Wisconsin Department of Safety and Professional Services
Division of Policy Development
4822 Madison Yards Way
PO Box 8366
Madison WI 53708-8366

Phone: 608-266-2112
Web: http://dsps.wi.gov
Email: dsps@wisconsin.gov

Tony Evers, Governor
Dan Hereth, Secretary

VIRTUAL/TELECONFERENCE
CONTROLLED SUBSTANCES BOARD
Virtual, 4822 Madison Yards Way, Madison
Contact: Tom Ryan (608) 266-2112
January 10, 2025

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

10:00 A.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. **Adoption of Agenda (1-3)**

B. **Approval of Minutes November 8, 2024 (4-5)**

C. Reminders: Conflicts of Interests, Scheduling Concerns

D. **Introductions, Announcements and Recognition**
   1) Introduction and Welcome – DSPS Secretary Hereth

E. Administrative Matters – Discussion and Consideration
   1) Department, Staff, and Board Updates
   2) **2025 Meeting Dates (6)**
   3) **Annual Policy Review (7-9)**
   4) **Election of Officers, Appointment of Liaisons and Alternates, Delegation of Authorities (10-23)**
   5) Board Members – Term Expiration Dates
      a. Barman, Subhadeep – 5/1/2019
      b. Bellay, Yvonne – DATCP Representative
      c. Bloom, Alan – 5/1/2020
      d. Eberhardy, Cullen – AG Representative
      e. Englebert, Doug – DHS Representative
      f. Gundersen, David – Dentistry Examining Board 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. Alton, Troy – 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 (24)**
   1) Scope Statement:
      a. CSB 2.010, Relating to Scheduling Ethylphenidate **(25-26)**

2) Preliminary Rule Draft:
    a. CSB 2.009, Relating Scheduling 2 Synthetic Benzimidazole-Opioids **(27-29)**
3) Final Rule and Legislative Report:
    a. CSB 2.006, Relating to Scheduling 5 Synthetic Cannabinoids **(30-38)**
    b. CSB 2.007, Relating to Scheduling ADB-BUTINACA, α-PiHP, and 3-MMC **(39-47)**
    c. CSB 2.008, Relating to Scheduling 2-methyl AP-237 **(48-54)**
4) Pending and Possible Rulemaking Projects
    a. Rule Projects Chart **(55-56)**

G. **Prescription Drug Monitoring Program (PDMP) Updates – Discussion and Consideration (57)**
1) WI ePDMP Operations
    a. Recent and Upcoming Releases **(58-61)**
    b. EHR Integration Status **(62-63)**
2) WI ePDMP Outreach **(64)**

H. **DSPS Interdisciplinary Advisory Council Liaison Report – Discussion and Consideration**

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

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

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 14, 2025

****

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 any agenda item may be changed by the board for the convenience of the parties. The person credentialed by the board has the right to demand that the meeting at which final action may be taken against the credential be held in open session. Requests for interpreters for the hard of hearing, or other accommodations, are considered upon request by contacting the Affirmative Action Officer or reach the Meeting Staff by calling 608-267-7213.

VIRTUAL/TELECONFERENCE
CONTROLLED SUBSTANCES BOARD
MEETING MINUTES
NOVEMBER 8, 2024

PRESENT: Subhadeep Barman *(excused at 11:06 a.m.)*, Yvonne Bellay, Alan Bloom, Cullen Eberhardy, Doug Englebert, Amanda Kane *(excused at 11:23 a.m.) (arrived at 11:24 a.m.)*, Gregory Schmeling, John Weitekamp

ABSENT: David Gundersen

STAFF: Tom Ryan, Executive Director; Whitney DeVoe, 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 10:00 a.m. A quorum was confirmed with eight (8) members present.

ADOPTION OF AGENDA

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

APPROVAL OF MINUTES OF SEPTEMBER 20, 2024

MOTION: John Weitekamp moved, seconded by Amanda Kane, to adopt the Minutes of September 20, 2024, as published. Motion carried unanimously.

(Subhadeep Barman excused at 11:06 a.m.)

DRUG TRENDS PRESENTATIONS

John McGarry, Special Agent in Charge, US Drug Enforcement Administration, Milwaukee District Office

MOTION: Doug Englebert moved, seconded by Yvonne Bellay, to acknowledge and thank John McGarry, Special Agent in Charge, US Drug Enforcement Administration, for their appearance and presentation to the Controlled Substances Board. Motion carried unanimously.

Cullen Eberhardy, CSB Member, Wisconsin Department of Justice

MOTION: Alan Bloom moved, seconded by Amanda Kane, to acknowledge and thank Cullen Eberhardy, Controlled Substances Board member, for their appearance and presentation to the Controlled Substances Board. Motion carried unanimously.

CONTROLLED SUBSTANCES SCHEDULING OVERVIEW

MOTION: Doug Englebert moved, seconded by John Weitekamp, to acknowledge and thank Nilajah Hardin, Administrative rule Coordinator, for their appearance and presentation to the Controlled Substances Board. Motion carried unanimously.

ADMINISTRATIVE RULE MATTERS

Affirmative Action Order:

CSB 2.010, Relating to Scheduling Ethylphenidate

MOTION: John Weitekamp moved, seconded by Cullen Eberhardy, to designate the Chairperson to approve the affirmative action order adding Ethylphenidate as a schedule I controlled substance. The order shall take effect upon publication in the Administrative Register. Motion carried unanimously.

Scope Statement:

CSB 2.009, Relating Scheduling 2 Synthetic Benzimidazole-Opioids

MOTION: Alan Bloom moved, seconded by John Weitekamp, to approve the Scope Statement creating CSB 2.009, Relating to Scheduling 2 Synthetic Benzimidazole-Opioids, 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.

2025 Wis. Stat. s. 227.29 Biennial Report to the Legislature

MOTION: Amanda Kane moved, seconded by Yvonne Bellay, to approve the report required under Wis. Stat. 227.29 for submission in March 2025 to the Joint Committee for Review of Administrative Rules. Motion carried unanimously.

(Amanda Kane excused at 11:23 a.m.)

(Amanda Kane arrived at 11:24 a.m.)

ADJOURNMENT

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

The meeting adjourned at 11:36 a.m.

CONTROLLED SUBSTANCES BOARD
2025 Meeting Dates

Meeting Date	Start time	Location	Agenda Item Deadline
Friday, January 10, 2025	10:00 AM	Virtual	**12/19/24**
Friday, March 14, 2025	10:00 AM	Virtual	**3/4/25**
Friday, May 9, 2025	10:00 AM	Virtual	**4/29/25**
Friday, July 11, 2025	10:00 AM	Virtual	**7/1/25**
Friday, September 19, 2025	10:00 AM	Virtual	**9/9/25**
Friday, November 14, 2025	10:00 AM	Virtual	**11/4/25**

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: 12/1/2024**	
3) Name of Board, Committee, Council, Sections: All Boards			
4) Meeting Date: First Meeting of 2025	**5) Attachments:** ☒ Yes	**6) How should the item be titled on the agenda page?** Administrative Matters: 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 and Virtual Meetings:** Depending on the frequency of scheduled meetings, discussion topics, and member availability, DSPS may host one or more in-person meetings. Virtual connection options are available for all board meetings.

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. A quorum is required for Boards, Sections, and Councils to meet pursuant to Open Meetings Law. Connect to / arrive at meetings 10 minutes before posted start time to allow for audio/connection testing, and timely Call to Order and Roll Call. Virtual meetings include viewable onscreen materials and A/V (speaker/microphone/video) connections.

3. **Walking Quorum:** Board/Section/Council members must not collectively discuss the body's business outside a properly noticed meeting. If several members of a body do so, they 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.

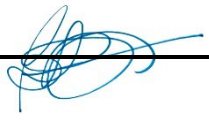
5. **Agenda Deadlines:** Please communicate agenda topics to your Executive Director before the agenda submission deadline at 12:00 p.m., eight business days before a meeting. (Attachment: Timeline of a Meeting)

6. **Travel Voucher and Per Diem Submissions:** 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 Form) Travel Vouchers are distributed on travel approval.

7. **Lodging Accommodations/Hotel Cancellation Policy:** Lodging accommodations are available to eligible members for in-person meetings. Standard eligibility: the member must leave home before 6:00 a.m. to attend an in-person meeting by the scheduled start time.
    a. If a member cannot attend a meeting, they must cancel their reservation with the hotel 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 inclement weather, the DSPS may change a meeting from an in-person venue to a virtual/teleconference only**.**

11) Authorization



12/02/2024

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: Record board-related activities by date, indicate relevant purpose code, the duration of time spent in B-code activities, location, and activity description. Only one $25.00 per diem payment will be issued on any given calendar day. Submit one form per month and within 60 days of the last activity being reported. Send completed forms to your Board's Administrative Specialist.

Purpose Codes:

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

B CODE **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
Month Year	Employee ID Number

Date	Purpose Code **A or B**	Duration of **B activity** **Hours: Minutes**	Where Performed **(Home, DSPS, or City, State)**	Activity **Describe Activity Performed (see purpose codes)**
TOTALS				

CLAIMANT'S CERTIFICATION The Board/Council member named above, 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. (Rev.04/24)

Board Member Approval & Date: _____

TOTAL DAYS CLAIMED: _____ @ $25.00 = _____ Supervisor Approval & Date: _____

CONTROLLED SUBSTANCES BOARD

2024 Elections and Liaison Appointments

Election of Officers

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 *Alternate:* Troy Alton
Interdisciplinary Advisory Council *9/20/24*	Doug Englebert *Alternate:* Alan Bloom

State of Wisconsin
Department of Safety & Professional Services

AGENDA REQUEST FORM

1) Name and title of person submitting the request: Paralegal Richanda Turner, on behalf of Attorney Jameson Whitney		2) Date when request submitted: 12/17/2024 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: 01/10/2025	5) Attachments: ☒ Yes ☐ No	6) How should the item be titled on the agenda page? Reaffirming 2024 delegations and new 2025 delegations	
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 ☒ No	9) Name of Case Advisor(s), if applicable: N/A	
10) Describe the issue and action that should be addressed: The Board members need to review and consider reaffirming 2024 delegations and new delegations for 2025.			
11) Authorization			
Richanda Turner		*12/17/24*	
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

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

CORRESPONDENCE / MEMORANDUM

DATE: January 1, 2025

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. Further information on your Board's authority can be found in Wis. Stat. ch. 15. Generally, each Board has authority to grant credentials, discipline credential holders, and set standards for education and examinations. In order to efficiently accomplish these tasks, Boards may appoint Liaisons. 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 listed 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. However, these areas are determined through the delegation process. Please note, a Liaison may also decide to send the delegated matter to the full Board for consideration as appropriate. Delegations assist the Board in defining the roles and authorities of each Liaison and other Board functions.

Liaison Definitions

Credentialing Liaison: The Credentialing Liaison is empowered by the Board to review and make determinations regarding certain credential applications. 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. 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 to questions that arise on behalf of the Board. The Communication Liaison works with the Department to cultivate an appropriate response which will be sent by the Executive Director or Board Counsel. 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: Screening Panel Members 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 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 allow a 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 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. This delegation greatly decreases workload on Board members and cuts down processing time on applications.

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." Predetermination reviews 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 relevant professional 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 Disciplinary 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.

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.

Delegation to Department Attorneys to Approve Prior Discipline

MOTION EXAMPLE: to delegate authority to Department Attorneys to approve an applicant's prior professional discipline which resulted in a forfeiture/fine/other monetary penalty, remedial education, and/or reprimand, that is 10 years old or older, and the previously disciplined credential is currently in good standing.

PURPOSE: In order to continue improving processing application legal reviews in a timely matter, this delegation gives Department Attorneys authority to approve prior professional discipline which meets all of the following criteria: (1) it is at least ten years old; (2) it resulted in a monetary penalty, remedial education, and/or reprimand; and (3) the previously disciplined credential is currently in good standing.

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 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.

Education and Examination Delegations

MOTION EXAMPLE: to delegate authority to the Education and Examination Liaison(s) to address all issues related to qualifying education, 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 an Education and Examination Liaison to make these determinations on behalf of the Board 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: 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.

Delegation to Chief Legal Counsel-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 accept surrender of 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.

Delegation to Handle Administrative Rule Matters

MOTION EXAMPLE: to delegate authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession), to act on behalf of the Board regarding administrative rule matters between meetings. Motion carried unanimously.

PURPOSE: In order to advance the administrative rules process, action may need to occur between meetings. This allows for quick responses to urgent matters that may need Board approval or for which the Department requires guidance from the Board.

CONTROLLED SUBSTANCES BOARD
JANUARY 19, 2024
2024 DELEGATIONS

All Combined Delegations for 2024

Review and Approval of 2023 Delegations

MOTION: Alan Bloom moved, seconded by Yvonne Bellay, to reaffirm all delegation motions from 2023 as reflected in the agenda materials. Motion carried unanimously.

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: Doug Englebert moved, seconded by Yvonne Bellay, 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.

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.

Delegation to Approve Annual Evaluation Report

MOTION: [Board member name] moved, seconded by [Board member name], to authorize the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession) to review and approve the annual evaluation report required by Wis. Stat. § 961.36(3) for filing with the Legislature.

Delegation to Handle Administrative Rule Matters

MOTION: [Board member name] moved, seconded by [Board member name], to delegate authority to the Chairperson (or, in the absence of the Chairperson, the highest-ranking officer or longest serving Board member in that succession), to act on behalf of the Board regarding administrative rule matters between meetings. Motion carried [ ].

Review and Approval of 2024 Delegations including new modifications

MOTION: [Board member name] moved, seconded by [Board member name], to reaffirm all delegation motions made in 2024, as reflected in the January 10, 2025 agenda materials**,** which were not otherwise modified or amended during the January 10, 2025 meeting. Motion carried [ ].

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**	**12/19/24** **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?
01/10/25	☒ Yes ☐ No	**Administrative Rule Matters – Discussion and Consideration** 1. **Scope Statement:** a. **CSB 2.010, Relating to Scheduling Ethylphenidate** 2. **Preliminary Rule Draft** a. **CSB 2.009, Relating Scheduling 2 Synthetic Benzimidazole-Opioids** 3. **Final Rule and Legislative Report:** a. **CSB 2.006, Relating to Scheduling 5 Synthetic Cannabinoids** b. **CSB 2.007, Relating to Scheduling ADB-BUTINACA, α-PiHP, and 3-MMC** c. **CSB 2.008, Relating to Scheduling 2-methyl AP-237** 4. **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 Scope Statement, Preliminary Rules Drafts, and Final Rule Drafts.

Attachments:

- Scope Statement – CSB 2.010
- Preliminary Rule Draft – CSB 2.009
- Final Rule, Legislative Report, and EIA – CSB 2.006, 2.007, and 2.008
- 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 — 12/19/24

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.**

STATEMENT OF SCOPE

CONTROLLED SUBSTANCES BOARD

Rule No.: CSB 2.010

Relating to: Scheduling Ethylphenidate

Rule Type: Permanent

1. Finding/nature of emergency: N/A

2. Detailed description of the objective of the proposed rule:
The objective of the proposed rule is to add Ethylphenidate to schedule I under ch. 961, Stats.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:
On October 22, 2024, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding Ethylphenidate to schedule I of the federal Controlled Substances Act. The scheduling action is effective November 21, 2024. The Controlled Substances Board did not receive an objection to similarly listing Ethylphenidate in schedule I under ch. 961, Stats. within 30 days of the date of publication in the federal register of the final order listing Ethylpehnidate as a schedule I controlled substance. Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats Ethylphenidate under chapter 961, Stats. by creating the following:

CSB 2.010 Addition of Ethylphenidate to Schedule I. Section 961.14 (7) (u), Stats., is created to read:

961.14 (7) (u) Ethyl 2-phenyl-2-(piperidin-2-yl)acetate, commonly known as Ethylphenidate.

The Affirmative Action order, dated November 27, 2024, took effect on December 16, 2024, upon publication in the Administrative Register and expires upon promulgation of a final rule.

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

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

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:
Approximately 80 hours.

6. List with description of all entities that may be affected by the proposed rule:
Law enforcement, district attorney offices, Dept of Justice, state courts and the Controlled Substances Board.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:
On October 22, 2024, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding Ethylphenidate to schedule I of the federal Controlled Substances Act. The scheduling action is effective November 21, 2024.

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

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

Approved for publication:

Authorized Signature

Date Submitted

Approved for implementation:

Authorized Signature

Date Submitted

DRAFT

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 2.009, relating to scheduling 2 synthetic benzimidazole-opioids.

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.

DRAFT

Summary of, and comparison with, existing or proposed federal regulation:
On July 29, 2024, the Department of Justice, Drug Enforcement Administration published its temporary scheduling order in the Federal Register adding N-desethyl isotonitazene and N-piperidinyl etonitazene to schedule I of the federal Controlled Substances Act. The scheduling action was effective July 29, 2024.

Plain language analysis:
This rule schedules N-desethyl isotonitazene and N-piperidinyl etonitazene as a schedule I controlled substances. 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. 961.13 and omitting the notice of proposed rulemaking, listing N-desethyl isotonitazene and N-piperidinyl etonitazene as schedule I controlled substances. Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats N-desethyl isotonitazene and N-piperidinyl etonitazene under chapter 961, Stats. by creating the following:

CSB 2.009 Addition of 2 Synthetic Benzimidazole-Opioids to Schedule I. Section 961.14 (2) (xm) 7e. and 7m., Stats., are created to read:

961.14 (2) (xm) 7e. N-desethyl isotonitazene (N-ethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine).

961.14 (2) (xm) 7m. N-piperidinyl etonitazene also known as etonitazepipne (2-(4-ethoxybenzyl)-5-nitro-1-(2-(piperidin-1-yl)ethyl)-1H-benzimidazole).

The Affirmative Action order, dated October 3, 2024, took effect on October 21, 2024, 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 not included N-desethyl isotonitazene and N-piperidinyl etonitazene as schedule I controlled substances [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not included N-desethyl isotonitazene and N-piperidinyl etonitazene as schedule I controlled substances [Iowa Code 124.204].

Michigan: Michigan has not included N-desethyl isotonitazene and N-piperidinyl etonitazene as schedule I controlled substances [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not included N-desethyl isotonitazene and N-piperidinyl etonitazene as schedule I controlled substances [Minnesota Statutes 152.02 (2)].

Summary of factual data and analytical methodologies:

DRAFT

The methodology was to schedule N-desethyl isotonitazene and N-piperidinyl etonitazene 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 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) 266-2112.

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; 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 (date) to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.009 is created to read:

CSB 2.009 Addition of 2 Synthetic Benzimidazole-Opioids to Schedule I. Section 961.14 (2) (xm) 7e. and 7m., Stats., are created to read:

> **961.14 (2) (xm) 7e.** N-desethyl isotonitazene (N-ethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine).
>
> **961.14 (2) (xm) 7m.** N-piperidinyl etonitazene also known as etonitazepipne (2-(4-ethoxybenzyl)-5-nitro-1-(2-(piperidin-1-yl)ethyl)-1H-benzimidazole).

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)

DRAFT

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULEMAKING	**:**	
PROCEEDINGS BEFORE THE	**:**	**REPORT TO THE LEGISLATURE**
CONTROLLED SUBSTANCES BOARD	**:**	**CR 24-083**

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:

The objective of the proposed rule is to add the following five synthetic cannabinoids as a schedule I controlled substance under s. 961.11 (4), Stats:

- 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

The Controlled Substances Board did not receive an objection to similarly listing five 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. 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.

DRAFT

The Affirmative Action order, dated January 24, 2024, took effect on February 5, 2024, upon publication 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. No other public comments were received.

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

DRAFT

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 24-083)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.006, relating to scheduling five synthetic cannabinoids.

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.

DRAFT

Summary of, and comparison with, existing or proposed federal regulation:
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 was effective December 12, 2023.

Plain language analysis:
The objective of the proposed rule is to add the following five synthetic cannabinoids as a schedule I controlled substance under s. 961.11 (4), Stats:

- 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

The Controlled Substances Board did not receive an objection to similarly listing five 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. 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.

The Affirmative Action order, dated January 24, 2024, took effect on February 5, 2024, 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 not listed the 5 synthetic cannabinoids in this rule as schedule I controlled substances. However, they do have general requirement to include any synthetic cannabinoid that is not approved by the United States Food and Drug Administration or if approved is not dispensed according to law would be considered a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not included the 5 synthetic cannabinoids listed in this rule as schedule I controlled substances [Iowa Code 124.204].

Michigan: Michigan has not included the 5 synthetic cannabinoids listed in this rule as schedule I controlled substances. However, they do have general requirement to include any synthetic cannabinoid that is not approved by the United States Food and Drug Administration or included in schedules II to V [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not included the 5 synthetic cannabinoids listed in this rule as schedule I controlled substances [Minnesota Statutes 152.02 (2)].

Summary of factual data and analytical methodologies:
The methodology was to add the 5 synthetic cannabinoids listed in this rule to Schedule I 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; email at DSPSAdminRules@wisconsin.gov.

DRAFT

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 10, 2025 to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.006 is created to read:

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.

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

DRAFT

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
11/20/24

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
CSB 2.006

4. Subject
Scheduling 5 Synthetic Cannabinoids

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
The objective of the proposed rule is to add the following five synthetic cannabinoids as a schedule I controlled substance under s. 961.11 (4), Stats:

- 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

The Controlled Substances Board did not receive an objection to similarly listing five 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.

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 will be 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.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.
None.

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)
DSPS estimates a total of $3,455.00 in one-time costs for implementing this rule. The estimated funds support the equivalent of 0.1 limited term employee to undertake tasks such as rule drafting, legal research and review, preparation

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

for prosecution/informational resolution, and investigation of CSB referrals. The one-time costs cannot be absorbed in the currently appropriated agency 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 stakholder confusion.

16. Long Range Implications of Implementing the Rule

The long range implications of implementing the rule are that the following will be Schedule I controlled substances in Wisconsin:

- 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

17. Compare With Approaches Being Used by Federal Government

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 was effective December 12, 2023.

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

Illinois: Illinois has not listed the 5 synthetic cannabinoids in this rule as schedule I controlled substances. However, they do have general requirement to include any synthetic cannabinoid that is not approved by the United States Food and Drug Administration or if approved is not dispensed according to law would be considered a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not included the 5 synthetic cannabinoids listed in this rule as schedule I controlled substances [Iowa Code 124.204].

Michigan: Michigan has not included the 5 synthetic cannabinoids listed in this rule as schedule I controlled substances. However, they do have general requirement to include any synthetic cannabinoid that is not approved by the United States Food and Drug Administration or included in schedules II to V [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not included the 5 synthetic cannabinoids listed in this rule as schedule I controlled substances [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

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULEMAKING	**:**	
PROCEEDINGS BEFORE THE	**:**	**REPORT TO THE LEGISLATURE**
CONTROLLED SUBSTANCES BOARD	**:**	**CR 24-084**

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 ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances. 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. 961.13 and omitting the notice of proposed rulemaking, listing ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances. Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats ADB-BUTINACA, α-PiHP, and 3-MMC under chapter 961, Stats. by creating the following:

CSB 2.007 Addition of ADB-BUTINACA, Alpha-PiHP, and 3-MMC to Schedule I.

(1) Section 961.14 (4) (tb) 32m. is created to read:

961.14 (4) (tb) 32m. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyl-1*H*-indazole-3-carboxamide, commonly known as ADB-BUTINACA.

(2) Section 961.14 (7) (L) 2m. and 36m. are created to read:

961.14 (7) (L) 2m. 3-methylmethcathinone or 2-(methylamino)-1-(3-methylphenyl)propan-1-one, commonly known as 3-MMC.

36m. 4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one, commonly known as alpha-PiHP.

The Affirmative Action order, dated June 4, 2024, took effect on June 16, 2024, upon publication 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. No other public comments were received.

DRAFT

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

DRAFT

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 24-084)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.007, relating to scheduling ADB-BUTINACA, α-PiHP, and 3-MMC.

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.

DRAFT

Summary of, and comparison with, existing or proposed federal regulation:
On December 13, 2023, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding the following three substances to schedule I of the federal Controlled Substances Act:

- ADB-BUTINACA
- α-PiHP or alpha-PiHP
- 3-MMC

The scheduling action is effective December 13, 2023.

Plain language analysis:
This rule schedules ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances. 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. 961.13 and omitting the notice of proposed rulemaking, listing ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances. Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats ADB-BUTINACA, α-PiHP, and 3-MMC under chapter 961, Stats. by creating the following:

CSB 2.007 Addition of ADB-BUTINACA, Alpha-PiHP, and 3-MMC to Schedule I. **(1)** Section 961.14 (4) (tb) 32m. is created to read:

961.14 (4) (tb) 32m. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyl-1*H*-indazole-3-carboxamide, commonly known as ADB-BUTINACA.

(2) Section 961.14 (7) (L) 2m. and 36m. are created to read:

961.14 (7) (L) 2m. 3-methylmethcathinone or 2-(methylamino)-1-(3-methylphenyl)propan-1-one, commonly known as 3-MMC.

36m. 4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one, commonly known as alpha-PiHP.

The Affirmative Action order, dated June 4, 2024, took effect on June 16, 2024, 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 not listed ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances [Iowa Code 124.204].

Michigan: Michigan has not listed ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances [Minnesota Statutes 152.02 (2)].

Summary of factual data and analytical methodologies:
The methodology was to schedule ADB-BUTINACA, α-PiHP, and 3-MMC 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; 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 10, 2025 to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.007 is created to read:

CSB 2.007 Addition of ADB-BUTINACA, Alpha-PiHP, and 3-MMC to Schedule I. (1) Section 961.14 (4) (tb) 32m. is created to read:

961.14 (4) (tb) 32m. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-butyl-1H-indazole-3-carboxamide, commonly known as ADB-BUTINACA.

DRAFT

(2) Section 961.14 (7) (L) 2m. and 36m. are created to read:

961.14 (7) (L) 2m. 3-methylmethcathinone or 2-(methylamino)-1-(3-methylphenyl)propan-1-one, commonly known as 3-MMC.

36m. 4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one, commonly known as alpha-PiHP.

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

DRAFT

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
11/20/24

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
CSB 2.007

4. Subject
Scheduling ADB-BUTINACA, α-PiHP, and 3-MMC

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
This rule schedules ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances. 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. 961.13 and omitting the notice of proposed rulemaking, listing ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances. The Affirmative Action order, dated June 4, 2024, took effect on June 16, 2024, upon publication in the Administrative Register and expires upon promulgation of a final rule.

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.
None.

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)
DSPS estimates a total of $3,455.00 in one-time costs for implementing this rule. The estimated funds support the equivalent of 0.1 limited term employee to undertake tasks such as rule drafting, legal research and review, preparation for prosecution/informational resolution, and investigation of CSB referrals. The one-time costs cannot be absorbed in the currently appropriated agency 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 stakholder confusion.

16. Long Range Implications of Implementing the Rule
The long range implications of implementing the rule are that the following will be Schedule I controlled substances in Wisconsin:
- • ADB-BUTINACA
- α-PiHP or alpha-PiHP

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

- 3-MMC

17. Compare With Approaches Being Used by Federal Government

On December 13, 2023, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding the following three substances to schedule I of the federal Controlled Substances Act:

- ADB-BUTINACA
- α-PiHP or alpha-PiHP
- 3-MMC

The scheduling action is effective December 13, 2023.

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

Illinois: Illinois has not listed ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances [Iowa Code 124.204].

Michigan: Michigan has not listed ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed ADB-BUTINACA, α-PiHP, and 3-MMC as schedule I controlled substances [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

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULEMAKING	**:**	
PROCEEDINGS BEFORE THE	**:**	**REPORT TO THE LEGISLATURE**
CONTROLLED SUBSTANCES BOARD	**:**	**CR 24-085**

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 2-methyl AP-237 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. 961.13 and omitting the notice of proposed rulemaking, listing 2-methyl AP-237 as a schedule I controlled substance. Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats 2-methyl AP-237 under chapter 961, Stats. by creating the following:

CSB 2.008 Addition of 2-Methyl AP-237 to Schedule I. Section 961.14 (2) (qz), Stats., is created to read:

> **961.14 (2) (qz)** 2-methyl AP-237 (1-(2-methyl-4-(3-phenylprop-2-en-1-yl)piperazin-1-yl)butan-1-one).

The Affirmative Action order, dated May 13, 2024, took effect on May 20, 2024, upon publication 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. No other public comments were received.

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

DRAFT

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 24-085)

PROPOSED ORDER

An order of the Controlled Substances Board to create CSB 2.008, relating to scheduling 2-methyl AP-237.

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.

DRAFT

Summary of, and comparison with, existing or proposed federal regulation:
On March 15, 2024, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding 2-methyl AP-237 to schedule I of the federal Controlled Substances Act. The scheduling action is effective April 15, 2024.

Plain language analysis:
This rule schedules 2-methyl AP-237 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. 961.13 and omitting the notice of proposed rulemaking, listing 2-methyl AP-237 as a schedule I controlled substance. Pursuant to s. 961.11(4), Stats., the Controlled Substances Board by affirmative action similarly treats 2-methyl AP-237 under chapter 961, Stats. by creating the following:

CSB 2.008 Addition of 2-Methyl AP-237 to Schedule I. Section 961.14 (2) (qz), Stats., is created to read:

> **961.14 (2) (qz)** 2-methyl AP-237 (1-(2-methyl-4-(3-phenylprop-2-en-1-yl)piperazin-1-yl)butan-1-one).

The Affirmative Action order, dated May 13, 2024, took effect on May 20, 2024, 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 not listed 2-methyl AP-237 as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed 2-methyl AP-237 as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed 2-methyl AP-237 as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed 2-methyl AP-237 as a schedule I controlled substance [Minnesota Statutes 152.02 (2)].

Summary of factual data and analytical methodologies:
The methodology was to schedule 2-methyl AP-237 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 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; 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 10, 2025 to be included in the record of rulemaking proceedings.

TEXT OF RULE

SECTION 1. CSB 2.008 is created to read:

CSB 2.008 Addition of 2-Methyl AP-237 to Schedule I. Section 961.14 (2) (qz), Stats., is created to read:

> **961.14 (2) (qz)** 2-methyl AP-237 (1-(2-methyl-4-(3-phenylprop-2-en-1-yl)piperazin-1-yl)butan-1-one).

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

DRAFT

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
11/20/24

3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable)
CSB 2.008

4. Subject
Scheduling 2-methyl AP-237

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
This rule schedules 2-methyl AP-237 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. 961.13 and omitting the notice of proposed rulemaking, listing 2-methyl AP-237 as a schedule I controlled substance. The Affirmative Action order, dated May 13, 2024, took effect on May 20, 2024, upon publication in the Administrative Register and expires upon promulgation of a final rule.

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.
None.

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)
DSPS estimates a total of $3,455.00 in one-time costs for implementing this rule. The estimated funds support the equivalent of 0.1 limited term employee to undertake tasks such as rule drafting, legal research and review, preparation for prosecution/informational resolution, and investigation of CSB referrals. The one-time costs cannot be absorbed in the currently appropriated agency 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 stakeholder confusion.

16. Long Range Implications of Implementing the Rule
The long range implications of implementing the rule are that 2-methyl AP-237 will be added to Wis. Stat. ch. 961 as a schedule I controlled substance.

17. Compare With Approaches Being Used by Federal Government

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

On March 15, 2024, the Department of Justice, Drug Enforcement Administration published its final rule in the Federal Register adding 2-methyl AP-237 to schedule I of the federal Controlled Substances Act. The scheduling action is effective April 15, 2024.

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

Illinois: Illinois has not listed 2-methyl AP-237 as a schedule I controlled substance [720 Illinois Compiled Statutes 570/204].

Iowa: Iowa has not listed 2-methyl AP-237 as a schedule I controlled substance [Iowa Code 124.204].

Michigan: Michigan has not listed 2-methyl AP-237 as a schedule I controlled substance [Michigan Compiled Laws s. 333.7212].

Minnesota: Minnesota has not listed 2-methyl AP-237 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

Controlled Substances Board
Rule Projects (updated 12/19/24)

CH Rule Number	Scope Number	Scope Expiration Date	Code Chapter Affected	Relating Clause	Stage of Rule Process	Next Step
24-004	053-23	02/07/2026	CSB 2.98	Excluding [^{18} F] FP-CIT	Legislative Review	Adoption Order Review at a Future Meeting
24-005	054-23	02/07/2026	CSB 2.99	Scheduling Mesocarb	Legislative Review	Adoption Order Review at a Future Meeting
24-023	078-23	04/23/2026	CSB 2.001	Scheduling Methiopropamine	Legislative Review	Adoption Order Review at a Future Meeting
24-024	079-23	04/23/2026	CSB 2.002	Excluding Fenfluramine	Legislative Review	Adoption Order Review at a Future Meeting
24-048	001-24	07/02/2026	CSB 2.003	Transferring Flualprazolam and Scheduling 4 Other Synthetic Benzodiazepine Substances	Legislative Review	Adoption Order Review at a Future Meeting
24-058	048-24	11/13/2026	CSB 2.004	Scheduling Zuranolone	Legislative Review	Adoption Order Review at a Future Meeting
24-059	049-24	11/13/2026	CSB 2.005	Scheduling 9 Fentanyl Related Substances	Legislative Review	Adoption Order Review at a Future Meeting
24-083	086-24	02/05/2027	CSB 2.006	Scheduling 5 Synthetic Cannabinoids	Final Rule Draft and Legislative Report Reviewed at 01/10/25 Meeting	Submission for Governor Approval and Legislative Review
24-084	087-24	02/05/2027	CSB 2.007	Scheduling ADB-BUTINANCA, α-PiHP, and 3- MMC	Final Rule Draft and Legislative Report Reviewed at 01/10/25 Meeting	Submission for Governor Approval and Legislative Review
24-085	088-24	02/05/2027	CSB 2.008	Scheduling 2-methyl AP-237	Final Rule Draft and Legislative Report Reviewed at 01/10/25 Meeting	Submission for Governor Approval and Legislative Review
Not Assigned Yet	113-24	06/02/2027	CSB 2.009	Scheduling 2 Synthetic Benzimidazole-Opioids	Preliminary Rule Draft Reviewed at 01/10/25 Meeting	Submission for EIA Comment and Clearinghouse Review
Not Assigned Yet	Not Assigned Yet	Not Assigned Yet	CSB 2.010	Scheduling Ethylphenidate	Scope Statement Reviewed at 01/10/25 Meeting	Scope Statement Submission for Governor Approval and Publication

Controlled Substances Board
Rule Projects (updated 12/19/24)

CH Rule Number	Scope Number	Scope Expiration Date	Code Chapter Affected	Relating Clause	Stage of Rule Process	Next Step
24-013	095-22	05/21/2025	CSB 4	National Provider Identifier Requirement	Legislative Review	Adoption Order Review at a Future Meeting
24-033	055-23	02/07/2026	CSB 4	Monitored Prescription Drug History Reports	Legislative Review	Adoption Order Review at a Future Meeting
24-060	072-24	08/12/2026	CSB 4	Mail Delivered Prescriptions	Legislative Review	Adoption Order Review at a Future Meeting

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	12/19/2024 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?
01/10/2025	☒ 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 — 12/19/2024

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.

2022-2024 Development and Release Summary

Updated 12.18.24

Release Date	Description
Pending	
R33.14 **January 2025**	Updates to online form "Report Suspected Errors in WI ePDMP Date" PDF Pharmacy additional DEA display Increased License Number Character Limits from 7 to 8 File Processing Updates - Skipping Duplicate Files
Completed	
R33.13 **December 2024**	User Interface: • Updated Text on the Delegate Management Screen • Updated Calculations for Daily Prescribing Volume Ranking for Opioids • License Number is no Longer a Required Field for a Medical Coordinator Account Admin Portal Updates: • Added Submission Date to Prescriber Alerts Table • NDC of Dispensed Medications displayed in the prescriber Report • Updated the Prescriber Query Compliance Report
R33.12 **November 2024**	ePDMP Webpage Updates: Contact Us info & user registration screen for Medical Coordinator and Researcher Analytics and Reports Updates- • Prescriber Monitoring Report Charts Readability • Prescriber Address populated on Dispensing History Details Administrative Workflow Enhancement: Alert reviewing screen updates
R33.11 **September 2024**	Non – HCP Alert Displays on Requested Reports Detailed Prescriber Monitoring Report Rework Updated Quarterly CSB Reports Prescriber Address Visible on Patient Report Table
R33.10 **August 2024**	Automation of Reports: • Opioid Prescribing Practice Summary Report Review • Quarterly Statistics for CSB Report Review • Detailed Prescriber Monitoring Report Review • Prescriber Address Populated on UI EHR Support Partial Refill Review
R33.9 **July 2024**	Opioid Prescribing Practice Summary Report Review Text Updates in UI Updates to notification emails Prescriber Query Compliance Report update

R33.8 **June 2024**	Opioid Prescribing Practice Summary Report Review Quarterly CSB Report Review Compound Drug UI Statistic utilization optimizations Addition of email address to non-HCP query requests
R33.7 **May 2024**	Dispenser Compliance Report Review Submitter/Dispenser Report Review
R33.6 **April 2024**	System Updates • Pending Account Changes UI language • UAT email notification links • Controlled Substance UI language Updated error messages for Submitters RXCheck 3.1 Update and Patch Statistics Dashboard populate counties' logic EHR Support
R33.5 **March 2024**	Statistics reporting updates EHR/Epic OAuth Support File Submission Queue processing
R33.4 **February 2024**	DEA File Updates LicenseE Update – State License Validation Training Materials Update File Processing support EHR support
R33.3 **January 2024**	LicenseE Update – New User Registration LicenseE Update – User Login Validation PDMP UI Page Text Updates • Home Page • Contact Us • Patient History Detail File Processing Support EHR Support
R33.2 **January 2024**	Pharmacy Users fixes • Zero reports • Revise/Correct/Void File Processing support EHR support
R33.1 **November 2023**	Utilization page updates PMPi States Admin Manage Alerts Timeout Patient Matching Updates

R33.0 **November 2023**	Geocoding Address2 Line rejection Updated Submitter Guide
R32.5 **October 2023**	File processing support
R32.4 **October 2023**	EHR Support
R32.3 **October 2023**	EHR Support
R32.2 **October 2023**	EHR Support
R32.1 **October 2023**	Iframe support Epic
R32 **October 2023**	HRG 2020 Grant Release
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

WI ePDMP Integration Services Summary

Current as of 12.18.24

Pending Health Systems and EHR Platforms	Status			Notes
Internal Medicine Associates	In discussion			
MECFS Clinic MN	In discussion			
Connected Health Systems (61% of monthly patient queries)	**Free Pricing Model**	**Implementation Date**	**Est. Total # of Users**	**Notes**
Advent Health		03/05/2023	15	
Allina Health	Y	09/18/2023	100	
Ascension Wisconsin				
Aspirus Health Care				
Aurora Health Care	Y	05/08/2024	12,000	
Children's Hospital of Wisconsin	Y	09/01/2022	300	
Clark County	Y			
Clean Slate	Y	09/01/2022	26	
CompuGroup Medical	Y		50	Internal Go-Live in Process
DrFirst				
Froedtert & the Medical College of Wisconsin			100	Pending signed Free agreement
GHC of South Central Wisconsin	Y			
Gundersen Health System			800	Pending signed Free agreement
HealthPartners				
HSHS / Prevea Health	Y	01/01/2023	500	
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	
ProHealth Care				
QuadMed, LLC	Y		40	
SSM Health				
Thedacare				Pending signed Free agreement
UnityPoint				
UW Health			4000	
Wisconsin Statewide Health Information Network	Y	09/01/2022	3500	

DrFirst Facilities	
Alay Health Team	Mindful Healing and Wellness LLC
Associated Mental Health Consultants	National Medical Groups
Behavioral Health Svcs of Racine Co.	Nova Integrated Care LLC
Benjamin S. Gozon MDSC D/B/A Capitol Rehabilitation Clinic	Oak Medical
Door County Memorial Hospital	Oral Surgery Associates of Milwaukee
Dr. Colleen Worth, DNP, APNP	Orthopedic Hospital of Wisconsin
Empower Recovery	Pain Management and Treatment Center
Envision ADHD Clinic	Pediatrics Associates
FAMILY PSYCHIATRIC CARE, LLC	Reka Furedi MD
Fort Healthcare	Richland Hospital
GI Associates LLC	Red Oak Counseling
Heartland Hospice	Regional Medical Center
Jonathan Hoerl PMHNP	Rogers Memorial Hospital
Lake Superior Community Health Center	Sauk Prairie Memorial Hospital
Linc Health Clinic	Synergy Medical Services, LLC
Lifestance Health WI	Third Eye Health
Madison Recovery Center	Watertown Rainbow Hospice
Marshfield Clinic Health System	Wauwatosa Children's Clinic
Mental Health Specialty Group PA	Watertown Regional Medical Center
Mile Bluff Medical Center	
Milwaukee Medical Associate, SC	

2025 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	1/9/2025	Virtual; Quarterly Meeting
February				
March	Bi-Annual RxCheck Governance Board Meeting	Board Member-Participant; Interstate PDMP data exchange discussion	3/18-3/19/2025	San Diego, CA
April	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	4/10/2025	Virtual; Quarterly Meeting
May	Opioids, Stimulants, and Trauma Summit	Information Booth	5/6-5/8/2025	Wisconsin Dells
June	2025 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
July	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	7/10/2025	Virtual; Quarterly Meeting
August				
September	Wisconsin Substance Use Prevention Conference	Information Booth	9/10-9/11/2025	Wisconsin Dells
October	Overdose Fatality Review (OFR) State Advisory Group	DSPS Representative; inter-agency advisory board for OFR participating local sites	10/9/2025	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	10/20-10/23/2025	New Orleans, LA
November				
December				