

JUN 08 2001

**STATE OF WISCONSIN  
MEDICAL EXAMINING BOARD**

---

**IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD  
MEDICAL EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 01-031)**

---

TO: Senator Judy Robson, Senate Co-Chairperson  
Joint Committee for the Review of Administrative Rules  
Room 15 South, State Capitol  
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the MEDICAL EXAMINING BOARD is submitting in final draft form rules relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.

---

**STATE OF WISCONSIN  
MEDICAL EXAMINING BOARD**

---

**IN THE MATTER OF RULE-MAKING :**  
**PROCEEDINGS BEFORE THE :** **REPORT TO THE LEGISLATURE**  
**MEDICAL EXAMINING BOARD :** **ON CLEARINGHOUSE RULE 01-031**  
**:** **(s. 227.19 (3), Stats.)**

---

**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

No new or revised forms are required by these rules.

**III. FISCAL ESTIMATES:**

These rules will have no significant impact upon state or local units of government.

**IV. STATEMENT EXPLAINING NEED:**

In this proposed rule-making order the Medical Examining Board clarifies the conflict between prohibiting the prescribing or dispensing of Schedule II amphetamines except for certain specified purposes, and permitting the prescribing or dispensing of Schedule II anorectics for weight control if certain conditions are met. The board eliminates the reference to Schedule II anorectics in s. Med 10.02 (2) (zb), in order to clarify the situation, because there is no Schedule II anorectic that is not an amphetamine or sympathomimetic amine. Stimulants currently listed in ch. 961, Stats., as Schedule II substances include amphetamine, methamphetamine, pentobarbital and methylphenidate. Amphetamine and methamphetamine are amphetamines, and pentobarbital is a sympathomimetic amine. Accordingly, methamphetamine (Ritalin®) is the only Schedule II stimulant which is not also an amphetamine or sympathomimetic amine, and methylphenidate is not classified as an anorectic. As to the question whether anorectic stimulant drugs currently listed in Schedule III or IV may be elevated to Schedule II, there are not any sympathomimetic amines so as to fall within the requirements of the amphetamine rule if raised to Schedule II.

**V. NOTICE OF PUBLIC HEARING:**

A public hearing was held on May 16, 2001. There were no appearances at the public hearing nor were any written comments received.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

All of the recommendations suggested in the Clearinghouse Report were accepted in whole.

**VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:**

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

g:\rules\med5leg.doc  
6/7/01

STATE OF WISCONSIN  
MEDICAL EXAMINING BOARD

---

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD  
MEDICAL EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 01-031)

---

PROPOSED ORDER

An order of the Medical Examining Board to amend Med 10.02 (2) (s) (intro.) and (zb) (intro.), relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics.

Analysis prepared by the Department of Regulation and Licensing.

---

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats.

Statutes interpreted: s. 961.16 (5), Stats.

In this proposed rule-making order the Medical Examining Board clarifies the conflict between prohibiting the prescribing or dispensing of Schedule II amphetamines except for certain specified purposes, and permitting the prescribing or dispensing of Schedule II anorectics for weight control if certain conditions are met. The board eliminates the reference to Schedule II anorectics in s. Med 10.02 (2) (zb), in order to clarify the situation, because there is no Schedule II anorectic that is not an amphetamine or sympathomimetic amine. Stimulants currently listed in ch. 961, Stats., as Schedule II substances include amphetamine, methamphetamine, pentobarbital and methylphenidate. Amphetamine and methamphetamine are amphetamines, and pentobarbital is a sympathomimetic amine. Accordingly, methamphetamine (Ritalin®) is the only Schedule II stimulant which is not also an amphetamine or sympathomimetic amine, and methylphenidate is not classified as an anorectic. As to the question whether anorectic stimulant drugs currently listed in Schedule III or IV may be elevated to Schedule II, there are not any sympathomimetic amines so as to fall within the requirements of the amphetamine rule if raised to Schedule II.

---

TEXT OF RULE

SECTION 1. Med 10.02 (2) (s) (intro.) and (zb) (intro.) are amended to read:

Med 10.02 (2) (s) (intro.) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine, or sympathomimetic amine drug or compound designated as a schedule II controlled substance pursuant to the provisions of s. 961.16 (5), Stats., to or for any person except for any of the following:

(zb) (intro.) Prescribing, ordering, dispensing, administering, supplying, selling or giving any anorectic drug designated as a schedule II, III, IV or V controlled substance for the purpose of weight reduction or control in the treatment of obesity unless each of the following conditions is met:

-----  
(END OF TEXT OF RULE)  
-----

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.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson  
Medical Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

g:\rules\med5.doc  
6/8/01



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

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

#### CLEARINGHOUSE RULE 01-031

AN ORDER to amend Med 10.02 (2) (s) (intro.) and (zb) (intro.), relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

03-14-01 RECEIVED BY LEGISLATIVE COUNCIL.

04-02-01 REPORT SENT TO AGENCY.

RS:PS:jal;ksm





---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

Ronald Sklansky  
*Clearinghouse Director*

Richard Sweet  
*Clearinghouse Assistant Director*

Terry C. Anderson  
*Legislative Council Director*

Laura D. Rose  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 01-031

#### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the rule analysis, the word "permits" on line 3 should be changed to "permitting" and the word "anorectic" on line 11 is misspelled.

b. In s. Med 10.02 (2) (zb) (intro.), the word "are" on line 4 should read "is," as in the current rule.





---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE REPORT TO AGENCY

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

#### CLEARINGHOUSE RULE 01-031

AN ORDER to amend Med 10.02 (2) (s) (intro.) and (zb) (intro.), relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

03-14-01 RECEIVED BY LEGISLATIVE COUNCIL.

04-02-01 REPORT SENT TO AGENCY.

RS:PS:jal;ksm

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

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

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO

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

Comment Attached      YES       NO



---

---

# WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

Ronald Sklansky  
*Clearinghouse Director*

Richard Sweet  
*Clearinghouse Assistant Director*

Terry C. Anderson  
*Legislative Council Director*

Laura D. Rose  
*Legislative Council Deputy Director*

## CLEARINGHOUSE RULE 01-031

### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In the rule analysis, the word “permits” on line 3 should be changed to “permitting” and the word “anorectic” on line 11 is misspelled.
- b. In s. Med 10.02 (2) (zb) (intro.), the word “are” on line 4 should read “is,” as in the current rule.

STATE OF WISCONSIN  
MEDICAL EXAMINING BOARD

-----  
IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE  
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD  
MEDICAL EXAMINING BOARD : ADOPTING RULES  
: (CLEARINGHOUSE RULE 01- )  
-----

PROPOSED ORDER

An order of the Medical Examining Board to amend Med 10.02 (2) (s) (intro.) and (zb) (intro.), relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics.

Analysis prepared by the Department of Regulation and Licensing.

-----  
ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats.

Statutes interpreted: s. 961.16 (5), Stats.

In this proposed rule-making order the Medical Examining Board clarifies the conflict between prohibiting the prescribing or dispensing of Schedule II amphetamines except for certain specified purposes, and permits the prescribing or dispensing of Schedule II anorectics for weight control if certain conditions are met. The board eliminates the reference to Schedule II anorectics in s. Med 10.02 (2) (zb), in order to clarify the situation, because there is no Schedule II anorectic that is not an amphetamine or sympathomimetic amine. Stimulants currently listed in ch. 961, Stats., as Schedule II substances include amphetamine, methamphetamine, pentobarbital and methylphenidate. Amphetamine and methamphetamine are amphetamines, and pentobarbital is a sympathomimetic amine. Accordingly, methamphetamine (Ritalin®) is the only Schedule II stimulant which is not also an amphetamine or sympathomimetic amine, and methylphenidate is not classified as an anorectic. As to the question whether anorectic stimulant drugs currently listed in Schedule III or IV may be elevated to Schedule II, there are not any sympathomimetic amines so as to fall within the requirements of the amphetamine rule if raised to Schedule II.

-----  
TEXT OF RULE

SECTION 1. Med 10.02 (2) (s) (intro.) and (zb) (intro.) are amended to read:

Med 10.02 (2) (s) (intro.) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine, or sympathomimetic amine drug or compound designated as a schedule II controlled substance pursuant to the provisions of s. 961.16 (5), Stats., to or for any person except for any of the following:

(zb) (intro.) Prescribing, ordering, dispensing, administering, supplying, selling or giving any anorectic drug designated as a schedule II, III, IV or V controlled substance for the purpose of weight reduction or control in the treatment of obesity unless each of the following conditions are met.

15

(Correct in current rule)

X

(END OF TEXT OF RULE)

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.

Dated \_\_\_\_\_

Agency \_\_\_\_\_

Chairperson  
Medical Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

g:\rules\med5.doc  
3/14/01