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
January 19, 2024

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 November 10, 2023 (4-6)**

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) 2024 Meeting Dates **(7)**
   3) Annual Policy Review **(8-10)**
   4) Election of Officers, Appointments of Liaisons and Alternates, Delegation of Authorities **(11-24)**
   5) 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. Eberhardy, Cullen – AG Representative
      f. Englebert, Doug – DHS Representative
      g. Kane, Amanda – Board of Nursing Representative
      h. Schmeling, Gregory – Medical Examining Board Representative
      i. Weitekamp, John – Pharmacy Examining Board Representative
   6) Alternates
      a. Bistan, Matthew – Dentistry Examining Board Representative
      b. Ferguson, Kris – Medical Examining Board Representative
      c. Weinman, Robert – Board of Nursing Representative

F. **Administrative Rule Matters – Discussion and Consideration (25)**
   1) Affirmative Action Order:
      a. CSB 2.004, Relating to Scheduling Zuranolone **(26)**
      b. CSB 2.005, Relating to Scheduling 9 Fentanyl Related Substances **(27-28)**

c. CSB 2.006, Relating to Scheduling 5 Synthetic Cannabinoids **(29-30)**
d. CSB 2.007, Relating to Scheduling ADB-BUTINACA, α-PiHP, and 3-MMC

2) Scope Statement: CSB 4, Relating to Mail Delivered Prescriptions **(31-32)**
3) Preliminary Rule Draft:
   a. CSB 2.001, Relating to Scheduling Methiopropamine **(33-35)**
   b. CSB 2.002, Relating to Scheduling Fenfluramine **(36-38)**
   c. CSB 4, Relating to Monitored Prescription Drug History Reports **(39-41)**
4) Final Rule Draft:
   a. CSB 2.96, Relating to Scheduling Amineptine **(42-50)**
   b. CSB 2.97, Scheduling Zipeprol **(51-59)**
5) Pending and Possible Rulemaking Projects
   a. Rule Projects Chart **(60)**

G. **Prescription Drug Monitoring Program (PDMP) Updates – Discussion and Consideration (62)**
1) WI ePDMP Operations
   a. Recent and Upcoming Releases **(63-65)**
   b. EHR Integration Status **(66-67)**
2) WI ePDMP Outreach **(68)**

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

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

J. **PA Membership on Controlled Substances Board – Legislative Proposal Review (69-71)**

K. Liaison Reports

L. Deliberation on Special Use Authorizations – Discussion and Consideration

M. Discussion and Consideration of Items Received After Preparation of the Agenda
1) Introductions, Announcements, and Recognition
2) Administrative Matters
3) Election of Officers
4) Appointment of Liaisons and Alternates
5) Delegation of Authorities
6) Informational Items
7) Division of Legal Services and Compliance (DLSC) Matters
8) Education and Examination Matters
9) Credentialing Matters
10) Practice Matters
11) Legislative and Administrative Rule Matters
12) Liaison Reports
13) 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

N. **Public Comments**

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

O. Deliberation on Special Use Authorizations – Discussion and Consideration

P. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

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

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

ADJOURNMENT

NEXT MEETING: MARCH 8, 2024

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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
NOVEMBER 10, 2023

PRESENT: Troy Alton, Yvonne Bellay, Alan Bloom, Cullen Eberhardy, Doug Englebert, Amanda Kane, Gregory Schmeling, John Weitekamp

EXCUSED: Subhadeep Barman

STAFF: Tom Ryan, Executive Director; Joseph Ricker, Acting Legal Counsel; Nilajah Hardin, Administrative Rules Coordinator; Dialah Azam, Board Administration Specialist; and other DSPS Staff

CALL TO ORDER

Doug Englebert, Chairperson, called the meeting to order at 9:30 a.m. A quorum was confirmed with eight (8) members present.

ADOPTION OF AGENDA

Amendments to the Agenda:

- **CHANGE:** Board of Nursing Representative from Robert Weinman to Amanda Kane
- **CHANGE:** Alternate Board of Nursing Representative from Rosalyn McFarland to Robert Weinman

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

APPROVAL OF MINUTES OF SEPTEMBER 8, 2023

MOTION: Cullen Eberhardy moved, seconded by Troy Alton, to adopt the Minutes of September 8, 2023 as published. Motion carried unanimously.

REPORT FROM THE REFERRAL CRITERIA WORK GROUP

MOTION: John Weitekamp moved, seconded by Gregory Schmeling, to delegate Alan Bloom, alternate Gregory Schmeling, to review and approve the recommendations of the Referral Criteria Work Group and refer the specified providers to the appropriate professional boards for further action. Motion carried unanimously.

ADMINISTRATIVE MATTERS

Department, Staff, and Board Updates

LIAISON APPOINTMENTS	
Special Use Authorization (SUA) Liaison(s)	Alan Bloom, Yvonne Bellay *Alternate:* Doug Englebert
PDMP Liaison(s)	Subhadeep Barman *Alternates:* Kris Ferguson, John Weitekamp-Pharmacy Issues, Doug Englebert
Legislative Liaison(s)	Doug Englebert *Alternates:* John Weitekamp
SCAODA Representative	Subhadeep Barman *Alternate:* Kris Ferguson
Referral Criteria Workgroup	Doug Englebert, John Weitekamp, Subhadeep, Barman, Amanda Kane *Alternate:* Troy Alton

ADMINISTRATIVE RULE MATTERS

Pharmacy Examining Board Rules Committee Request Relating to Wis. Stat. s. 450.11

MOTION: John Weitekamp moved, seconded by Troy Alton, to request DSPS staff draft a Scope Statement revising CSB 4 on the topic of required information for PDMP. Motion carried unanimously.

Scope Statement

CSB. 2003. Transferring Flualprazolam and Scheduling 4 Other Synthetic Benzodiazepine Substances

MOTION: Cullen Eberhardy moved, seconded by Alan Bloom, to approve the Scope Statement creating CSB 2.003, relating to Transferring Flualprazolam and Scheduling 4 Other Synthetic Benzodiazepine Substances, for submission to the Department of Administration and Governor's Office and for publication. Additionally, the Board authorizes the Chairperson to approve the Scope Statement for implementation no less than 10 days after publication. If the Board is directed to hold a preliminary public hearing on the Scope Statement, the Chairperson is authorized to approve the required notice of hearing. Motion carried unanimously.

Preliminary Rule Draft

CSB 2.96, Scheduling Amineptine

CSB 2.97, Scheduling Zipeprol

CSB 2.98, Excluding [^{18}F}FP-CIT

CSB 2.99, Scheduling Mesocarb

MOTION: Gregory Schmeling moved, seconded by Troy Alton, to approve the preliminary rule draft for the following rules for posting for economic impact comments and submission to the Clearinghouse:

- CSB 2.96, Scheduling Amineptine
- CSB 2.97, Scheduling Zipeprol
- CSB 2.98, Excluding [18F]FP-CIT
- CSB 2.99, Scheduling Mesocarb

Motion carried unanimously.

CSB 4, Relating to National Provider Identifier (NPI) Requirement

MOTION: John Weitekamp moved, seconded by Alan Bloom, to designate the Chairperson to approve the preliminary rule draft of CSB 4, relating to National Provider Identifier Requirement for posting for economic impact comments and submission to the Clearinghouse. Motion carried unanimously.

ADJOURNMENT

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

The meeting adjourned at 11:08 a.m.

CSB CONTROLLED SUBSTANCE BOARD
2024 Meeting Dates

Meeting Date		***Start time***	**Agenda item deadline**
Friday, January 19, 2024	Virtual	*10:00 AM*	**1/8/2024**
Friday, March 8, 2024	Virtual	*10:00 AM*	**2/27/2024**
Friday, May 10, 2024	Virtual	*10:00 AM*	**4/30/2024**
Friday, July 12, 2024	Virtual	*10:00 AM*	**7/1/2024**
Friday, September 20, 2024	Virtual	*10:00 AM*	**9/10/2024**
Friday, November 8, 2024	Virtual	*10:00 AM*	**10/29/2024**

CSB REFERRAL CRITERIA WORKGROUP
2024 Meeting Dates

Meeting Date		***Start time***	**Agenda item deadline**
Friday, January 19, 2024	Virtual	*8:30 AM*	**1/8/2024**
Friday, March 8, 2024	Virtual	*8:30 AM*	**2/27/2024**
Friday, May 10, 2024	Virtual	*8:30 AM*	**4/30/2024**
Friday, July 12, 2024	Virtual	*8:30 AM*	**7/1/2024**
Friday, September 20, 2024	Virtual	*8:30 AM*	**9/10/2024**
Friday, November 8, 2024	Virtual	*8:30 AM*	**10/29/2024**

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Brenda Taylor, Board Services Supervisor		**2) Date when request submitted: 12/14/2023**	
3) Name of Board, Committee, Council, Sections: All Boards			
4) Meeting Date: First Meeting of 2024	**5) Attachments:** ☒ Yes	**6) How should the item be titled on the agenda page?** Annual Policy Review	
7) Place Item in: ☒ Open Session	**8) Is an appearance before the Board being scheduled?** ☒ No	**9) Name of Case Advisor(s), if applicable:** N/A	

10) Describe the issue and action that should be addressed: Board SharePoint Site: https://dsps.boards.wisconsin.gov/

Please be advised of the following Policy Items:

1. **In-Person Meeting Policy:** Depending on the frequency of Board meetings, a Board may be allowed a certain number of in-person meetings.
   - 4-5 Meetings per year = 1 in-person opportunity
   - 6-8 Meetings per year =2 in-person opportunities
   - 12 Meetings per year = 4 in-person opportunities

2. **Attendance/Quorum:** Thank you for your service and commitment to meeting attendance. If you cannot attend a meeting or have scheduling conflicts impacting your attendance, please let us know as soon as possible. Timely notification is appreciated as a quorum is required for Boards, Sections, and Councils to meet pursuant to Open Meetings Law.

3. **Walking Quorum:** Board/Section/Council members must not collectively discuss the body's business outside a properly noticed meeting. Should several members of a body do so, the members could be violating the open meetings law.

4. **Mandatory Training:** All Board Members must complete Public Records and Ethics Training, annually. Register to set up an account in the Cornerstone LearnCenter online portal or Log in to an existing account.

5. **Agenda Deadlines:** Please communicate agenda topics to your Executive Director before the agenda submission deadline at 12:00 pm, 8 business days prior to a meeting. (Attachment: Timeline of a Meeting)

6. **Per Diem and Reimbursement Claims:** Please submit all Per Diem and Reimbursement claims to DSPS within 30 days of the close of each month in which expenses are incurred. (Attachment: Per Diem Example)

7. **Lodging Accommodations/Hotel Cancellation Policy:** Lodging accommodations are available to eligible members. Standard eligibility: the member must leave home before 6:00 am to attend a meeting by the scheduled start time.
   a. If a member cannot attend a meeting it is their responsibility to cancel their reservation within the applicable cancellation timeframe.
   b. If a meeting is changed to occur remotely, is canceled, or rescheduled, DSPS staff will cancel or modify reservations as appropriate.

8. **Inclement Weather Policy:** In the event of inclement weather, the DSPS may change a meeting from an in-person venue to hosted as virtual/teleconference only.

11) **Authorization**

Brenda Taylor 12/14/2023

Directions for including supporting documents:
1. **This form should be saved with any other documents submitted to the Agenda Items folders.**
2. **Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director**

Timeline of a Meeting

8 business days prior to the meeting: All agenda materials are due to the Department by 12:00 pm, 8 business days prior to the meeting date.

7 business days prior to the meeting: The draft agenda page is due to the Executive Director. The Executive Director transmits to the Chair for review and approval.

5 business days prior to the meeting: The approved agenda is returned to the Board Administration Specialist for agenda packet production and compilation.

4 business days prior to the meeting: Agenda packets are posted on the DSPS Board SharePoint site and on the Department website.

Agenda Item Examples:

- Approval of the Agenda and previous meeting Minutes
- Open Session Items
  - Public Hearings (relating to Administrative Rules)
  - Administrative Matters
  - Legislation and Policy Matters
  - Administrative Rules Matters
  - Credentialing Matters
  - Education and Exam Issues
  - Public Agenda Requests
  - Current Issues Affecting the Profession
  - Public Comments
- Closed Session items
  - Deliberations on Proposed Disciplinary Actions
    - Stipulations
    - Administrative Warnings
    - Case Closings
    - Monitoring Matters
    - Professional Assistance Procedure (PAP) Issues
  - Proposed Final Decisions and Orders
  - Orders Fixing Costs/Matters Relating to Costs
  - Credentialing Matters
  - Education and Exam Issues

Thursday of the Week Prior to the Meeting: Agendas are published for public notice on the Public Notices and Meeting Minutes website: **publicmeetings.wi.gov**.

1 business day after the Meeting: "Action" lists are distributed by staff detailing board actions on closed session business.

5 business days after the Meeting: "To Do" lists are distributed to staff to ensure that board decisions are acted on and/or implemented within the appropriate divisions in the Department. Minutes approved by the board are published on the the Public Notices and Meeting Minutes website: **publicmeetings.wi.gov**.

Department of Safety and Professional Services

PER DIEM REPORT

INSTRUCTIONS: Claimant records board-related activities by entering the date of an activity, the duration of time spent in that activity, the relevant purpose code (see purpose code descriptions below), where the activity is conducted, and the type of activity performed. Only one (1) $25.00 per diem payment can be issued on any given calendar day.

Purpose Codes:

A. **Official meetings including video/teleconference calls** (automatic day of per diem)**:** i.e., board, committee, board training or screening panels; **Hearings,** i.e., Senate Confirmation, legislative, disciplinary or informal settlement conferences; **Examinations and Test Development Sessions,** i.e., test administration, test review or analysis events, national testing events, tour of test facilities, etc.)

B. **Other** (One (1) per diem will be issued for every five (5) hours spent in category B, per calendar month): i.e., review of disciplinary cases, consultation on cases, review of meeting materials, board liaison work e.g., contacts regarding Monitoring, Professional Assistance Procedure, Credentialing, Education and Examinations

NAME OF EXAMINING BOARD OR COUNCIL	BOARD OR COUNCIL MEMBER'S NAME
EXAMPLE EXAMINING BOARD	**MARY SUNSHINE**

Activity Date **MM/DD/YY**	Duration of Activity **Hours/Minutes**	Purpose Code **A or B**	Where Performed **City/Location (Home, Work, DSPS)**	Activity **Describe Activity Performed (see purpose codes)**
12/2/20	**2 hrs**	**B**	**Pleasant Prairie/Home**	**Review of screening panel materials**
12/3/20	**2 hr / 30 mins**	**B**	**Pleasant Prairie/Home**	**Review of screening panel materials**
12/10/20	1 hr	A	Pleasant Prairie/Home	Screening Panel Meeting - Teleconference
12/12/20	**1 hr / 30 mins**	**B**	**Pleasant Prairie/Home**	**Case consultation**
12/13/20	**1 hr**	**B**	**Pleasant Prairie/Home**	**Liaison: Application Review**
12/16/20	6 hrs	A	Madison/DSPS	Board Member Training

The 5-hour rule applies to "B" code activities. Add the 'B' codes within the calendar month and then divide by five (5) hours to calculate your per diem payment. In this case the total is seven (7) hours which equals one (1) day of per diem.

Each 'A' code is an automatic day of per diem regardless of time spent in that activity. Ms. Sunshine is eligible for two (2) additional days of payment.

Department staff completes the fields titled "Total Days Claimed".

CLAIMANT'S CERTIFICATION

The undersigned certifies, in accordance with § 16.53, Wis. Stats., that this account for per diem, is just and correct; and that this claim is for service necessarily incurred in the performance of duties required by the State, as authorized by law.

Comments:

Mary Sunshine 1/4/2021

Claimant's Signature Date

Supervisor Date

EMPL ID: 100012345-0

To be completed by Department staff: **TOTAL DAYS CLAIMED:** 3 @ $25.00 = 75.00

CONTROLLED SUBSTANCES BOARD

Elections as of 12/31/2023

ELECTION RESULTS	
Chairperson	Doug Englebert
Vice Chairperson	Alan Bloom
Secretary	Yvonne Bellay

Appointment of Liaison and Alternates

LIAISON APPOINTMENTS	
Special Use Authorization (SUA) Liaison(s)	Alan Bloom, Yvonne Bellay *Alternate:* Doug Englebert
PDMP Liaison(s)	Subhadeep Barman *Alternates:* Kris Ferguson, John Weitekamp-Pharmacy Issues, Doug Englebert
Legislative Liaison(s)	Doug Englebert *Alternates:* John Weitekamp
SCAODA Representative	Subhadeep Barman *Alternate:* Kris Ferguson
Referral Criteria Workgroup	Doug Englebert, John Weitekamp, Subhadeep Barman, Amanda Kane

State of Wisconsin

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

CORRESPONDENCE / MEMORANDUM

DATE: January 9, 2024

TO: Board, Council, and Committee Members

FROM: Legal Counsel

SUBJECT: Liaison Definitions and Delegations Explanations

Overall Purpose of Liaison Appointments

Each Board/Section (Board) has inherent authority that is established in our Wisconsin Statutes. This authority may change from Board to Board. For further information on your Board's authority review Wis. Stat. ch. 15. Generally, each Board has authority to grant credentials, discipline credential holders, and set standards for education and examinations. Additionally, Liaisons assist with the operations of the Boards purpose by weighing in on legislative matters, traveling to national conferences, or communicating with stakeholders.

The Department asks that each year the Boards make liaison appointments to assist the Board and Department to accomplish these tasks in an efficient manner. Your practical knowledge and experience, as an appointed member of a professional board, are essential in making determinations regularly. The Liaison positions below assist the Department to complete operations between Board meetings. In most cases, Liaisons can make decisions for the full Board in their designated area. These are determined through the delegation process. However, a Liaison may also decide to send the delegated issue to the full Board for consideration as appropriate. Delegations assist the Board in defining the roles and authorities of each Liaison.

Liaison Definitions

Credentialing Liaison: The Credentialing Liaison is empowered by the Board to review and make determinations regarding certain applications for credentials. The Credentialing Liaison may be called on by Department staff to answer questions that pertain to qualifications for licensure, which may include whether a particular degree is suitable for the application requirements, whether an applicant's specific work experience satisfies the requirements in statute or rule for licensure, or whether an applicant's criminal or disciplinary history is substantially related to the practice of the profession in such a way that granting the applicant a credential would create a risk of harm to the public. Questions will likely be sent by Department

staff to the Credentialing Liaison via email and may include application materials. The Credentialing Liaison serves a very important role in the credentialing process.

Monitoring Liaison: The Monitoring Liaison is empowered by the Board to make decisions on any credential that is limited either through a disciplinary order or initial licensure. The Department Monitors will send requests from credential holders to the Monitoring Liaison. These requests vary wildly. A common request could be to remove a limitation that has been placed on a credential or to petition for full licensure. The Monitoring Liaison can review these requests and make decisions on behalf of the Board. The Board has the authority to grant decision making latitude to their liaison to any degree. The specific monitoring delegations are found in the Monitoring Document attached to the agenda. If the Monitoring Liaison has a question on a request, it is advisable for the Liaison to consult further with Department staff or bring the matter to the full Board for consideration.

Professional Assistance Procedure (PAP) Liaison: PAP is a voluntary program open to credential holders with substance abuse issues who wish to seek help by being held accountable through treatment and monitoring by the Department and Board. As part of PAP, the credential holder enters into an agreement with the Department to undergo testing, counseling, or other rehabilitation. The PAP Liaison's role includes responding to credential holders' requests for modifications and terminations of provisions of the agreement. Similar to the Monitoring Liaison, the Department Monitors will send requests from credential holders to the PAP Liaison for further review.

Education and Examination Liaison: Some Boards are required by statute or rule to approve qualifying education and examinations. The Education and Examination Liaison provides guidance to Department staff to exercise authority of the Board to approve or decline examinations and educational programs. This determination requires a level of professional expertise and should be performed by a professional member of the Board. For some Boards, the Education and Examination Liaison will also be tasked with approving continuing education programs and courses.

Legislative Liaison: The Legislative Liaison is permitted to act and speak on the Board's behalf regarding pending and enacted legislation or actions being considered by the legislature outside of Board meetings. The Legislative Liaison is not the Board's designated lobbyist and should exercise their delegated authority carefully.

Travel Authorization Liaison: The Travel Authorization Liaison is authorized to approve a Board member to travel to events and speak or act on the Board's behalf between Board meetings. The Travel Authorization Liaison is called upon to make decisions when sufficient notice was not received, and the full Board could not determine a representative to travel. The Travel Authorization Liaison is tasked with making determinations if the Board appointed representative is not able to attend or if the Board becomes authorized to send additional members. As scholarship and funding streams can be unpredictable.

Communication Liaison: The Communication Liaison responds on behalf of the Board when questions arise that require a response from the Board. The Communication Liaison works with

the Department to cultivate an appropriate response. The Communication Liaison can be responsible for all types of communication on behalf of the Board. However, the Board can appoint a separate **Website Liaison** to work with DSPS staff to make changes and ensure the Board webpage contains updated and accurate information. Additionally, for the Boards that are required by statute to produce a newsletter or digest. The Board can appoint a separate **Newsletter/Digest Liaison** to assemble and approve content for those communications.

Screening Panel Members: The duties of the Screening panel are to review incoming complaints against credential holders and determine which complaints should be opened for investigation and which complaints should be closed without further action. The complexity and amount of work in this role depends substantially on your particular Board. As a member of the Screening panel you are asked to apply your professional expertise to determine if a complaint alleges unprofessional conduct.

Delegations Explanations

Credentialing Delegations

The overall purpose of credentialing delegations is to allow the credentialing process to proceed as efficiently and effectively as possible.

Delegation of Authority to Credentialing Liaison (Generic)

MOTION EXAMPLE: to delegate authority to the Credentialing Liaison(s) to serve as a liaison between the Department and the Board and to act on behalf of the Board in regard to credentialing applications or questions presented to them, including the signing of documents related to applications.

PURPOSE: To permit one representative of the Board to assist Department staff with credentialing applications and eliminate the need for the entire Board to convene to consider credential application content or questions. Additionally, it is most efficient to have the designated liaison who has assisted with the credentialing process to be able to effectuate decisions which require a signature.

Delegation of Authority to DSPS When Credentialing Criteria is Met

MOTION EXAMPLE: to delegate credentialing authority to the Department to act upon applications that meet all credentialing statutory and regulatory requirements without Board or Board liaison review.

PURPOSE: To permit Department staff to efficiently issue credentials and eliminate the need for Board/Section/Liaison review when all credentialing legal requirements are met in an application.

Delegation of Authority for Predetermination Reviews

MOTION EXAMPLE: to delegate authority to the Department Attorneys to make decisions regarding predetermination applications pursuant to Wis. Stat. § 111.335(4)(f).

PURPOSE: In general, the Wisconsin Fair Employment Act (codified in Wis. Stat. Ch. 111) prohibits licensing agencies from discriminating against applicants because of their arrest and/or conviction record. However, there are exceptions which permit denial of a license in certain circumstances. Individuals who do not possess a license have a legal right to apply for a determination of whether they are disqualified from obtaining a license due to their conviction record. This process is called "Predetermination". Predeterminations must be completed within 30 days. This delegation allows Department Attorneys to conduct predetermination reviews and efficiently make these legal determinations without need for Board/Section/Liaison review.

Delegation of Authority for Conviction Reviews

MOTION EXAMPLE: to delegate authority to the Department Attorneys to review and approve applications with convictions which are not substantially related to the practice.

PURPOSE: As used here, "substantially related" is a legal standard that is used in the Wisconsin Fair Employment Act. The concept of what is "substantially related" is informed by case law. This delegation permits Department Attorneys to independently conduct conviction reviews and efficiently approve applications if convictions are not substantially related to the practice of the profession. Applications that contain conviction records that may be substantially related to the practice of a profession will still be submitted to the Credentialing Liaison for input.

Delegation to DSPS When Applicant's History Has Been Previously Reviewed

MOTION EXAMPLE: to delegate authority to Department staff to approve applications where Applicant's prior discipline has been approved for a previous credential and there is no new discipline.

PURPOSE: Some Boards offer progressive levels of credentials. This delegation eliminates the need for a re-review of discipline that has already been considered and approved by the Board/Section/Liaison for a lower-level credential.

Delegation to DSPS When Applicant's Conviction History Has Been Previously Reviewed

MOTION EXAMPLE: to delegate authority to Department staff to approve applications where criminal background checks have been approved for a previous credential and there is no new conviction record.

PURPOSE: Some Boards offer progressive levels of credentials. This delegation eliminates the need for a re-review of conviction history that has already been reviewed and approved for a lower-level credential.

Delegation of Authority for Reciprocity Reviews

MOTION EXAMPLE: to delegate authority to the Department Attorneys to review and approve reciprocity applications in which the out of state license requirements meet Wisconsin license requirements. (specific legal standards are referenced in the motion depending on credential/profession type).

PURPOSE: Applications via reciprocity or endorsement require comparison of Wisconsin licensing requirements to the licensing requirements of another jurisdiction. These reviews consider the legal standard for reciprocity, which varies by profession, as well as the specified legal requirements to obtain licensure in the profession. This delegation permits Department Attorneys to independently conduct reciprocity reviews and efficiently approve applications if legal standards and requirements are met for licensure. Applications for which reciprocity may not be available will still be submitted to the Credentialing Liaison for input.

Delegation of Authority for Military Reciprocity Reviews

MOTION EXAMPLE: to delegate authority to the Department Attorneys to review and approve military reciprocity applications in which the individual meets the requirements of Wis. Stat. § 440.09.

PURPOSE: The law permits service members, former service members, and their spouses to be licensed if they hold licensure in other jurisdictions that qualify them to perform acts authorized by the credential they are seeking in Wisconsin. This is a shortened path to licensure that does not require meeting the specific requirements/standards for licensure/reciprocity in a profession. By law, the Department/Board must expedite the issuance of a reciprocal license via military reciprocity. This delegation permits Department Attorneys to independently conduct military reciprocity reviews and efficiently approve applications if legal standards and requirements are met for licensure. Applications for which reciprocity may not be available will still be submitted to the Credentialing Liaison for input.

Delegation of Authority for Application Denial Reviews

MOTION EXAMPLE: to delegate authority to the Department's Attorney Supervisors to serve as the Board designee for purposes of reviewing and acting on requests for hearing as a result of a denial of a credential.

PURPOSE: When an application is denied, the applicant has a legal right to appeal the denial determination. Applicants must meet a specified legal standard in order to have an appeal granted. Additionally, Wisconsin law sets specific time frames for appeal decisions. This delegation permits Department Attorney Supervisors to independently review and efficiently act on requests for hearing as a result of a denial of a credential.

Delegation to Department Attorneys to Approve Duplicate Legal Issue

MOTION EXAMPLE: to delegate authority to Department Attorneys to approve a legal matter in connection with a renewal application when that same/similar matter was already addressed

by the Board and there are no new legal issues for that credential holder. Motion carried unanimously.

PURPOSE: The intent of this delegation is to be able to approve prior discipline by the Board for the renewal applicant. This delegation eliminates the need for a re-review of discipline that has already been considered and approved by the Board/Section/Liaison.

Monitoring Delegations

The overall purpose of monitoring delegations is to be able to enforce the Boards orders and limited licenses as efficiently and effectively as possible. Monitoring delegations have two categories: delegations to the monitoring liaison and delegations to the Department Monitor.

Delegation of Authority to Department Monitor

MOTION EXAMPLE: to delegate authority to the Department Monitor

a. to grant full reinstatement of licensure if education is the only limitation and credential holder has submitted the required proof of course completion.
b. to suspend the credential if the credential holder has not completed Board ordered education, paid costs, paid forfeitures, within the time specified by the Board Order.
c. to lift a suspension when compliance with education and costs provisions have been met.

PURPOSE: These delegations allow for the Department Monitor to automatically act on requests when certain criteria are met or not met without needing to burden the Board Monitoring Liaison. The Board can set their own criteria for what actions they would like to be handled by the Department, the Monitoring Liaison and the full Board.

Delegation of Authority to Monitoring Liaison

MOTION EXAMPLE: to delegate authority to the Monitoring Liaison to approve or deny all requests received by the credential holder.

PURPOSE: These delegations allow the Board to set criteria for what decisions can be made by the Board member(s) serving as the Monitoring Liaison and what matters should be decided by the full Board. The Board has the authority to set specific criteria or to permit the liaison to make all determinations at their discretion.

Education and Exam Delegations

MOTION EXAMPLE: to delegate authority to the Education and Examination Liaison(s) to address all issues related to continuing education and examinations. Motion carried unanimously. (Differs by Board)

PURPOSE: Some Boards are responsible for approving qualifying educational programs or continuing education courses. A delegation is executed in order for a Board member to make

these determinations on behalf of the Boards and with assistance of the Department. Additionally, some Boards review examinations and individual scores to qualify for a credential.

Miscellaneous Delegations

Document Signature

MOTION EXAMPLE: to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

MOTION EXAMPLE: in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director, Board Counsel or DPD Division Administrator, the authority to sign on behalf of a Board member as necessary. Motion carried unanimously.

PURPOSE: In order to take the action approved at Board meetings, the Department may need to draft correspondence and/or Orders after the meetings have adjourned. These actions then need to be signed by a Board Member. This interaction usually takes place over email and a Board member can authorize the use of his/her signature that is kept on file.

Urgent Matters

MOTION EXAMPLE: in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

PURPOSE: Allows for quick responses to urgent matters that may need Board approval or for which the Department requires guidance from the Board.

Delegation to Chief Legal Counsel

Due to Loss of Quorum

MOTION EXAMPLE**:** to delegate the review and authority to act on disciplinary cases to the Department's Chief Legal Counsel due to lack of/loss of quorum after two consecutive meetings. Motion carried unanimously.

PURPOSE: Sometimes Boards can struggle to meet quorum necessary to conduct business. This happens for a multitude of reasons but this delegation allows for the Boards to have disciplinary cases decided by Chief Legal Counsel if the Board fails to meet quorum for two consecutive meetings.

Stipulated Resolutions

MOTION EXAMPLE: to delegate to the Department's Chief Legal Counsel (CLC) the authority to act on behalf of the Board concerning stipulated resolutions providing for a surrender, suspension, or revocation of a credential, where the underlying merits involve serious and dangerous behavior, and where the signed stipulation is received between Board meetings. The Board further requests that CLC only act on such matters when the best interests of the Board, Department and the Public are best served by acting upon the stipulated resolution at the time the signed stipulation is received versus waiting for the next Board meeting. Motion carried unanimously.

PURPOSE: For matters of public safety, it may be necessary to take immediate action on a stipulated agreement rather than allowing a credential holder to continue practicing unencumbered until the next scheduled meeting. This delegation allows CLC to act on behalf of the Board when there is a stipulated agreement. A stipulated agreement is an agreement to which all relevant parties have consented to the terms.

Voluntary Surrenders

MOTION: to delegate authority to the assigned case advisor to accept or refuse a request for voluntary surrender pursuant to Wis. Stat. § 440.19 for a credential holder who has a pending complaint or disciplinary matter.

MOTION: to delegate authority to the Department to accept the voluntary surrender of a credential when there is no pending complaint or disciplinary matter with the Department pursuant to Wis. Stat. § 440.19.

PURPOSE: Credential holders can ask the Boards to surrender their credentials at any time. These delegations are in place for the different situations that arise from those requests. If a credential holder is seeking to surrender their credential because they wish to leave the profession that can be processed with this delegation by the Department if they have no pending disciplinary complaints. If the credential holder wishes to surrender while they have a pending disciplinary complaint that request is reviewed by the individual Board member assigned to the case.

DLSC Pre-screening

MOTION EXAMPLE: to delegate pre-screening decision making authority to the DSPS screening attorney for opening cases where the credential holder has failed to respond to allegations contained in the complaint when requested by intake (Case will be opened on failure to respond and the merits of the complaint).

PURPOSE: Pre-Screening delegations exist so the Board can define specific parameters where the Department can review disciplinary complaints and open those cases if they meet certain criteria. Boards also have the authority to set certain criteria that would allow the Department to review and close a case if the criteria is met.

Roles and Authorities Delegated for Monitoring

The Monitoring Liaison ("Liaison") is a Board/Section designee who works with department monitors ("Monitor") to enforce Board/Section orders as explained below.

Authorities Delegated to the Monitoring Liaison

The Liaison may take the following actions on behalf of the Board/Section:

1. Grant a temporary reduction in random drug screen frequency upon Respondent's request if he/she is unemployed and is otherwise compliant with Board/Section order. The temporary reduction will be in effect until Respondent secures employment in the profession. The Department Monitor ("Monitor") will draft an order and sign on behalf of the Liaison.

2. Grant a stay of suspension if Respondent is eligible per the Board/Section order. The Monitor will draft an order and sign on behalf of the Liaison.

3. Remove the stay of suspension if there are repeated violations or a substantial violation of the Board/Section order. In conjunction with removal of any stay of suspension, the Liaison may prohibit Respondent from seeking reinstatement of the stay for a specified period of time. The Monitor will draft an order and sign on behalf of the Liaison.

4. Grant or deny approval when Respondent proposes continuing/disciplinary/remedial education courses, treatment providers, mentors, supervisors, change of employment, etc. unless the order specifically requires full-Board/Section approval.

5. Grant full reinstatement of licensure if Respondent has fully complied with all terms of the order without deviation. The Monitor will draft an order and obtain written authorization from the Liaison to sign on their behalf.

6. Grant or deny a request to appear before the Board/Section in closed session.

7. The Liaison may determine whether Respondent's petition is eligible for consideration by the full Board/Section.

8. Accept Respondent's written request to surrender credential. If accepted by the Liaison, Monitor will consult with Board Counsel to determine if a stipulation is necessary. If a stipulation is not necessary, Monitor will draft an order and sign on behalf of the Liaison. If denied by the Liaison, the request to surrender credential will go to the full Board for review. (Except PHM, MED)

9. Grant Respondent's petition for a reduction in drug screens per the standard schedule, below. If approved, Monitor will draft an order and sign on behalf of the Liaison. Orders that do not start at 49 screens will still follow the same standard schedule.

    a. Initial: 49 screens (including 1 hair test, if required by original order)
    b. 1st Reduction: 36 screens (plus 1 hair test, if required by original order)
    c. 2nd Reduction: 28 screens plus 1 hair test
    d. 3rd Reduction: 14 screens plus 1 hair test

10. *(Dentistry only)* Ability to approve or deny all requests from a respondent.

11. The Liaison may approve or deny Respondent's request to be excused from drug and alcohol testing for work, travel, etc. (Applies only to these Boards: Dietitians, Massage/Bodywork Therapy Board, DEN, PAB, CHI, MED, RAD)

12. The Liaison may have full authority to approve or deny a request from a Respondent that otherwise would require the approval of the full Board if the request cannot be heard and voted on due to lack of/loss of quorum.

13. The Liaison may have full authority to terminate any treatment ONLY upon written request from Respondent and written recommendation from Respondents treater.

Authorities Delegated to the Department Monitor

The Monitor may take the following actions on behalf of the Board/Section, draft an order and sign:

1. Grant full reinstatement of licensure if education is the sole condition of the limitation and Respondent has submitted the required proof of completion for approved courses.

2. Suspend the license if Respondent has not completed Board/Section-ordered education and/or paid costs and forfeitures within the time specified by the Board/Section order. The Monitor may remove the suspension and issue an order when proof of completion and/or payment have been received.

3. Suspend the license (or remove stay of suspension) if Respondent fails to enroll and participate in an Approved Program for drug and alcohol testing within 30 days of the order, or if Respondent ceases participation in the Approved Program without Board approval. This delegated authority only pertains to respondents who must comply with drug and/or alcohol testing requirements.

4. Grant or deny approval when Respondent proposes treatment providers [, mentors, supervisors, etc.] unless the Order specifically requires full-Board/Section or Board designee approval. (Except for MED)

5. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete Board/Section-ordered continuing/disciplinary/remedial education.

6. Grant a maximum of one 90-day extension or payment plan for proceeding costs and/or forfeitures if warranted and requested in writing by Respondent.

7. Grant a maximum of one 90-day extension, if warranted and requested in writing by Respondent, to complete a Board/Section-ordered evaluation or exam.

Authorities Delegated to Board Legal Counsel

Board Legal Counsel may take the following actions on behalf of the Board/Section:

1. Sign Monitoring orders that result from Board/Section meetings on behalf of the Board/Section Chair.

CONTROLLED SUBSTANCES BOARD

2023 Delegations

Document Signature Delegations

MOTION: Alan Bloom moved, seconded by Subhadeep Barman, to delegate authority to the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to sign documents on behalf of the Board in order to carry out its duties. Motion carried unanimously.

MOTION: John Weitekamp moved, seconded by Subhadeep Barman, in order to carry out duties of the Board, the Chairperson (or in absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) has the ability to delegate signature authority for purposes of facilitating the completion of assignments during or between meetings. The members of the Board hereby delegate to the Executive Director or DPD Division Administrator, the authority to sign on behalf of a board member as necessary. Motion carried unanimously.

Delegated Authority for Urgent Matters

MOTION: Alan Bloom moved, seconded by Troy Alton, that in order to facilitate the completion of urgent matters between meetings, the Board delegates its authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession), to appoint liaisons to the Department to act in urgent matters. Motion carried unanimously.

Special Use Authorization Liaison(s) Delegation

MOTION: Troy Alton moved, seconded by John Weitekamp, to authorize the SUA Liaison(s) to review and make approval decisions regarding SUA applications and approve required training or credentialing on behalf of the Board. Furthermore, the Board authorizes DSPS staff to sign SUA permits on behalf of the Board. Motion carried unanimously.

MOTION: Doug Englebert moved, seconded by Troy Alton, to authorize the SUA Liaison(s) to make all decisions related to Special Use Authorizations. Motion carried unanimously.

Authorization for DSPS to Provide Board Member Contact Information to National Regulatory Related Bodies

MOTION: Doug Englebert moved, seconded by Alan Bloom, to authorize the Department staff to provide national regulatory related bodies with all

board member contact information that the Department retains on file. Motion carried unanimously.

Legislative Liaison Delegation

MOTION: Yvonne Bellay moved, seconded by Subhadeep Barman, to delegate authority to the Legislative Liaisons to speak on behalf of the Board regarding legislative matters. Motion carried unanimously.

SCAODA Representative Delegation

MOTION: Yvonne Bellay moved, seconded by Doug Englebert, to authorize the SCAODA representative to vote on behalf of the Board at the State Council on Alcohol and Other Drug Abuse meetings. Motion carried unanimously.

PDMP Liaison(s) Delegation

MOTION: Doug Englebert moved, seconded by Troy Alton, to authorize PDMP Liaison(s) to make individual decisions on behalf of the Board when waiting for a Board meeting would unreasonably delay the development, testing, deployment, or operation of the PDMP. The Board also grants the PDMP liaison the authority to suspend access to the PDMP pursuant to CSB § 4.09(3). Motion carried unanimously.

Referral Criteria Workgroup Membership Delegation

MOTION: John Weitekamp moved, seconded by Doug Englebert, that in order to facilitate the completion of its duties between meetings, the Board delegates authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving board member in that succession) to appoint members to the Referral Criteria Workgroup between meetings as necessary. Motion carried unanimously.

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**	**1/8/24** **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?
1/19/24	☒ Yes ☐ No	**Administrative Rule Matters – Discussion and Consideration** **1. Affirmative Action Order:** **a. CSB 2.004, Relating to Scheduling Zuranolone** **b. CSB 2.005, Relating to Scheduling 9 Fentanyl Related Substances** **c. CSB 2.006, Relating to Scheduling 5 Synthetic Cannabinoids** **d. CSB 2.007, Relating to Scheduling ADB-BUTINACA, α-PiHP, and 3-MMC** **2. Scope Statement:** **a. CSB 4, Mail Delivered Prescriptions** **3. Preliminary Rule Draft:** **a. CSB 2.001, Relating to Scheduling Methiopropamine** **b. CSB 2.002, Relating to Excluding Fenfluramine** **c. CSB 4, Relating to Monitored Prescription Drug History Reports** **4. Final Rule Draft:** **a. CSB 2.96, Relating to Scheduling Amineptine** **b. CSB 2.97, Relating to Scheduling Zipeprol** **5. 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:

Review and take action on Affirmative Action Orders, Scope Statement, Preliminary Rules Drafts, and Final Rule Drafts.

Attachments:

- Affirmative Action Order – CSB 2.004-2.007
- Scope Statement – CSB 4, Mail Delivered Prescriptions
- Preliminary Rule Draft – CSB 2.001 and 2.002, CSB 4 PDMP Reports
- Legislative Report, Final Rule Draft, EIA, and Clearinghouse Report – CSB 2.96 and 2.97
- 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 — 1/8/24

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	:	AFFIRMATIVE ACTION ORDER OF THE CONTROLLED SUBSTANCES BOARD

FINDINGS

1. On October 31, 2023, the Department of Justice, Drug Enforcement Administration published its interim final rule in the Federal Register adding Zuranolone to schedule IV of the federal Controlled Substances Act. The scheduling action is effective October 31, 2023.

2. The Controlled Substances Board did not receive an objection to similarly listing Zuranolone 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 Zuranolone as a schedule IV controlled substance.

3. The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, listing Zuranolone as a schedule IV controlled substance.

ORDER

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

CSB 2.003 Addition of Zuranolone to Schedule IV. Section 961.20 (2) (r), Stats., is created to read:

961.20 (2) (r) Zuranolone.

This order shall become effective upon publication in the Administrative Register. The order expires upon promulgation of a final rule.

Dated _____

_____
Doug Englebert, Chair
Controlled Substances Board

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING	:	AFFIRMATIVE ACTION
PROCEEDINGS BEFORE THE	:	ORDER OF THE
CONTROLLED SUBSTANCES BOARD	:	CONTROLLED SUBSTANCES BOARD

FINDINGS

1. On December 7, 2023, the Department of Justice, Drug Enforcement Administration published its temporary amendment and scheduling order in the Federal Register adding the following 9 fentanyl related substances to schedule I of the federal Controlled Substances Act:

- *Meta*-fluorofentanyl
- *Meta*-fluoroisobutyryl fentanyl
- *Para*-methoxyfuranyl fentanyl
- 3-furanyl fentanyl
- 2',5'-dimethoxyfentanyl
- Isovaleryl fentanyl
- *Ortho*-fluorofuranyl fentanyl
- *Alpha*'-methyl butyryl fentanyl
- *Para*-methylcyclopropyl fentanyl

The scheduling action is effective December 7, 2023.

2. The Controlled Substances Board did not receive an objection to similarly listing the above 9 fentanyl related substances as schedule I controlled substances under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order listing the above 9 fentanyl related substances as schedule I controlled substances.

3. The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, listing the above 9 fentanyl related substances as schedule I controlled substances.

ORDER

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats the above 9 fentanyl related substances under chapter 961, Stats. by creating the following:

CSB 2.005 Addition of 9 Fentanyl Related Substances to Schedule I. **(1)** Section 961.14 (2) (nd) 3m., 10m., 11m., 12e., 12m., 12s., 16n., 17g., and 17r., are created to read:

961.14 (2) (nd) 3m. *Alpha*'-methyl butyryl fentanyl (2-methyl-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide);

10m. 2',5'-dimethoxyfentanyl (*N*-(1-(2,5-dimethoxyphenethyl)piperidin-4-yl)-*N*-phenylpropionamide);

11m. 3-furanyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylfuran-3-carboxamide);

12e. Isovaleryl fentanyl (3-methyl-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide);

12m. *Meta*-fluorofentanyl (*N*-(3-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide);

12s. *Meta*-fluoroisobutyryl fentanyl (*N*-(3-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide);

16n. *Ortho*-fluorofuranyl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);

17g. *Para*-methoxyfuranyl fentanyl (*N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);

17r. *Para*-methylcyclopropyl fentanyl (*N*-(4-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)cyclopropanecarboxamide);

This order shall become effective upon publication in the Administrative Register. The order expires upon promulgation of a final rule.

Dated _____

_____
Doug Englebert, Chair
Controlled Substances Board

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING	:	AFFIRMATIVE ACTION
PROCEEDINGS BEFORE THE	:	ORDER OF THE
CONTROLLED SUBSTANCES BOARD	:	CONTROLLED SUBSTANCES BOARD

FINDINGS

1. On December 12, 2023, the Department of Justice, Drug Enforcement Administration published its temporary amendment and scheduling order in the Federal Register adding the following 6 synthetic cannabinoids to schedule I of the federal Controlled Substances Act:

- MDMB-4en-PINACA
- 4F-MDMB-BUTICA or 4F-MDMB-BICA
- ADB-4en-PINACA
- CUMYL-PEGACLONE or SGT-151
- 5F-EDMB-PICA or 5F-EDMB-2201
- MMB-FUBICA

The scheduling action is effective December 12, 2023.

2. The Controlled Substances Board did not receive an objection to similarly listing 5 of the above synthetic cannabinoids as schedule I controlled substances under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order listing those 5 synthetic cannabinoids as schedule I controlled substances. The remaining synthetic cannabinoid, MMB-FUBICA, is already included in schedule I of ch. 961, Stats.

3. The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, listing the above 5 synthetic cannabinoids as schedule I controlled substances.

ORDER

Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats the above 5 synthetic cannabinoids under chapter 961, Stats. by creating the following:

CSB 2.006 Adding 5 Synthetic Cannabinoids to Schedule I. (1) Section 961.14 (4) (tb) 54. to 58., Stats., are created to read:

> **961.14 (4) (tb)** 54. Methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxamido)butanoate, commonly known as MDMB-4en-PINACA.
>
> 55. Methyl 2-[[1-(4-fluorobutyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate**,** commonly known as 4F-MDMB-BUTICA or 4F-MDMB-BICA.

56. *N*-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(pent-4-en-1-yl)-1*H*-indazole-3-carboxaminde, commonly known as ADB-4en-PINACA.

57. 5-Pentyl-2-(2-phenylpropan-2-yl)pyrido[4,3-b]indol-1-one, commonly known as CUMYL-PEGACLONE or SGT-151.

58. Ethyl 2-[[1-(5-fluoropentyl)indole-3-carbonyl]amino]-3,3-dimethyl-butanoate, commonly known as 5F-EDMB-PICA or 5F-EDMB-2201.

This order shall become effective upon publication in the Administrative Register. The order expires upon promulgation of a final rule.

Dated _____

_____
Doug Englebert, Chair
Controlled Substances Board

STATEMENT OF SCOPE

CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 4

Relating to: Mail Delivered Prescriptions

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 review the requirements in CSB 4.04 to determine whether an exemption created by the Pharmacy Examining Board under s. Phar 8.06 (2) should be adopted to avoid discrepancies between code provisions. This exemption would allow for a valid signature to be recorded in lieu of an Identification Card for mail delivered controlled substances. The name from the valid signature is what will then be entered into the Prescription Drug Monitoring Program (PDMP) as part of that prescription record.

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 data that is entered into the PDMP for prescriptions. Section CSB 4.04 (2) (p) requires that the name from Wis. Stat. s. 450.11 (1b) (1m) to be entered into the PDMP. The Pharmacy Examining Board has created an exemption for that statutory requirement for when the prescription is delivered by mail. Without making changes under the proposed rule there will continue to be a discrepancy in what is allowed for mail delivered prescriptions versus what is required to be entered into the PDMP.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):
961.385 (2) (a) states that the board shall establish by rule and have the prescription drug monitoring program “require a pharmacy or a practitioner to generate a record documenting each dispensing of a monitored prescription drug at the pharmacy, or if the monitored prescription drug is not dispensed at the pharmacy, by the practitioner and to submit the record to the board no later than 11:59 p.m. of the next business day after the monitored prescription drug is dispensed…”

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:
Wisconsin Licensed Prescribers who report to the PDMP.

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

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

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

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.001, relating to scheduling Methiopropamine.

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.

Summary of, and comparison with, existing or proposed federal regulation:
On December 9, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding Methiopropamine to schedule I of the federal Controlled Substances Act. The scheduling action was effective January 9, 2023.

Plain language analysis:
This rule schedules Methiopropamine as a schedule I controlled substance.

The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, listing Methiopropamine as a schedule I controlled substance.

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

> **CSB 2.001 Addition of Methiopropamine to Schedule I**. Section 961.14 (7) (t), Stats., is created to read:
>
> **961.14 (7) (t)** N-methyl-1-(thiophen-2-yl)propan-2-amine, commonly known as Methiopropamine.

The Affirmative Action order, dated March 24, 2023 took effect on April 3, 2023, when it was published in the Administrative Register and expires upon promulgation of a final rule.

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 listed Methiopropamine as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed Methiopropamine as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed Methiopropamine as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed Methiopropamine as a schedule I controlled substance [Minnesota Statutes 152.02 (2)].

Summary of factual data and analytical methodologies:
The methodology was to schedule Methiopropamine to conform with the federal Controlled Substances Act.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:
The rule schedules Methiopropamine as a Schedule I controlled substance which will not have any effect on small business.

Fiscal Estimate:
The proposed rule will be 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.

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.

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by January 19, 2024, to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.001 is created to read:

CSB 2.001 Addition of Methiopropamine to Schedule I. Section 961.14 (7) (t), Stats., is created to read:

> **961.14 (7) (t)** N-methyl-1-(thiophen-2-yl)propan-2-amine, commonly known as Methiopropamine.

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)

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

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

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.002, relating to Excluding Fenfluramine.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.20, 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. 961.20, Stats.

Summary of, and comparison with, existing or proposed federal regulation:
On December 23, 2022, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register removing Fenfluramine from schedule IV of the federal Controlled Substances Act. The scheduling action was effective on December 23, 2022.

Plain language analysis:
This rule excludes Fenfluramine as a schedule IV controlled substance.

The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, excluding Fenfluramine as a schedule IV controlled substance.

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

> **CSB 2.002 Excluding Fenfluramine from schedule IV**. Section 961.20 (4) (am), Stats. is repealed.

The Affirmative Action order, dated April 7, 2023, took effect on April 17, 2023, upon publication in the Administrative Register and expires upon promulgation of a final rule.

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 Fenfluramine listed as a schedule IV controlled substance [720 Illinois Compiled Statutes 570/210 (d) (1)].

Iowa: Iowa has Fenfluramine listed as a schedule IV controlled substance [Iowa Code 124.210 (4)].

Michigan: Michigan has Fenfluramine listed as a schedule IV controlled substance [Michigan Compiled Laws s. 333.7218 (b)].

Minnesota: Minnesota has Fenfluramine listed as a schedule IV controlled substance [Minnesota Statutes 152.02 (5) (d)].

Summary of factual data and analytical methodologies:
The methodology was to remove Fenfluramine from Schedule IV to conform with the federal Controlled Substances Act.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:
The rule excludes Fenfluramine as a Schedule IV controlled substance which will not have any effect on small business.

Fiscal Estimate:
The proposed rule will be 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.

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.

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by January 19, 2024, to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.002 is created to read:

CSB 2.002 Excluding Fenfluramine from schedule IV. Section 961.20 (4) (am), Stats. is repealed.

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)

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULEMAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	PROPOSED ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE)

PROPOSED ORDER

An order of the Controlled Substances Board to amend CSB 4.11 (2) (a) and (c), relating to monitored prescription drug history reports.

Analysis prepared by the Department of Safety and Professional Services.

ANALYSIS

Statutes interpreted: s. 961.385 (2) (c), Stats.

Statutory authority: s. 961.385 (2) (c), Stats.

Explanation of agency authority:
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."

Related statute or rule: None.

Plain language analysis: 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.

Summary of, and comparison with, existing or proposed federal regulation: None.

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: The Illinois Prescription Monitoring Program allows patients access to their personal prescription history based on a validation process established by administrative rules [720 Illinois Compiled Statutes Chapter 570 Section 318 (m)]. The administrative rules governing patient access to their prescription history require that the patient, parent, or guardian complete a notarized request for a personal information report of a patient's prescription history, and submit it by mail to the Illinois Prescription Monitoring Program [Illinois Administrative Coder Title 77 Chapter X Subchapter e Part 2050 Section 2080.190 (a)].

Iowa: The Iowa Prescription Monitoring Program allows patients or a patient's agent to request that individual patient's own prescription history report by submitting a request form. Request forms may be submitted in-person with a government issued photo identification or via mail if the request form is notarized and sent with a certified copy of the patient's government issued identification. A patient's agent may sign the request form in lieu of the patient if a copy the legal document establishing the agency relationship is provided. The patient's agent must also present a government issued identification for in-person requests or a certified copy of a government issued identification for mailed requests. [657 Iowa Administrative Code Chapter 37 Section 37.16 (7)].

Michigan: The administrative rules that govern the Michigan Automated Prescription System, the states electronic system for monitoring schedule II to V controlled substances, does not specify whether a report of a patient's prescription history can be disclosed, nor how a report may be obtained by a patient. [Michigan Administrative Rules R 338.3162b].

Minnesota: The Minnesota Prescription Monitoring Program allows a patient who has been prescribed a controlled substance to access the program's database to obtain information on users who have access to that patient's data records. A patient may submit a request for this information on a notarized form from the Minnesota State Board of Pharmacy's website.[Minnesota Statutes Chapter 152 Section 152.126 Subdivision 11].

Summary of factual data and analytical methodologies: The Board reviewed Wisconsin Administrative Code Chapter CSB 4 and made updates as needed.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:
The proposed rules will be 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.

Fiscal Estimate and Economic Impact Analysis:
The Fiscal Estimate and Economic Impact Analysis will be attached upon completion.

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.

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, P.O. Box 8366, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received on or before the public hearing, held on a date to be determined, to be included in the record of rule-making proceedings.

TEXT OF RULE

SECTION 1. CSB 4.11 (2) (a) and (c) are amended to read:

CSB 4.11 (2) (a) Appears in person at the department with two forms of valid proof of identity, one of which is a valid government-issued photographic identification or mails to the department copies of two forms of valid proof of identity, one of which is a valid government-issued photographic identification.

(c) Makes a request for the monitored prescription drug history report on a form provided by the board. If the request is mailed, the form shall be notarized.

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)

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULEMAKING	**:**	
PROCEEDINGS BEFORE THE	**:**	**REPORT TO THE LEGISLATURE**
CONTROLLED SUBSTANCES BOARD	**:**	**CR 23-068**

I. THE PROPOSED RULE: The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA: The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

This rule schedules Amineptine as a schedule I controlled substance. The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, 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, when it was published in the Administrative Register and expires upon promulgation of a final rule.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

Per s. 961.11(4), Stats., if no objection is made, the board shall promulgate a final rule for which notice of proposed rulemaking is omitted. Therefore, the Board did not hold a public hearing.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS: Legislative Council staff did not make any recommendations.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	PROPOSED ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE 23-068)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.96 relating to scheduling Amineptine.

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.

Summary of, and comparison with, existing or proposed federal regulation:
On November 17, 2022, the Department of Justice, Drug Enforcement Administration published its interim final rule in the Federal Register listing Amineptine into schedule I of the federal Controlled Substances Act. The scheduling action is effective December 19, 2022.

Plain language analysis:
This rule schedules Amineptine as a schedule I controlled substance.

The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, 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, when it was published in the Administrative Register and expires upon promulgation of a final rule.

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 listed Amineptine as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed Amineptine as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed Amineptine as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed Amineptine as a schedule I controlled substance [Minnesota Statutes 152.02 (2)].

Summary of factual data and analytical methodologies:
The methodology was to schedule Amineptine to conform with the federal Controlled Substances Act.

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

The proposed rule was 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) 266-2112.

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.

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by January 19, 2024, to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.96 is created to read:

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.

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)

This Proposed Order of the Controlled Substances Board is approved for submission to the Governor and Legislature.

Dated _____ Agency _____

Chairperson
Controlled Substances Board

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Date
12/06/23

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
CSB 2.96

4. Subject
Scheduling Amineptine

5. Fund Sources Affected
☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

6. Chapter 20, Stats. Appropriations Affected
s. 20.165 (1) (g) and (hg)

7. Fiscal Effect of Implementing the Rule
☐ No Fiscal Effect ☐ Increase Existing Revenues ☒ Increase Costs ☐ Decrease Costs
☒ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget

8. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy
☐ Local Government Units
☐ Specific Businesses/Sectors
☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).
$0

10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be $10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?
☐ Yes ☒ No

11. Policy Problem Addressed by the Rule
On November 17, 2022, the Department of Justice, Drug Enforcement Administration published its interim final rule in the Federal Register listing Amineptine into schedule I of the federal Controlled Substances Act. The scheduling action is effective December 19, 2022.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.
The rule was posted on the Department's website for 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.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This rule aligns Wisconsin statute with federal scheduling and classifies Amineptine as a schedule I controlled substance. DSPS estimates a total of $3,500 in one-time staffing costs to implement the rule. The estimated need for 0.1 limited term employee (LTE) is for rule drafting and communications necessary for implementation. The estimated costs may not be absorbed in the currently appropriated budget.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit is that the federal and state controlled substances acts will be uniform to avoid confusion.

16. Long Range Implications of Implementing the Rule
The long range implications of implementing the rule are that Amineptine will be added to Wis. Stat. ch. 961 as a schedule I controlled substance.

17. Compare With Approaches Being Used by Federal Government
The federal government has scheduled Amineptine as schedule I controlled substance.

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois has not listed Amineptine as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed Amineptine as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed Amineptine as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed Amineptine as a schedule I controlled substance [Minnesota Statutes 152.02 (2)].

19. Contact Name	20. Contact Phone Number
Nilajah Hardin, Administrative Rules Coordinator	608-267-7139

This document can be made available in alternate formats to individuals with disabilities upon request.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?
☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)
☐ Yes ☐ No

LCRC
FORM 2

Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **23-068**

AN ORDER to create CSB 2.96, relating to scheduling Amineptine.

Submitted by **CONTROLLED SUBSTANCES BOARD**

12-06-2023 RECEIVED BY LEGISLATIVE COUNCIL.
12-08-2023 REPORT SENT TO AGENCY.

MSK:SM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☐ NO ☑

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☐ NO ☑

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☐ NO ☑

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULEMAKING	**:**	
PROCEEDINGS BEFORE THE	**:**	**REPORT TO THE LEGISLATURE**
CONTROLLED SUBSTANCES BOARD	**:**	**CR 23-069**

I. THE PROPOSED RULE: The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS: N/A

III. FISCAL ESTIMATE AND EIA: The Fiscal Estimate and EIA is attached.

IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:

This rule schedules Zipeprol as a schedule I controlled substance. The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, 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, when it was published in the Administrative Register and expires upon promulgation of a final rule.

V. SUMMARY OF PUBLIC COMMENTS AND THE BOARD'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:

Per s. 961.11(4), Stats., if no objection is made, the board shall promulgate a final rule for which notice of proposed rulemaking is omitted. Therefore, the Board did not hold a public hearing.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS: Legislative Council staff did not make any recommendations.

VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS: N/A

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE CONTROLLED SUBSTANCES BOARD	:	PROPOSED ORDER OF THE CONTROLLED SUBSTANCES BOARD ADOPTING RULES (CLEARINGHOUSE RULE 23-069)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.97, relating to scheduling Zipeprol.

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.

Summary of, and comparison with, existing or proposed federal regulation:
On November 21, 2022, the Department of Justice, Drug Enforcement Administration published its interim final rule in the Federal Register listing Zipeprol into schedule I of the federal Controlled Substances Act. The scheduling action is effective December 21, 2022.

Plain language analysis:
This rule schedules Zipeprol as a schedule I controlled substance.

The Controlled Substances Board will promulgate a final rule, without making the determinations or findings required by ss. 961.11(1), (1m), (1r) and (2) or s. 961.19 and omitting the notice of proposed rulemaking, 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, when it was published in the Administrative Register and expires upon promulgation of a final rule.

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 listed Zipeprol as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed Zipeprol as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed Zipeprol as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed Zipeprol as a schedule I controlled substance [Minnesota Statutes 152.02 (2)].

Summary of factual data and analytical methodologies:
The methodology was to schedule Zipeprol to conform with the federal Controlled Substances Act.

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

The proposed rule was 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) 266-2112.

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.

Place where comments are to be submitted and deadline for submission:
Comments may be submitted to Nilajah Hardin, Administrative Rules Coordinator, Department of Safety and Professional Services, Division of Policy Development, 4822 Madison Yards Way, Madison, WI 53708-8366, or by email to DSPSAdminRules@wisconsin.gov. Comments must be received by January 19, 2024, to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.97 is created to read:

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).

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)

This Proposed Order of the Controlled Substances Board is approved for submission to the Governor and Legislature.

Dated _____ Agency _____

Chairperson
Controlled Substances Board

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

DIVISION OF EXECUTIVE BUDGET AND FINANCE
101 EAST WILSON STREET, 10TH FLOOR
P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis
☒ Original ☐ Updated ☐ Corrected

2. Date
12/06/23

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
CSB 2.97

4. Subject
Scheduling Zipeprol

5. Fund Sources Affected
☐ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

6. Chapter 20, Stats. Appropriations Affected
s. 20.165 (1) (g) and (hg)

7. Fiscal Effect of Implementing the Rule
☐ No Fiscal Effect ☐ Increase Existing Revenues ☒ Increase Costs ☐ Decrease Costs
☒ Indeterminate ☐ Decrease Existing Revenues ☐ Could Absorb Within Agency's Budget

8. The Rule Will Impact the Following (Check All That Apply)
☐ State's Economy
☐ Local Government Units
☐ Specific Businesses/Sectors
☐ Public Utility Rate Payers
☐ Small Businesses **(if checked, complete Attachment A)**

9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1).
$0

10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be $10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)?
☐ Yes ☒ No

11. Policy Problem Addressed by the Rule
On November 21, 2022, the Department of Justice, Drug Enforcement Administration published its interim final rule in the Federal Register listing Zipeprol into schedule I of the federal Controlled Substances Act. The scheduling action is effective December 21, 2022.

12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments.
The rule was posted on the Department's website for 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.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.
N/A

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)
This rule aligns Wisconsin statute with federal scheduling and classifies Zipeprol as a schedule I controlled substance. DSPS estimates a total of $3,500 in one-time staffing costs to implement the rule. The estimated need for 0.1 limited term employee (LTE) is for rule drafting and communications necessary for implementation. The estimated costs may not be absorbed in the currently appropriated budget.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule
The benefit is that the federal and state controlled substances acts will be uniform to avoid confusion.

16. Long Range Implications of Implementing the Rule
The long range implications of implementing the rule are that Zipeprol will be added to Wis. Stat. ch. 961 as a schedule I controlled substance.

17. Compare With Approaches Being Used by Federal Government
The federal government has scheduled Zipeprol as schedule I controlled substance.

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P.O. BOX 7864
MADISON, WI 53707-7864
FAX: (608) 267-0372

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois: Illinois has not listed Zipeprol as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed Zipeprol as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed Zipeprol as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed Zipeprol as a schedule I controlled substance [Minnesota Statutes 152.02 (2)].

19. Contact Name	20. Contact Phone Number
Nilajah Hardin, Administrative Rules Coordinator	608-267-7139

This document can be made available in alternate formats to individuals with disabilities upon request.

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOA-2049 (R09/2016)

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ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?
☐ Less Stringent Compliance or Reporting Requirements
☐ Less Stringent Schedules or Deadlines for Compliance or Reporting
☐ Consolidation or Simplification of Reporting Requirements
☐ Establishment of performance standards in lieu of Design or Operational Standards
☐ Exemption of Small Businesses from some or all requirements
☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

5. Describe the Rule's Enforcement Provisions

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)
☐ Yes ☐ No

LCRC
FORM 2

Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **23-069**

AN ORDER to create CSB 2.97, relating to scheduling Zipeprol.

Submitted by **CONTROLLED SUBSTANCES BOARD**

12-06-2023 RECEIVED BY LEGISLATIVE COUNCIL.
12-22-2023 REPORT SENT TO AGENCY.

SG:KAM

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☐ NO ☑

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☐ NO ☑

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☐ NO ☑

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☐ NO ☑

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

Controlled Substances Board
Rule Projects (updated 01/08/24)

CH Rule Number	Scope Number	Scope Expiration Date	Code Chapter Affected	Relating Clause	Stage of Rule Process	Next Step
23-018	091-22	05/21/2025	CSB 2.92	Scheduling 35 Anabolic Steroids	Legislative Review	Board Review of Adoption Order
23-019	092-22	05/21/2025	CSB 2.93	Scheduling Daridorexant	Legislative Review	Board Review of Adoption Order
23-020	093-22	05/21/2025	CSB 2.94	Scheduling 7 Synthetic Benzimidazole-Opioids	Legislative Review	Board Review of Adoption Order
23-021	094-22	05/21/2025	CSB 2.95	Scheduling Ganaxolone	Legislative Review	Board Review of Adoption Order
23-068	051-23	02/07/2026	CSB 2.96	Scheduling Amineptine	Board Review of Final Rule Draft	Submitted for Governor Approval and Legislative Review
23-069	052-23	02/07/2026	CSB 2.97	Scheduling Zipeprol	Board Review of Final Rule Draft	Submitted for Governor Approval and Legislative Review
Not Assigned Yet	053-23	02/07/2026	CSB 2.98	Excluding [^{18} F] FP-CIT	Clearinghouse Review	Draft Final Rule
Not Assigned Yet	054-23	02/07/2026	CSB 2.99	Scheduling Mesocarb	Clearinghouse Review	Draft Final Rule
Not Assigned Yet	078-23	04/23/2026	CSB 2.001	Scheduling Methiopropamine	Board Review of Preliminary Rule Draft	Submission for EIA Comment and Clearinghouse Review
Not Assigned Yet	079-23	04/23/2026	CSB 2.002	Excluding Fenfluramine	Board Review of Preliminary Rule Draft	Submission for EIA Comment and Clearinghouse Review
Not Assigned Yet	001-24	07/02/2026	CSB 2.003	Transferring Flualprazolam and Scheduling 4 Other Synthetic Benzodiazepine Substances	Scope Published in Legislative Administrative Register	Scope Statement Submitted for Implementation
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.004	Scheduling Zuranolone	Board Review of Affirmative Action Order	Affirmative Action Order Submitted for Publication

Controlled Substances Board
Rule Projects (updated 01/08/24)

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 2.005	Scheduling 9 Fentanyl Related Substances	Board Review of Affirmative Action Order	Affirmative Action Order Submitted for Publication
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.006	Scheduling 5 Synthetic Cannabinoids	Board Review of Affirmative Action Order	Affirmative Action Order Submitted for Publication
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.007	Scheduling ADB-BUTINANCA, α-PiHP, and 3- MMC	Board Review of Affirmative Action Order	Affirmative Action Order Submitted for Publication
Not Assigned Yet	095-22	05/21/2025	CSB 4	National Provider Identifier Requirement	Board Review of Preliminary Rule Draft	EIA Comment Period and Clearinghouse Review
Not Assigned Yet	055-23	02/07/2026	CSB 4	Monitored Prescription Drug History Reports	Drafting	Board Review of Preliminary Rule Draft
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 4	Mail Delivered Prescriptions	Board Review of Scope Statement	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**	01/08/2024 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?
01/19/2024	☒ 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. Recent and Upcoming Releases
    b. EHR Integration Status
2. WI PDMP Outreach

11) Authorization

Marjorie Liu — 01/08/2024

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.

2021-2024 Development and Release Summary

Updated 01.08.2024

Release Date	Description
Pending	
R33.2 **January 2024**	Pharmacy Users fixes • Zero reports • Revise/Correct/Void File Processing support EHR support
Completed	
R33.1 **November 2023**	Statistics dashboard "utilization" page updates PMPi states data exchange updates Admin Manage Alerts timeout Patient Matching Updates
R33.0 **November 2023**	Geocoding Address2 Line rejection Updated Submitter Guide
R32.1-32.5 **October 2023**	EHR support & Iframe support Epic File processing support
R 32 **Harold Rogers Grant 2020** **10/15/2023**	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. Infrastructure and Technology stack changes to improve performance in the following areas: • Patient Matching • Dispensing Matching Reporting Statistics
R31 **March 2023**	Iframe support Epic
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 10.30.2023

Pending Health Systems and EHR Platforms	Status			Notes
QuadMed, LLC	Implementation in progress			
Connected Health Systems (approx. 57% of monthly patient queries)	**Free Pricing Model**	**Implementation Date**	**Est. Total # of Users**	**Notes**
Advent Health	Y	03/05/2023		
Allina Health	Y	09/18/2023		
Ascension Wisconsin				
Aspirus Health Care				
Aurora Health Care				
Children's Hospital of Wisconsin	Y	09/01/2022	300	
Clark County	Y			
Clean Slate	Y	09/01/2022	26	
CompuGroup Medical	Y	09/26/2023	50	
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	Y	01/01/2023		
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	Y	02/01/2023		
Ochin	Y	12/21/2022	100	Epic

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	Synergy Medical Services, LLC
ASSOCIATED MENTAL HEALTH CONSULTANTS	Third Eye Health
Behavioral Health Svcs of Racine Co.	Watertown Rainbow Hospice
Door County Memorial Hospital	Wauwatosa Children's Clinic
Dr. Colleen Worth, DNP, APNP	Watertown Regional Medical Center
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	
Mindful Healing and Wellness LLC	
Oak Medical	
Oral Surgery Associates of Milwaukee	
Orthopedic Hospital of Wisconsin	
Pain Management and Treatment Center	
Reka Furedi MD	
Richland Hospital	
Red Oak Counseling	
Regional Medical Center	
Rogers Memorial Hospital	
Sauk Prairie Memorial Hospital	

2024 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	1/11/2024	Virtual; Quarterly Meeting
February				
March				
April	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	4/11/2024	Virtual; Quarterly Meeting
May	PDMP Administrators' National Conference	Presenter & Participant; national meeting for state PDMP administrators organized by Bureau of Justice Assistance	5/7-5/9/2024	San Antonio, TX
June				
July	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	7/11/2024	Virtual; Quarterly Meeting
August	2024 PMP InterConnect Steering Committee Meeting	Participant; Annual national meeting for PDMP administrators organized by National Association of Boards of Pharmacy (NABP)	TBD	Mount Prospect, IL
September	Sauk County Overdose Fatality Review Team Meeting	Presenter, PDMP overview, updates, and utilization for Overdose Fatality Review	9/25/2024	Virtual
October	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	10/10/2024	Virtual; Quarterly Meeting
	NASCSA Conference (National Association of State Controlled Substances Authorities)	Participant; annual national meeting organized by NASCSA for government controlled substances authority, PDMP and healthcare professionals	10/28-10/31/2024	Greenville, South Carolina
November				
December				

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:** **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: **1/19/24**	**5) Attachments:** ☒ **Yes** ☐ **No**	**6) How should the item be titled on the agenda page?** **PA Membership on Controlled Substances Board – Legislative Proposal Review**	
7) Place Item in: ☒ **Open Session** ☐ **Closed Session**	**8) Is an appearance before the Board being scheduled?** *(If yes, please complete Appearance Request for Non-DSPS Staff)* ☐ **Yes <Appearance Name(s)>** ☒ **No**	**9) Name of Case Advisor(s), if applicable:** **N/A**	
10) Describe the issue and action that should be addressed: **Review legislative draft.**			
11) **Authorization** *Name* *Date** **Signature of person making this request** **Date** **Supervisor (Only required for post agenda deadline items)** **Date** **Executive Director signature (Indicates approval for post agenda deadline items)** **Date**			
Directions for including supporting documents: **1. This form should be saved with any other documents submitted to the Agenda Items folders.** **2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director.** **3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.**			

State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4118/P1
MED:cjs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT ***to amend*** 15.405 (5g) of the statutes; **relating to:** the membership of the Controlled Substances Board.

Analysis by the Legislative Reference Bureau

Under current law, the Controlled Substances Board, which performs various functions with regards to the scheduling and regulation of controlled substances and the Prescription Drug Monitoring Program, consists of nine members, including the chairpersons of the Pharmacy Examining Board, the Medical Examining Board, the Dentistry Examining Board, and the Board of Nursing. This bill adds the chairperson of the Physician Assistant Affiliated Credentialing Board to the membership of the board.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.405 (5g) of the statutes is amended to read:

15.405 **(5g)** CONTROLLED SUBSTANCES BOARD. There is created in the department of safety and professional services a controlled substances board consisting of the attorney general, the secretary of health services, and the secretary of agriculture, trade and consumer protection, or their designees; the chairperson of the pharmacy

examining board, the chairperson of the medical examining board, the chairperson of the physician assistant affiliated credentialing board, the chairperson of the dentistry examining board, and the chairperson of the board of nursing, or a designee; and one psychiatrist and one pharmacologist appointed for 3–year terms.

(END)