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MAY 30 1989
11:30 am
Revisor of Statutes
Bureau

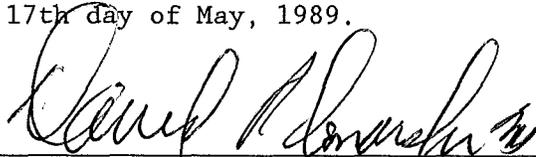
CERTIFICATE

STATE OF WISCONSIN)
) SS
CONTROLLED SUBSTANCES BOARD)

I, David P. Donarski, MD Chairperson of the Controlled Substances Board and custodian of the official records of the Board, do hereby certify that the annexed rules relating to the addition of a substance to the schedules of the Uniform Controlled Substances Act were duly approved and adopted by this Board on May 17, 1989.

I further certify that this copy has been compared by me with the original on file in this Board and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at the State Capitol Building, in the City of Madison, this 17th day of May, 1989.



David P. Donarski, MD, Chairperson
Controlled Substances Board

Proposed Administrative Rules - CSB 2.20
Analysis for Legislative Standing Committee
Pursuant to s. 227.19(3), Stats.

Need for rules

On January 8, 1988 the U.S. drug enforcement administration published notice 53 FR 500-501 adding beta-hydroxy-3-methylfentanyl to schedule I of the federal controlled substances act. According to s. 161.11(4), Stats., if any substance is designated, rescheduled, or deleted as a controlled substance under federal law, the controlled substances board shall take similar action, unless it objects.

According to the drug enforcement administration, beta-hydroxy-3-methylfentanyl is an extremely potent drug which is similar to the controlled substance fentanyl and is many times stronger than morphine. Beta-hydroxy-3-methylfentanyl has no medical use, has been produced in clandestine laboratories and has been identified in drug evidence submitted to crime laboratories in the U.S. It is likely that some of the more than 100 overdose deaths associated with illicit use of fentanyl analogs in the U.S. involved beta-hydroxy-3-methylfentanyl. The controlled substances board reviewed and concurred in the findings of the drug enforcement administration that:

1. Beta-hydroxy-3-methylfentanyl has a high potential for abuse; and
2. Beta-hydroxy-3-methylfentanyl has no currently accepted medical use in treatment in the United States, and
3. Beta-hydroxy-3-methylfentanyl lacks accepted safety for use under medical supervision.

While the board has and may in the future exercise authority to require a different level of control over a substance than the federal government, the board has no reason to differ with federal control of this substance at this time.

Accordingly, the board adopted a resolution to place beta-hydroxy-3-methylfentanyl in schedule I of chapter 161, the uniform controlled substances act, and is proposing this rule to accomplish this action. When the rule takes effect, the regulatory controls and criminal sanctions of state law regarding manufacture, distribution and possession of controlled substances will apply to beta-hydroxy-3-methylfentanyl.

Response to clearinghouse recommendations

The suggestions of the legislative council rules clearinghouse are accepted and future rules will be promulgated as closely as possible to standard drafting practice.

The statutory authority issue has been discussed and resolved in previous rule-making. The comments presented in rule 83-146 correspondence dated June 18, 1984 has dealt with the board's unique rule-making authority.

Public hearings

The thirty-day notice without hearing procedure was used. No petitions were received within that time period. The rule, therefore, proceeds as written. The controlled substances board has voted to adopt the rule and in presenting it in final draft form.

Text of rule

CSB 2.20 addition of beta-hydroxy-3-methylfentanyl to schedule I. Paragraph (er) of s. 161.14(2), Stats., is created to read: (er) beta-hydroxy-3-methylfentanyl.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in 1. 227.22(2), Stats.

Initial regulatory flexibility analysis

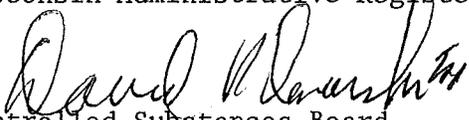
CSB 2.20 will not have a significant economic impact on small businesses in Wisconsin.

Fiscal estimate: none

Contact person: Dennis W. Bobo, P.O. Box 7851, 1 West Wilson Street, Room 418, Madison, WI 53707; 608/266-7586.

The Rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s.227.22 (2), Stats.

Date: May 7, 1989


Controlled Substances Board
By: David P. Donarski, M.D.
Chairperson



State of Wisconsin \ DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF COMMUNITY SERVICES

1 WEST WILSON STREET
P.O. BOX 7851
MADISON, WISCONSIN 53707
608-266-2701

May 24, 1989

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MAY 30 1989

Revisor of Statutes
Bureau

Mr. Orlan Prestegard
Revisor of Statutes
7th Floor - 30 on the Square
Madison, WI 53702

Dear Mr. Prestegard:

As provided in s.227.20, Stats., there is hereby submitted a certified copy of CSB 2.20, administrative rules relating to the addition of a substance to the schedules of the Uniform Controlled Substances Act.

These rules are also being submitted to the Secretary of State as required by s.227.20, Stats.

These rules will not have a significant economic impact on small business as defined in s.227.114 (1)(a), Stats., because production, and distribution of this substance is illegal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dennis W. Bobo".

Dennis W. Bobo
Controlled Substances Policy Specialist
Staff, Controlled Substances Board
Bureau of Community Programs

Enclosure

dbarules