsps.wi.gov. 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 hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer, or the Meeting Staff at 608-267-7213.

VIRTUAL/TELECONFERENCE
CONTROLLED SUBSTANCES BOARD
MEETING MINUTES
MARCH 10, 2023

PRESENT: Troy Alton, Subhadeep Barman, Yvonne Bellay, Alan Bloom, Doug Englebert, Sandy Koresch, Robert Weinman, John Weitekamp, Lemuel Yerby

STAFF: Tom Ryan, Executive Director; Whitney DeVoe, Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Katlin Schwartz, Bureau Assistant; and other DSPS Staff

CALL TO ORDER

Doug Englebert, Chairperson, called the meeting to order at 9:32 a.m. A quorum was confirmed with nine (9) members present.

ADOPTION OF AGENDA

MOTION: John Weitekamp moved, seconded by Subhadeep Barman, to adopt the Agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF JANUARY 13, 2023

MOTION: Troy Alton moved, seconded by Subhadeep Barman, to adopt the Minutes of January 13, 2023 as published. Motion carried unanimously.

LEGISLATURE AGENDA REQUEST: STATUS OF KRATOM

MOTION: Alan Bloom moved, seconded by Troy Alton, that under the eight-factor analysis in Wis. Stats. §961.11(1m), the Board concludes that kratom does not meet all the criteria for scheduling under the eight-factor analysis. Motion carried.
Roll Call Vote: Troy Alton-yes, Subhadeep Barman-no, Yvonne Bellay-yes, Alan Bloom-yes, Doug Englebert-yes, Sandy Koresch-yes, Robert Weinman-yes, John Weitekamp-yes, Lemuel Yerby-no.

MOTION: Lemuel Yerby moved, seconded by Troy Alton, although the Board voted that all eight factors were not met the Board's investigation raised significant concerns on some factors therefore the Board does not recommend any action to de-schedule kratom (mitragynine and 7-hydroxymitra-gynine (7-HMG). Motion carried.

MOTION: Alan Bloom moved, seconded by Yvonne Bellay, to delegate the Chairperson to approve any letters to the Legislature relating to Kratom findings. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Review of Draft Biennial Report under S. 227.29, Wis. Stats

MOTION: Yvonne Bellay moved, seconded by John Weitekamp, to designate the Chairperson to serve as liaison to DSPS staff for drafting a report pursuant to Wis. Stat. 227.29 for submission in 2023, relating to administrative rules, and to authorize the Chairperson to approve the report for submission to the Joint Committee for Review of Administrative Rules. Motion carried unanimously.

Possible Affirmative Action Order: Excluding Fenfluramine from Schedule IV

MOTION: Sandy Koresch moved, seconded by Alan Bloom, to exclude by affirmative action Fenfluramine as a schedule IV controlled substance. The order shall take effect upon publication in the Administrative Register. Motion carried unanimously.

Possible Rulemaking Project for CSB 4

MOTION: Robert Weinman moved, seconded by Sandy Koresch, to request DSPS staff draft a Scope Statement revising CSB 4, relating to Monitored Prescription Drug History Reports. Motion carried unanimously.

REPORT FROM THE REFERRAL CRITERIA WORK GROUP

MOTION: John Weitekamp moved, seconded by Troy Alton, to accept the recommendations of the Referral Criteria Work Group and refer the specified providers to the appropriate examining boards for further proceedings. Motion carried unanimously.

ADJOURNMENT

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

The meeting adjourned at 11:13 a.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:
Nilajah Hardin **Administrative Rules Coordinator**	**05/01/23** **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?
05/12/23	☒ Yes ☐ No	**Administrative Rule Matters – Discussion and Consideration** **1. Adoption Order:** **a. CSB 2.78, Relating to Scheduling Crotonyl Fentanyl** **b. CSB 2.79, Relating to Scheduling Remimazolam** **c. CSB 2.81, Relating to Scheduling Brorphine** **d. CSB 2.82, Relating to Scheduling Serdexmethylphenidate** **e. CSB 2.83, Relating to Scheduling 10 Fentanyl Related Substances** **f. CSB 2.84, Relating to Scheduling Alfaxalone** **g. CSB 2.85, Relating to Excluding 6-beta-naltrexol** **h. CSB 2.86, Relating to Scheduling Fospropofol** **i. CSB 2.87, Relating to Scheduling Embutramide** **j. CSB 2.88, Relating to Scheduling Lacosamide** **k. CSB 2.89, Relating to Scheduling Perampanel** **l. CSB 2.90, Relating to Transferring 1-phenycyclohexylamine and 1-piperidinoocyclohexanecarbonitrile, Immediate Precursors to Phencyclidine, Also Known as PCP** **m. CSB 2.91, Relating to Scheduling 4,4'-Dimethylaminorex** **2. Scope Statement:** **a. CSB 2.96, Relating to Scheduling Amineptine** **b. CSB 2.97, Relating to Scheduling Zipeprol** **c. CSB 2.98, Relating to Excluding [^{18} F] FP-CIT** **d. CSB 2.99, Relating to Scheduling Mesocarb** **e. CSB 4, Relating to Monitored Prescription Drug History Reports** **3. Pending or Possible Rulemaking Projects** **a. Rule Projects Chart**

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	**N/A**

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

Attachments:

- Adoption Orders – CSB 2.78-2.79 and 2.81-2.91
- Scope Statements – CSB 2.95-2.99, CSB 4
- Rule Projects Chart

(All Board Rule Projects can be Viewed Here if Needed: https://dsps.wi.gov/Pages/RulesStatutes/PendingRules.aspx)

11) Authorization

Nilajah D. Hardin — 02/27/23

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.

Revised 03/2021

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 22-011)

ORDER

An order of the Controlled Substances Board to create CSB 2.78 relating to scheduling Crotonyl Fentanyl.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule schedules Crotonyl Fentanyl as a Schedule I controlled substance.

The Controlled Substances Board did not receive an objection to similarly treat Crotonyl Fentanyl as a Schedule I controlled substance under ch. 961, Stats. within 30 days of the date of publication in the Federal Register of the final order designating Crotonyl Fentanyl as a controlled substance.

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

961.14 (2) (nd) 9m. Crotonyl Fentanyl ((E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide).

The Affirmative Action order, dated November 13, 2020, took effect on November 23, 2020 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On October 2, 2020, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Crotonyl Fentanyl into schedule I of the federal Controlled Substances Act. The scheduling action was effective October 2, 2020.

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 Crotonyl Fentanyl as a controlled substance.

Iowa: Iowa has not scheduled Crotonyl Fentanyl as a controlled substance.

Michigan: Michigan has not scheduled Crotonyl Fentanyl as a controlled substance.

Minnesota: Minnesota has not scheduled Crotonyl Fentanyl as a controlled substance.

Summary of factual data and analytical methodologies:
The methodology was to schedule Crotonyl Fentanyl 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.78 is created to read:

CSB 2.78 Scheduling of Crotonyl Fentanyl. Section 961.14 (2) (nd) 9m, Stats., is created to read:

961.14 (2) (nd) 9m. Crotonyl Fentanyl ((E)-N-(1-phenethylpiperidin-4-yl)-N-phenylbut-2-enamide).

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 _____ Agency _____

Chairperson
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 22-014)

ORDER

An order of the Controlled Substances Board to create CSB 2.79 relating to scheduling Remimazolam.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule schedules Remimazolam as a Schedule IV controlled substance.

The Controlled Substances Board did not receive an objection to similarly treat Remimazolam as a Schedule IV controlled substance under ch. 961, Stats. within 30 days of the date of publication in the Federal Register of the final order designating Remimazolam as a controlled substance.

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

961.20 (2) (mo) Remimazolam.

The Affirmative Action order, dated November 13, 2020, took effect on November 23, 2020 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On October 6, 2020, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Remimazolam into schedule IV of the federal Controlled Substances Act. The scheduling action was effective October 6, 2020.

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 Remimazolam as a controlled substance.

Iowa: Iowa temporarily designated Remimazolam as a Schedule IV controlled substance, via their temporary amendment process, effective May 12, 2021 (ARC 5541C - Iowa Administrative Rules).

Michigan: Michigan has not scheduled Remimazolam as a controlled substance.

Minnesota: Minnesota has not scheduled Remimazolam as a controlled substance.

Summary of factual data and analytical methodologies:
The methodology was to schedule Remimazolam 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.79 is created to read:

CSB 2.79 Scheduling of Remimazolam. Section 961.20 (2) (mo), Stats., is created to read:

961.20 (2) (mo) Remimazolam.

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 _____ Agency _____

Chairperson
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 22-016)

ORDER

An order of the Controlled Substances Board to create CSB 2.81 relating to scheduling Brorphine.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule schedules Brorphine as a Schedule I controlled substance.

The Controlled Substances Board did not receive an objection to similarly treat Brorphine as a Schedule I controlled substance under ch. 961, Stats. within 30 days of the date of publication in the Federal Register of the final order designating Brorphine as a 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 May 3, 2021 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On March 1, 2021, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Brorphine into schedule I of the federal Controlled Substances Act. The scheduling action was effective March 1, 2021.

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 Brorphine as a controlled substance.

Iowa: Iowa has not scheduled Brorphine as a controlled substance.

Michigan: Michigan has listed Brorphine as a Schedule I controlled substance [Michigan Administrative Code R 338.3111 (3) (f)].

Minnesota: Minnesota has not scheduled Brorphine as a controlled substance.

Summary of factual data and analytical methodologies:
The methodology was to schedule Brorphine 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.81 is created to read:

CSB 2.81 Scheduling of Brorphine. 961.14 (2) (et), Stats., is created to read:

961.14 (2) (et) Brorphine.

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 _____ Agency _____

Chairperson
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 22-032)

ORDER

An order of the Controlled Substances Board to create CSB 2.82, relating to scheduling Serdexmethylphenidate.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule schedules Serdexmethylphenidate as a Schedule IV controlled substance.

The Controlled Substances Board did not receive an objection to similarly treat Serdexmethylphenidate as a Schedule IV controlled substance under ch. 961, Stats. within 30 days of the date of publication in the Federal Register of the final order designating Serdexmethylphenidate as a controlled substance.

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

961.20 (2m) (em) Serdexmethylphenidate.

The Affirmative Action order, dated June 28, 2021, took effect on July 12, 2021 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On May 7, 2021, the Department of Justice, Drug Enforcement Administration published its interim final rule in the Federal Register listing Serdexmethylphenidate into schedule IV of the federal Controlled Substances Act. The scheduling action is effective May 7, 2021.

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 Serdexmethylphenidate as a controlled substance.

Iowa: Iowa has not scheduled Serdexmethylphenidate as a controlled substance.

Michigan: Michigan has not scheduled Serdexmethylphenidate as a controlled substance.

Minnesota: Minnesota has not scheduled Serdexmethylphenidate as a controlled substance.

Summary of factual data and analytical methodologies:
The methodology was to schedule Serdexmethylphenidate 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.82 is created to read:

CSB 2.82 Addition of Serdexmethylphenidate to Schedule IV. 961.20 (2m) (em), Stats., is created to read:

961.20 (2m) (em) Serdexmethylphenidate.

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 _____ Agency _____

Chairperson
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 22-033)

ORDER

An order of the Controlled Substances Board to create CSB 2.83 relating to scheduling ten (10) fentanyl related substances.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
The objective of the rule is to schedule ten (10) Fentanyl related substances as a schedule I controlled substances.

The Controlled Substances Board did not receive an objection to similarly treating the ten (10) Fentanyl-related substances listed in schedule I under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order designating the ten (10) Fentanyl-related substances listed below as controlled substances.

Pursuant to s. 961.11 (4), Stats., the Controlled Substances Board took affirmative action to similarly treat the ten (10) Fentanyl-related substances listed below under ch. 961, Stats. by creating the following:

***CSB 2.83 Addition of ten (10) Fentanyl-related substances to schedule I**. Section 961.14 (2) (nd) 21., 22., 23., 24., 25., 26., 27., 28., 29., and 30., Stats., is created to read:*

961.14 (2) (nd)

21. *N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)propionamide (2'-fluoro ortho-fluorofentanyl; 2'-fluoro 2-fluorofentanyl);*
22. *N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide (4'-methyl acetyl fentanyl);*
23. *N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide (β'-phenyl fentanyl; beta'-Phenyl fentanyl; 3-phenylpropanoyl fentanyl);*
24. *N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide (β-methyl fentanyl);*
25. *N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl);*
26. *N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl);*
27. *2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl fentanyl);*
28. *N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (para-methylfentanyl; 4-methylfentanyl);*
29. *N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide (phenyl fentanyl; benzoyl fentanyl); and*
30. *N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide (thiofuranyl fentanyl; 2-thiofuranyl fentanyl; thiophene fentanyl).*

The Affirmative Action order, dated July 9, 2021, took effect on July 19, 2021 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On April 27, 2021, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register placing ten Fentanyl-related substances into schedule I of the federal Controlled Substances Act. The scheduling action is effective immediately.

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 the 10 fentanyl related substances listed above as controlled substances.

Iowa: Iowa has not scheduled the 10 fentanyl related substances listed above as controlled substances.

Michigan: Michigan has not scheduled the 10 fentanyl related substances listed above as controlled substances.

Minnesota: Minnesota has not scheduled the 10 fentanyl related substances listed above as controlled substances.

Summary of factual data and analytical methodologies:
The methodology was to schedule the 10 fentanyl related substances listed above 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.83 is created to read:

CSB 2.83 Addition of ten (10) Fentanyl-related substances to schedule I. Section 961.14 (2) (nd) 21., 22., 23., 24., 25., 26., 27., 28., 29., and 30., Stats., is created to read:

961.14 (2) (nd)

21. N-(1-(2-fluorophenethyl)piperidin-4-yl)-N-(2-fluorophenyl)propionamide (2'-fluoro ortho-fluorofentanyl; 2'-fluoro 2-fluorofentanyl);
22. N-(1-(4-methylphenethyl)piperidin-4-yl)-N-phenylacetamide (4'-methyl acetyl fentanyl);
23. N-(1-phenethylpiperidin-4-yl)-N,3-diphenylpropanamide (β'-phenyl fentanyl; beta'-Phenyl fentanyl; 3-phenylpropanoyl fentanyl);
24. N-phenyl-N-(1-(2-phenylpropyl)piperidin-4-yl)propionamide (β-methyl fentanyl);
25. N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl);
26. N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl);
27. 2-methoxy-N-(2-methylphenyl)-N-(1-phenethylpiperidin-4-yl)acetamide (ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl fentanyl);
28. N-(4-methylphenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (para-methylfentanyl; 4-methylfentanyl);
29. N-(1-phenethylpiperidin-4-yl)-N-phenylbenzamide (phenyl fentanyl; benzoyl fentanyl); and
30. N-(1-phenethylpiperidin-4-yl)-N-phenylthiophene-2-carboxamide (thiofuranyl fentanyl; 2-thiofuranyl fentanyl; thiophene fentanyl).

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 _____ Agency _____

Chairperson
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 22-034)

ORDER

An order of the Controlled Substances Board to create CSB 2.84 relating to scheduling Alfaxalone.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule schedules Alfaxalone as a Schedule IV controlled substance. The Controlled Substances Board did not receive an objection to similarly treat Alfaxalone as a Schedule IV controlled substance under ch. 961, Stats. within 30 days of the date of publication in the Federal Register of the final order designating Alfaxalone as a controlled substance. Pursuant to s. 961.11 (4), Stats., the Controlled Substances Board took affirmative action to similarly treat Alfaxalone under ch. 961, Stats. by creating the following:

> ***CSB 2.84 Addition of Alfaxalone to schedule IV***. *Section 961.20 (2) (a), Stats., is renumbered 961.20 (2) (af), Stats.*
>
> *Section 961.20 (2) (ab), Stats. is created to read:*
>
> *961.20 (2) (ab) Alfaxalone*

The Affirmative Action order, dated July 9, 2021, took effect on July 19, 2021 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On February 27, 2014, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Alfaxalone into schedule IV of the federal Controlled Substances Act. The scheduling action is effective March 31, 2014.

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 Alfaxalone as a controlled substance.

Iowa: Iowa has listed Alfaxalone as a schedule IV controlled substance [Iowa Administrative Code s. 124.210 (3) (bb)].

Michigan: Michigan has not scheduled Alfaxalone as a controlled substance.

Minnesota: Minnesota has listed Alfaxalone as a schedule IV controlled substance [Minnesota State Statutes s. 152.02 (5) (c) (1)].

Summary of factual data and analytical methodologies:

The methodology was to schedule Alfaxalone 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.84 is created to read:

CSB 2.84 Addition of Alfaxalone to schedule IV. Section 961.20 (2) (a), Stats., is renumbered to 961.20 (2) (af), Stats.

Section 961.20 (2) (ab), Stats. is created to read:

961.20 (2) (ab) Alfaxalone.

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 _____ Agency _____

Chairperson
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 22-035)

ORDER

An order of the Controlled Substances Board to create CSB 2.85 relating to Excluding 6-beta-Naltrexol.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule excludes 6-beta-Naltrexol from schedule II.

The Controlled Substances Board did not receive an objection to similarly removing 6-beta-Naltrexol as a schedule II controlled substance under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order removing 6-beta-Naltrexol as a schedule II controlled substance.

Pursuant to s. 961.11 (4), Stats., the Controlled Substances Board took affirmative action to similarly treat 6-beta-Naltrexol under ch. 961, Stats. by creating the following:

CSB 2.85 Excluding 6-beta-Naltrexol from schedule II*. Section 961.16 (2) (a), Stats., is amended to read:*

961.16 (2) (a) *Opium and substances derived from opium, and any salt, compound, derivative or preparation of opium or substances derived from opium. Apomorphine, dextrorphan, nalbuphine, butorphanol, naldemedine, nalmefene, naloxegol, naloxone, 6-beta-naltrexol, and naltrexone and their respective salts and the isoquinoline alkaloids of opium and their respective salts are excluded from this paragraph. The following substances, and any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation, are included in this paragraph:*

The Affirmative Action order, dated July 9, 2021, took effect on July 19, 2021 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On January 24, 2020, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register removing 6-beta-Naltrexol from schedule II of the federal Controlled Substances Act. The scheduling action is effective January 24, 2020.

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 excluded 6-beta-naltrexol from their schedule II controlled substances list.

Iowa: Iowa has excluded 6-beta-naltrexol from their schedule II controlled substances list [Iowa Administrative Code s. 124.206 (2) (a)].

Michigan: Michigan has not excluded 6-beta-naltrexol from their schedule II controlled substances list.

Minnesota: Minnesota has not excluded 6-beta-naltrexol from their schedule II controlled substances list.

Summary of factual data and analytical methodologies:
This rule excludes 6-beta-Naltrexol from schedule II 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.85 is created to read:

CSB 2.85 Excluding 6-beta-Naltrexol from schedule II. Section 961.16 (2) (a), Stats., is amended to read:

961.16 (2) (a) Opium and substances derived from opium, and any salt, compound, derivative or preparation of opium or substances derived from opium. Apomorphine, dextrorphan, nalbuphine, butorphanol, naldemedine, nalmefene, naloxegol, naloxone, 6-beta-naltrexol, and naltrexone and their respective salts and the isoquinoline alkaloids of opium and their respective salts are excluded from this paragraph. The following

substances, and any of their salts, isomers and salts of isomers that are theoretically possible within the specific chemical designation, are included in this paragraph:

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 _____ Agency _____

Chairperson
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 22-036)

ORDER

An order of the Controlled Substances Board to create CSB 2.86 relating to scheduling Fospropofol.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule schedules Fospropofol as a Schedule IV controlled substance.

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

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

CSB 2.86 Addition of Fospropofol to schedule IV*. Section 961.20 (2) (en), Stats., is created to read:*

961.20 (2) (en) Fospropofol.

The Affirmative Action order, dated July 9, 2021, took effect on July 19, 2021 to allow for publication in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On October 6, 2009, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Fospropofol into schedule IV of the federal Controlled Substances Act. The scheduling action is effective November 5, 2009.

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 listed Fospropofol a schedule IV controlled substance [720 Illinois Compiled Statutes 570/210 (c) (11.1)].

Iowa: Iowa has listed Fospropofol a schedule IV controlled substance [Iowa Administrative Code 124.210 (3) (ba)].

Michigan: Michigan has not scheduled Fospropofol as a controlled substance.

Minnesota: Minnesota has listed Fospropofol a schedule IV controlled substance [Minnesota Statutes 152.02 (5) (c) (24)].

Summary of factual data and analytical methodologies:
The methodology was to schedule Fospropofol 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.86 is created to read:

CSB 2.86 Addition of Fospropofol to schedule IV. Section 961.20 (2) (en), Stats., is created to read:

961.20 (2) (en) Fospropofol.

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 _____ Agency _____

Chairperson
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 22-037)

ORDER

An order of the Controlled Substances Board to create CSB 2.87 relating to scheduling Embutramide.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule schedules Embutramide as a Schedule III controlled substance.

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

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats Embutramide under chapter 961, Stats. by creating the following:

CSB 2.87 Addition of Embutramide to schedule III*. Section 961.18 (3) (bm), Stats., is created to read:*

961.18 (3) (bm) Embutramide.

The Affirmative Action order, dated July 9, 2021, took effect on July 19, 2021, when it was published in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On August 29, 2006, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Embutramide into schedule III of the federal Controlled Substances Act. The scheduling action is effective September 28, 2006.

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 Embutramide as a controlled substance.

Iowa: Iowa has listed Embutramide as a schedule III controlled substance [Iowa Administrative Code 124.208 (3) (n)].

Michigan: Michigan has not scheduled Embutramide as a controlled substance.

Minnesota: Minnesota has listed Embutramide as a schedule III controlled substance [Minnesota Statutes 152.02 (4) (c) (5) (x)].

Summary of factual data and analytical methodologies:
The methodology was to schedule Embutramide 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.87 is created to read:

CSB 2.87 Addition of Embutramide to schedule III. Section 961.18 (3) (bm), Stats., is created to read:

961.18 (3) (bm) Embutramide.

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 _____ Agency _____

Chairperson
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 22-039)

ORDER

An order of the Controlled Substances Board to create CSB 2.88 relating to scheduling Lacosamide.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
On May 21, 2009, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Lacosamide into schedule V of the federal Controlled Substances Act. The scheduling action is effective June 22, 2009. The Controlled Substances Board did not receive an objection to similarly listing Lacosamide as a schedule V under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order listing Lacosamide as a schedule V controlled substance.

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats Lacosamide under chapter 961, Stats. by creating the following:

CSB 2.88 Addition of Lacosamide to schedule V*. Section 961.22 (10), Stats., is created to read:*

961.22 (10) Lacosamide.

The Affirmative Action order, dated July 9, 2021, took effect on July 19, 2021, when it was published in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On May 21, 2009, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Lacosamide into schedule V of the federal Controlled Substances Act. The scheduling action is effective June 22, 2009.

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 listed Lacosamide as a schedule V as a controlled substance [720 Illinois Compiled Statutes 570/212 (c-1)].

Iowa: Iowa has listed Lacosamide as a schedule V as a controlled substance [Iowa Administrative Code 124.212 (5) (b)].

Michigan: Michigan has not scheduled Lacosamide as a controlled substance.

Minnesota: Minnesota has listed Lacosamide as a schedule V as a controlled substance [Minnesota Statutes 152.02 (6) (3) (iii)].

Summary of factual data and analytical methodologies:
The methodology was to schedule Lacosamide 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.88 is created to read:

CSB 2.88 Addition of Lacosamide to schedule V. Section 961.22 (10), Stats., is created to read:

961.22 (10) Lacosamide.

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 _____ Agency _____

Chairperson
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 22-038)

ORDER

An order of the Controlled Substances Board to create CSB 2.89 relating to scheduling Perampanel.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule schedules Perampanel as a Schedule III controlled substance.

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

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats Perampanel under chapter 961, Stats. by creating the following:

CSB 2.89 Addition of Perampanel to schedule III*. Section 961.18 (3) (fm), Stats., is created to read:*

961.18 (3) (fm) Perampanel.

The Affirmative Action order, dated July 9, 2021, took effect on July 19, 2021, when it was published in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On December 2, 2013, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Perampanel into schedule III of the federal Controlled Substances Act. The scheduling action is effective January 2, 2014.

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 Perampanel as a controlled substance.

Iowa: Iowa has listed Perampanel as a schedule III controlled substance [Iowa Administrative Code 124.208 (3) (o)].

Michigan: Michigan has not scheduled Perampanel as a controlled substance.

Minnesota: Minnesota has listed Perampanel as schedule III controlled substance [Minnesota Statutes 152.02 (4) (c) (5) (xi)].

Summary of factual data and analytical methodologies:
The methodology was to schedule Perampanel 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.89 is created to read:

CSB 2.89 Addition of Perampanel to schedule III. Section 961.18 (3) (fm), Stats., is created to read:

961.18 (3) (fm) Perampanel.

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 _____ Agency _____

Chairperson
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 22-040)

ORDER

An order of the Controlled Substances Board to create CSB 2.90, relating to transferring 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.16, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.16, Stats.

Plain language analysis:
This rule transfers 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP, from schedule I to schedule II of the chapter 961, stats.

The Controlled Substances Board did not receive an objection to similarly listing 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP, as schedule II controlled substances under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order listing 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP, as a schedule II controlled substances.

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP, under chapter 961, Stats. by repealing s. 961.14 (6) and creating the following:

CSB 2.90 Transfer of 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP, from Schedule I to schedule II*. Section 961.16 (8) (c), Stats. is created to read:*

961.16 (8) (c) *Immediate precursors to phencyclidine, also known as PCP:*
1. *1-phenylcyclohexylamine.*
2. *1-piperidinocyclohexanecarbonitrile.*

The Affirmative Action order, dated July 9, 2021, took effect on July 19, 2021, when it was published in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On May 17, 1978, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP, into schedule II of the federal Controlled Substances Act. The scheduling action was effective June 16, 1978.

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 listed 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile as schedule II controlled substances [720 Illinois Compiled Statutes 520/206 (f) (2)].

Iowa: Iowa has listed 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile as schedule II controlled substances [Iowa Administrative Code 124.206 (6) (b)].

Michigan: Michigan has not scheduled 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile as controlled substances.

Minnesota: Minnesota has listed 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile as schedule II controlled substances [Minnesota Statutes 152.02 (3) (e) (6)].

Summary of factual data and analytical methodologies:
The methodology was to transfer 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP, from schedule I to schedule II 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. s. 961.14 (6), Stats. is repealed.

SECTION 2. CSB 2.90 is created to read:

CSB 2.90 Transfer of 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile, immediate precursors to phencyclidine, also known as PCP, from Schedule I to schedule II. Section 961.16 (8) (c), Stats. is created to read:

961.16 (8) (c) Immediate precursors to phencyclidine, also known as PCP:
1. 1-phenylcyclohexylamine.
2. 1-piperidinocyclohexanecarbonitrile.

SECTION 3. 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 _____ Agency _____

Chairperson
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 22-054)

ORDER

An order of the Controlled Substances Board to create CSB 2.91 relating to 4,4'-Dimethylaminorex.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.14, Stats.

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

Explanation of agency authority:
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)."

Related statute or rule: s. 961.14, Stats.

Plain language analysis:
This rule schedules 4,4'-Dimethylaminorex as a schedule I controlled substance.

The Controlled Substances Board did not receive an objection to similarly listing 4,4'-Dimethylaminorex as a schedule I under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order listing 4,4'-Dimethylaminorex as a schedule I controlled substance.

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats 4,4'-Dimethylaminorex under chapter 961, Stats. by creating the following:

CSB 2.91 Addition of 4,4'-Dimethylaminorex to schedule I. Section 961.14 (7) (cm), Stats., is created to read: 961.14 (7) (cm) *4,4'-Dimethylaminorex.*

The Affirmative Action order, dated September 16, 2021, took effect on September 27, 2021, when it was published in the Administrative Register and expires upon promulgation of a final rule.

Summary of, and comparison with, existing or proposed federal regulation:
On August 12, 2021, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing 4,4'-Dimethylaminorex into schedule I of the federal Controlled Substances Act. The scheduling action is effective September 13, 2021.

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 4,4'-Dimethylaminorex as a controlled substance.

Iowa: Iowa has not scheduled 4,4'-Dimethylaminorex as a controlled substance.

Michigan: Michigan has not scheduled 4,4'-Dimethylaminorex as a controlled substance.

Minnesota: Minnesota has not scheduled 4,4'-Dimethylaminorex as a controlled substance.

Summary of factual data and analytical methodologies:
The methodology was to schedule 4,4'-Dimethylaminorex 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 report:
The proposed rules were posted for a period of 14 days to solicit public comment on economic impact, including how the proposed rules may affect businesses, local government units, and individuals. No comments were received.

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 Jennifer.Garrett@wisconsin.gov, or by calling (608) 266-6795.

Agency contact person:
Nilajah Hardin, 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 608-267-7139; email at DSPSAdminRules@wisconsin.gov.

TEXT OF RULE

SECTION 1. CSB 2.91 is created to read:

CSB 2.91 Addition of 4,4'-Dimethylaminorex to schedule I. Section 961.14 (7) (cm), Stats., is created to read:

961.14 (7) (cm) 4,4'-Dimethylaminorex.

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 _____ Agency _____

Chairperson
Controlled Substances Board

STATEMENT OF SCOPE

CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 2.96

Relating to: Scheduling Amineptine

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 Amineptine as a schedule I controlled substance under s. 961.11 (4), 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 November 17, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Amineptine into schedule I of the federal Controlled Substances Act. The scheduling action was effective December 19, 2022.

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

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats Amineptine under chapter 961, Stats. by creating the following:

CSB 2.96 Addition of Amineptine to schedule I. Section 961.14 (7) (r), Stats., is created to read:

> **961.14 (7) (r)** 7-[(10,11-dihydro-5H-dibenzo[a,d]cyclohepten-5-yl)amino]heptanoic acid, commonly known as Amineptine.

The Affirmative Action order, dated February 24, 2023, took effect on March 6, 2023, upon 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 November 17, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Amineptine into schedule I of the federal Controlled Substances Act. The scheduling action was effective December 19, 2022.

8. Anticipated economic impact of implementing the rule: None to minimal.

Contact Person: Nilajah Hardin, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov

Approved for publication:	Approved for implementation:
_____	_____
Authorized Signature	Authorized Signature
_____	_____
Date Submitted	Date Submitted

STATEMENT OF SCOPE

CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 2.97

Relating to: Scheduling Zipeprol

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 Zipeprol as a schedule I controlled substance under s. 961.11 (4), 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 November 21, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Zipeprol into schedule I of the federal Controlled Substances Act. The scheduling action was effective December 21, 2022.

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

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats Zipeprol under chapter 961, Stats. by creating the following:

CSB 2.97 Addition of Zipeprol to schedule I. Section 961.14 (2) (zm), Stats., is created to read:

> **961.14 (2) (zm)** Zipeprol (1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol).

The Affirmative Action order, dated February 24, 2023, took effect on March 6, 2023, upon 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 November 21, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Zipeprol into schedule I of the federal Controlled Substances Act. The scheduling action was effective December 21, 2022.

8. Anticipated economic impact of implementing the rule: None to minimal.

Contact Person: Nilajah Hardin, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov

Approved for publication:

Authorized Signature

Date Submitted

Approved for implementation:

Authorized Signature

Date Submitted

STATEMENT OF SCOPE

CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 2.98

Relating to: Excluding [^{18} F]FP-CIT

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 exclude [^{18} F]FP-CIT as a schedule II controlled substance under s. 961.11 (4), 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 November 21, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register removing [^{18} F]FP-CIT from schedule II of the federal Controlled Substances Act. The scheduling action was effective December 21, 2022.

The Controlled Substances Board did not receive an objection to similarly excluding [^{18} F]FP-CIT from schedule II under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order excluding [^{18} F]FP-CIT as a schedule II controlled substance.

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats [^{18} F]FP-CIT under chapter 961, Stats. by creating the following:

CSB 2.98 Excluding [^{18} F]FP-CIT from schedule II. Section 961.16 (2) (b), Stats., is amended to read:

> **961.16 (2) (b)** Coca leaves and any salt, compound, derivative, or preparation of coca leaves. Decocainized coca leaves or extractions which do not contain cocaine or ecgonine are excluded from this paragraph. [^{123}I]Ioflupane ~~is~~ and [^{18} F]FP-CIT are excluded from this paragraph. The following substances and any of their salts, esters, isomers, and salts of esters and isomers that are theoretically possible within the specific chemical designation, are included in this paragraph:

The Affirmative Action order, dated February 24, 2023, took effect on March 6, 2023, upon 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 November 21, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register removing [^{18} F]FP-CIT from schedule II of the federal Controlled Substances Act. The scheduling action was effective December 21, 2022.

8. Anticipated economic impact of implementing the rule: None to minimal.

Contact Person: Nilajah Hardin, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov

Approved for publication:	Approved for implementation:
_____	_____
Authorized Signature	Authorized Signature
_____	_____
Date Submitted	Date Submitted

STATEMENT OF SCOPE

CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 2.99

Relating to: Scheduling Mesocarb

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 Mesocarb as a schedule I controlled substance under s. 961.11 (4), 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 November 22, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Mesocarb into schedule I of the federal Controlled Substances Act. The scheduling action was effective December 22, 2022.

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

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats Mesocarb under chapter 961, Stats. by creating the following:

CSB 2.99 Addition of Mesocarb to schedule I. Section 961.14 (7) (s), Stats., is created to read:

> **961.14 (7) (s)** N-phenyl- N' –(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamimidate, commonly known as Mesocarb.

The Affirmative Action order, dated February 24, 2023, took effect on March 6, 2023, upon 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 November 22, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register listing Mesocarb into schedule I of the federal Controlled Substances Act. The scheduling action was effective December 22, 2022.

8. Anticipated economic impact of implementing the rule: None to minimal.

Contact Person: Nilajah Hardin, Administrative Rules Coordinator, DSPSAdminRules@wisconsin.gov

Approved for publication:	Approved for implementation:
_____	_____
Authorized Signature	Authorized Signature
_____	_____
Date Submitted	Date Submitted

STATEMENT OF SCOPE

CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 4

Relating to: Monitored Prescription Drug History Reports

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only): N/A

2. Detailed description of the objective of the proposed rule:
The objective of the proposed rule is to amend CSB 4.11 to allow a person authorized by a patient to request monitored prescription drug history reports about that same patient via mail.

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:
Wisconsin Administrative Code Chapter CSB 4 currently outlines requirements for methods of obtaining monitored prescription drug history reports. Patients are allowed to request their own history reports either in person at the Department of Safety and Professional Services or via a mailed request on a form provided by the Board. A person authorized by the patient may only request copies of those same reports in person. Without making changes under the proposed rule, a person authorized by the patient will continue to only be able to make such requests in person at the Department.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):
961.385 (2) (c) states that the board shall establish by rule and have the prescription drug monitoring program "specify the persons whom a record may be disclosed and the circumstances under which the disclosure may occur. Except as otherwise provided under this section, the rule promulgated under this paragraph shall comply with s. 146.82."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule: 60 hours

6. List with description of all entities that may be affected by the proposed rule:
Healthcare patients who have been prescribed monitored prescription drugs in Wisconsin and their authorized representatives.

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: None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):
None to minimal. It is not likely to have a significant economic impact on small businesses.

Contact Person: Nilajah Hardin, (608) 267-7139, DSPSAdminRules@wisconsin.gov

Approved for publication:

Authorized Signature

Date Submitted

Approved for implementation:

Authorized Signature

Date Submitted

Rev. 3/6/2012

Controlled Substances Board
Rule Projects (updated 05/01/23)

CH Rule Number	Scope Number	Scope Expiration Date	Code Chapter Affected	Relating Clause	Stage of Rule Process	Next Step
22-011	070-21	02/29/2024	CSB 2.78	Scheduling Crotonyl Fentanyl	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-014	071-21	02/29/2024	CSB 2.79	Scheduling Remimazolam	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-016	072-21	02/29/2024	CSB 2.81	Scheduling Brorphine	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-032	088-21	04/18/2024	CSB 2.82	Scheduling Serdexmethylphenidate	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-033	089-21	04/18/2024	CSB 2.83	Scheduling 10 Fentanyl Related Substances	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-034	090-21	04/18/2024	CSB 2.84	Scheduling Alfaxalone	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-035	091-21	04/18/2024	CSB 2.85	Excluding 6-beta-Naltrexol	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-036	092-21	04/18/2024	CSB 2.86	Scheduling Fospropofol	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date

Controlled Substances Board
Rule Projects (updated 05/01/23)

CH Rule Number	Scope Number	Scope Expiration Date	Code Chapter Affected	Relating Clause	Stage of Rule Process	Next Step
22-037	093-21	04/18/2024	CSB 2.87	Scheduling Embutramide	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-039	094-21	04/18/2024	CSB 2.88	Scheduling Lacosamide	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-038	095-21	04/18/2024	CSB 2.89	Scheduling Perampanel	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-040	096-21	04/18/2024	CSB 2.90	Transferring 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile , Immediate Precursors to Phencyclidine, Also Known as PCP	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
22-054	015-22	08/28/2024	CSB 2.91	Scheduling 4,4'-Dimethylaminorex	Adoption Order Reviewed at 05/12/23 Meeting	Submission for Publication; 07/01/23 Anticipated Rule Effective Date
Not Assigned Yet	091-22	05/21/2025	CSB 2.92	Scheduling 38 Anabolic Steroids	Clearinghouse Review Until 05/26/23	Draft Final Rule and Legislative Report
Not Assigned Yet	092-22	05/21/2025	CSB 2.93	Scheduling Daridorexant	Clearinghouse Review Until 05/26/23	Draft Final Rule and Legislative Report
Not Assigned Yet	093-22	05/21/2025	CSB 2.94	Scheduling 7 Synthetic Benzimidazole-Opioids	Clearinghouse Review Until 05/26/23	Draft Final Rule and Legislative Report
Not Assigned Yet	094-22	05/21/2025	CSB 2.95	Scheduling Ganaxolone	Clearinghouse Review Until 05/26/23	Draft Final Rule and Legislative Report

Controlled Substances Board
Rule Projects (updated 05/01/23)

CH Rule Number	Scope Number	Scope Expiration Date	Code Chapter Affected	Relating Clause	Stage of Rule Process	Next Step
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.96	Scheduling Amineptine	Scope Statement Reviewed at 05/12/23 Meeting	Scope Statement Submitted for Governor Approval and Publication
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.97	Scheduling Zipeprol	Scope Statement Reviewed at 05/12/23 Meeting	Scope Statement Submitted for Governor Approval and Publication
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.98	Excluding [^{18} F] FP-CIT	Scope Statement Reviewed at 05/12/23 Meeting	Scope Statement Submitted for Governor Approval and Publication
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.99	Scheduling Mesocarb	Scope Statement Reviewed at 05/12/23 Meeting	Scope Statement Submitted for Governor Approval and Publication
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.001	Scheduling Methiopropamine	Affirmative Action Order Published on 04/03/23	Drafting Scope Statement
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.002	Excluding Fenfluramine	Affirmative Action Order Published on 04/17/23	Drafting Scope Statement
Not Assigned Yet	095-22	05/21/2025	CSB 4	National Provider Identifier Requirement	Drafting	Board Review of Preliminary Rule Draft
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 4	Monitored Prescription Drug History Reports	Scope Statement Reviewed at 05/12/23 Meeting	Scope Statement Submitted for Governor Approval and Publication

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**	05/02/2023 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?
05/12/2022	☒ 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. CSB PDMP Report Q1 2023
    b. Recent and Upcoming Releases
    c. Status of Grant Projects:
        i. FY 2020 Harold Rogers Prescription Drug Monitoring Program
        ii. FY 2021 Harold Rogers Prescription Drug Monitoring Program
            - EHR Integration Status
        iii. FY 2022 Harold Rogers Prescription Drug Monitoring Program
2. WI ePDMP Outreach

11) Authorization

Marjorie Liu — 5/2/2023

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.

2021-2023 Development and Release Summary

Updated 05.02.2023

Release Date	Description
Pending	
Harold Rogers Grant 2020 Component 3 Release date TBD	• Automation of top prescribing reports • Site reskin/redesign • Ability for users to change the order in which the sections of the patient report are presented. • Adding a Buprenorphine Naïve Alert section to the patient report.
Harold Rogers Grant 2020 Component 2 Release date TBD	Infrastructure and Technology stack changes to improve performance in the following areas: • Patient Matching • Dispensing Matching • Reporting Statistics
Completed	
R30 February 2023	Iframe support Prescriber Practice Metric UI Text updates Maintenance Updates
R29 October 2022	Updated mapping tool Adjusted language for expired temporary licenses Modified file processing
R28 July 2022	Adding language related to Buprenorphine Alert Override • Minor text changes to submission error emails • Minor language changes around alert messaging Maintenance Updates
Harold Rogers Grant 2021 Promotional Materials May 2022	Promotional Materials for free EHR Integrations Maintenance Updates
R26 April 2022	Buprenorphine Alert Override • Ability to override prescriber facing alerts, metrics, and MME calculations for certain drugs. Maintenance Updates RxCheck 3.0 Upgrades
Harold Rogers Grant 2020 Component 1 December 2021	Security Enhancements • Two-Factor Authentication • Compromised Email Address Check Patient Report and other User Experience Updates

R25 **November 2021**	Maintenance Updates • Adjustments to triggering Annual Terms and Conditions prompt • Enhanced EHR Integration Testing capabilities Chatbot display changes
R24 **August 2021**	Text Updates • Gabapentin related text changes to the Submitter Error Email. Security-Related Enhancements
R23 **July 2021**	Text Updates • Gabapentin related text changes to the Submitter Error Email.
R22 **July 2021**	Pharmacy-Related Enhancements • Missing DEA Number Error Process Updates Administrative-Related Enhancements
R21 **May 2021**	New Design Enhancements • Proactive MC/HCP linkage renewals • Search enhancements Administrative-Related Enhancements Additional administrator tools
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

WI ePDMP Integration Services Summary

Current as of 05.02.2023

Pending Health Systems and EHR Platforms	Status	Notes
Advent Health	Pending Implementation	
Marshfield	Pending - Kickoff	
Bluestone Physician Services	In discussion	
Time 4 U MD	Pending - Sign Agreement	
Marshfield Medical Center - Dickinson	Pending - Sign Agreement	
SRS Pharmacy Systems	Pending - Sign Agreement	
Chet Johnson Drug	Pending - Kickoff	
Wisconsin Statewide Health Information Network (New Platform)	Pending Implementation	
Clark County	Implementation in progress	
CompuGroup Medical	Pending - Sign Agreement	
Mindy's Place	Pending – Sign Agreement	
Allina Health	Pending - Kickoff	

Connected New Integrations	Free Pricing Model	Implementation Date	Est. Total # of Users	Notes
OCHIN	Y	12/21/2022	100	Nonprofit Community Health IT Organization

Connected Health Systems	Free Pricing Model	Implementation Date	Est. Total # of Users	Notes
Ascension Wisconsin				
Aspirus Health Care				
Aurora Health Care				
Children's Hospital of Wisconsin	Y	09/01/2022	300	
Clean Slate	Y	09/01/2022	26	
DrFirst				
Froedtert & the Medical College of Wisconsin				Pending signed Free agreement

GHC of South Central Wisconsin				
Gundersen Health System				Pending signed Free agreement
HealthPartners				
HSHS / Prevea Health				
M Health Fairview	Y	08/01/2022	30	
Marshfield Clinic	Y	09/01/2022	100	
Mayo Clinic				
Mercy Health	Y	08/01/2022	766	
Monroe Clinic				
NOVO Health Technology Group				
ProHealth Care				
SSM Health				
Thedacare				Pending signed Free agreement
UnityPoint				
UW Health				
Wisconsin Statewide Health Information Network	Y	09/01/2022	3500	

DrFirst Facilities
Alay Health Team
ASSOCIATED MENTAL HEALTH CONSULTANTS
Behavioral Health Svcs of Racine Co.
Door County Memorial Hospital
Dr. Colleen Worth, DNP, APNP
FAMILY PSYCHIATRIC CARE, LLC
Fort Healthcare
GI Associates LLC
Heartland Hospice
Lake Superior Community Health Center
Lifestance Health WI
Marshfield Clinic Health System
Mile Bluff Medical Center

Oak Medical
Oral Surgery Associates of Milwaukee
Orthopedic Hospital of Wisconsin
PAIN MANAGEMENT AND TREATMENT CTR
Reka Furedi MD
Richland Hospital
Watertown Rainbow Hospice
Regional Medical Center
Rogers Memorial Hospital
Sauk Prairie Memorial Hospital
Wauwatosa Children's Clinic
Watertown Regional Medical Center

2023 WI PDMP Outreach Calendar

MONTH	EVENT	DESCRIPTION	DATES	NOTES
January	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	1/12/2023	Virtual; Quarterly Meeting
February				
March	RxCheck Governance Board Bi-Annual Meeting	Participant; bi-annual meeting for state PDMP administrators	3/9/2023	Virtual
April	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	4/13/2023	Virtual; Quarterly Meeting
May				
June	WI NADDI Conference (National Association of Drug Diversion Investigators)	Presenter; NADDI annual training for WI healthcare professionals and law enforcement agents who focus on drug diversion prevention and detection	6/16/2023	Wauwatosa, WI
	TTAC North and East Region PDMP Meeting	Participant; regional meeting for state PDMP administrators organized by PDMP Training & Technical Assistance Center - attendance is required for BJA HR PDMP Grant recipients.	6/27-29/2023	Kansas City, MO
July	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	7/13/2023	Virtual; Quarterly Meeting
August	Overdose Fatality Review (OFR) Education Session	Presenter; Tri-county OFR team (Waushara, Green Lake, and Marquette Counties)	8/10/2023	Virtual
	2023 PMP InterConnect Steering Committee Meeting	Participant; Annual national meeting for PDMP administrators organized by National Association of Boards of Pharmacy (NABP)	8/15-16/2023	Mount Prospect, IL
	2023 Comprehensive Opioid, Stimulant, and Substance Use Program (COSSUP) National	Participant; Annual national meeting organized by US DOJ; attendance is required for BJA HR PDMP Grant recipients.	8/29-31/2023	Washington DC
September				
October	NASCSA Conference (National Association of State Controlled Substances Authorities)	Participant; annual national meeting for government controlled substances authority, PDMP and healthcare professionals organized by NASCSA	10/23-10/26/2023	Minneapolis, MN
	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	10/12/2023	Virtual; Quarterly Meeting
November				
December				