# Minnesota Board of Pharmacy

# Report to the Legislature on Changes the Board has Made to the Controlled Substance Schedules Maintained by the Board in Minnesota Rules

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## INTRODUCTION

The Board of Pharmacy (Board) is submitting this report to the Legislature in compliance with Minnesota Statutes §152.02, subdivision 12. That section states, in part:

> "The state Board of Pharmacy shall annually submit a report to the legislature on or before December 1 that specifies what changes the board made to the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250, in the preceding 12 months. The report must include specific recommendations for amending the controlled substance schedules contained in subdivisions 2 to 6, so that they conform with the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250".

Please note that this report covers changes made by the Board during calendar year 2010. Per the requirements of Minnesota Statutes §152.02, subd. 12, the Board engaged in the rule-making process to make significant modifications to the state's controlled substances schedules so that they would be coordinated with the federal schedules.

The Board is also recommending that the Legislature add synthetic cannabinoid receptor agonists to schedule I and that modifications be made to the authority of the Board in regards to the scheduling of controlled substances.

## COORDINATION OF STATUTORY SCHEDULES WITH FEDERAL SCHEDULES AND THE SCHEDULES FOUND IN MINNESOTA RULES

As mentioned above, the Board made significant modifications to the state's controlled substances schedules so that they would be coordinated with the federal schedules. The specific changes can be found in the proposed legislation section at the end of this report. By adopting those changes the Legislature would simply be aligning the schedules listed in the Statutes with the schedules listed in Minnesota Rules. Please note that the bolded sections of the proposed legislation are not changes that the Board has made to the rules. Instead, those proposed changes concern the addition of synthetic cannabinoid receptor agonists to Schedule I and modifications to the Board's authority to schedule controlled substances.

## ADDITION OF SYNTHETIC CANNABINOID RECEPTOR AGONISTS TO SCHEDULE I

Per its authority under Minnesota Statutes §152.02, subdivisions 7 and 8, the Board published a Request for Comments in the July 26, 2010 issue of the *State Register.* By doing so, the Board began the process of adopting rule changes that would have added synthetic cannabinoid receptor agonists to Schedule I of the state's schedules of controlled substances. The Board published a Notice of Intent to Adopt Rules in the November 1, 2010 issue of the *State Register.* The Board subsequently received more than 25 requests for a hearing on the proposed rules. Holding a hearing would add several months to the rule-making process, making it likely that the Legislature can place these substances in Schedule I more quickly than the Board can. Consequently, the Board decided at its December 10, 2010 meeting to withdraw the rules. The Board recommends that the Legislature add synthetic cannabinoid receptor agonists to Schedule I as quickly as possible.

The Board became aware in June of 2010 that certain products are being sold in Minnesota under names such as "Spice" and "K2". They are frequently marketed as "incenses" but they are actually unknown plant materials that have been sprayed with synthetic cannabinoid receptor agonists

(chemicals that act as agonists of cannabinoid receptors and that therefore have similar pharmacological effects to marijuana). Even though the products are typically labeled “not for human consumption”, individuals who buy these products do, in fact, smoke them.

Over 50 cases involving these products have been handled by the Hennepin Regional Poison Center and, as of November, 2010, approximately 2,000 cases had been handled by poison centers across the country. Significant adverse reactions have been reported, including severe agitation, seizures, loss of consciousness, severely low potassium levels and hallucinations. Since these drugs have no currently accepted medical use, have a high potential for abuse, lack accepted safety for use under medical supervision and have been associated with causing severe adverse reactions, there is clearly a need to place them in Schedule I of the state's controlled substances schedules.

The Board has been contacted by legislators, a county attorney, law enforcement officials, chemical dependency treatment professionals and the parents of individuals who have been hospitalized after using these products, many of whom requested that the Board act quickly to schedule these drugs. The cities of Duluth and Princeton Minnesota have passed city ordinances banning the sale of such products within city limits. The City of Anoka passed a resolution supporting the Board’s plan to add these substances to Schedule I. The Goodhue County Chemical Health Initiative submitted comments in favor of placing these substances into Schedule I. Numerous reports describing the adverse reactions associated with abuse of these products have appeared in the media. These facts indicate that there is public support for regulating these drugs.

Although the United States Drug Enforcement Administration (DEA) has not yet placed these drugs into the federal Schedule I, it has listed many of them as “substances of concern”. In addition, the DEA is in the process of actively collecting information as it considers the emergency scheduling of several of the synthetic cannabinoid receptor agonists that the Board recommends adding to the state’s schedules. Even if the DEA places these substances in the federal schedules, it is still important to add them to the state’s schedules so that state law enforcement officials and county attorneys can take appropriate action under state law.

At least a dozen other states have regulated synthetic cannabinoids. The North Dakota Board of Pharmacy promulgated emergency rules earlier this year that placed some of these drugs into that state's Schedule I. (Those rules were successfully challenged in court because the ND Board of Pharmacy had not properly followed that state’s rule-making procedures). The Iowa Board of Pharmacy promulgated rules that made some of these drugs “imitation controlled substances”, making their possession and use illegal in that state. Consequently, Minnesota would not be the only state that has regulated synthetic cannabinoids.

**MODIFICATIONS TO THE AUTHORITY OF THE BOARD IN REGARDS TO THE SCHEDULING OF CONTROLLED SUBSTANCES**

The Board is proposing that references to a controlled substances advisory committee be stricken from Minnesota Statutes §152.02. The Legislature eliminated that advisory committee in the 1990’s but missed some references to it in §152.02. The Board is also proposing the removal of a requirement for the Board to do an annual “implementation study” which the Board is not equipped to do.

Language is also proposed that would allow the Board to use the expedited rule-making process when changing the controlled substance schedules. Twice in the past couple of years, the Board has been made aware of new street drugs that were being widely abused but which were not listed in the state’s controlled substances schedules. The first drug reported to the Board was n-benzylpiperazine (BZP) which is used as a substitute for the street drug “Ecstasy”. The effects produced by this drug are similar to those produced by amphetamines. Adverse effects associated with BZP abuse include acute

psychosis, renal (kidney) toxicity, and seizures. The Board received numerous requests from county attorneys around the state to add BZP to schedule I. However, not having the authority to use the expedited rule-making process, it took the Board months to promulgate the required rule. As described above, the Board attempted to add synthetic cannabinoid receptor agonists to schedule I. However, the normal rule-making process is so lengthy that the Board has withdrawn the proposed rule because the Legislature will be able to act more quickly.

**PROPOSED LEGISLATION**

A bill for an act

relating to public safety; aligning state controlled substance schedules with federal controlled substance schedules; modifying the authority of the board of pharmacy to regulate controlled substances; amending Minnesota Statutes 2009, section 152.02, subdivisions 2, 3, 4, 5, 6, 8 and 12; repealing section 152.02, subdivision 13.

Sec. 1. Minnesota statutes 2009, section 152.02 is amended to read:

152.02 **SCHEDULES OF CONTROLLED SUBSTANCES; ADMINISTRATION OF CHAPTER**.

Subdivision 1. **Five schedules**. There are established five schedules of controlled substances, to be known as Schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section by whatever official name, common or usual name, chemical name, or trade name designated.

Subd. 2. Schedule I. ~~The following items are listed in Schedule I:~~ Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this subdivision.

(1) Opiates. Unless specifically excepted or unless listed in another schedule any of the following opiates, ~~Any of the following substances,~~ including their isomers (whether optical, positional, or geometric), esters, ethers, salts, and salts of isomers, esters, and ethers, ~~unless specifically excepted,~~ whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM); Alphameprodine; Alphamethadol; Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine); Benzethidine; Betacetylmethadol;

Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; ~~Dextrorphan~~; Diampromide; Diethyliambutene; Difenoxin; Dimenoxadol; Dimepheptanol; Dimethyliambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Methyl substituted isomers of Fentanyl; 3-Methylfentanyl, (N-[3-Methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide); Acetyl-alpha-methylfentanyl, (N-[1-(1-methyl-2-phenylethyl)-4-piperidinyl]-N-phenylacetamide); Alpha-methylthiofentanyl, (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl-N-phenylpropanamide); Benzylfentanyl, (N-[1-benzyl-4-piperidyl]-N-phenylpropanamide); Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenylethyl-4-piperidinyl]-N-phenylpropanamide); Beta-hydroxy-3-methylfentanyl, (N-[1-(2-hydroxy-2-phenylethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide); 3-methylthiofentanyl, (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide); Thenylfentanyl, (N-[1-(2-thienyl)Methyl-4-piperidyl]-N-phenylpropanamide); Thiofentanyl, (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide); para-fluorofentanyl, (N-[1-(2-phenylethyl)-4-piperidyl]-N-(4-fluorophenyl)-propanamide); Morpheridine; MPPP; 1-Methyl-4-phenyl-4-Propionoxypiperidine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; PEPAP, (1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine); Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Tilidine; Trimeperidine.

(2) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; ~~Acetylcodone;~~ Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Drotebanol; Etorphine (except hydrochloride salt; Heroin; Hydromorphinol; Methyldesorphine; ~~Methylhydromorphine~~ Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

(3) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers (whether optical, positional, or geometric) and salts of isomers, unless specifically excepted or unless listed in another schedule,, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: 3,4-methylenedioxy amphetamine; 3,4-methylenedioxymethamphetamine; 3,4-Methylenedioxy-N-ethylamphetamine; N-hydroxy-3, 4-Methylenedioxy-amphetamine; 4-bromo-2,5-dimethoxyamphetamine; 2,5-dimethoxyamphetamine; 4-methoxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; Alpha-Ethyltryptamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 3,4,5-trimethoxy amphetamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine;

Lysergic acid diethylamide; marijuana; Mescaline; Parahexyl; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols, meaning Tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration. 6 cis or trans tetrahydrocannabinol, and their optical isomers; 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.); ~~1-(1-(2-thienyl)-cyclohexyl) piperidine~~ Thiophene analog of phencyclidine (1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP; ethylamine analog of phencyclidine (n-ethyl-1-phenyl-cyclohexylamine), (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE ; pyrrolidine analog of phencyclidine (1-(1-phenylcyclohexyl) pyrrolidine); 2-thienyl Pyrrolidine analog of phencyclidine (1-[1-(2-thienyl)cyclohexyl]-pyrrolidine); 4-Bromo-2,5-dimethoxyphenethylamine, also known as 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane, alpha-desmethyl DOB, 2C-B, or Nexus; 2,5-dimethoxy-4-ethylamphetamine, also known as DOET; 2,5-dimethoxy-4-(n)- propylthiophenethylamine, also known as 2C-T-7; Alpha-methyltryptamine, also known as AMT; 5-methoxy-N,N-diisopropyltryptamine, also known as 5-MeO-DIPT.

(4) Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts, providing the listing of peyote as a controlled substance in schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(5) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Mecloqualone; Methaqualone; Gamma-hydroxybutyric acid, including its esters and ethers (some other names include GHB, gamma-hydroxybutyrate, 4-hydroxybutanoic acid, sodium oxybate, sodium

oxybutyrate); Flunitrazepam.

(6) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Aminorex, also known as Aminoxaphen, 2-Amino-5-phenyl-2-oxazoline, or 4,5-Dihydro-5-phenyl-2-oxazolamine; Cathinone also known as 2-Amino-1-phenyl-1-propanone, alpha-Aminopropiophenone, 2-Aminopropiophenone or Norephedrone; Fenethylline; Methcathinone, also known as 2-(Methylamino)-Propiophenone, alpha-(Methylamino)-propiophenone, 2-(Methylamino)-1-Phenylpropan-1-one, alpha-N-Methylaminopropiophenone, monomethylpropion, ephedrone, N-Methylcathinone or Methylcathinone; (±) cis-4-Methylaminorex, also known as (±) cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine; N-ethylamphetamine; N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzene-ethanamine or N,N-alpha-trimethylphenethylamine; N-benzylpiperazine, also known as BZP, 1-benzylpiperazine.

**(7) Synthetic cannabinoid receptor agonists. Unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture or preparation which contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to, the following substances and their analogs (including homologues), isomers (whether optical, positional, or geometric), esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, or salts is possible within the specific chemical designation:**

**1-pentyl-2-methyl-3-(1-naphthoyl)indole (JWH-007), (2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone (JWH-015), 1-Pentyl-3-(1-naphthoyl)indole (JWH-018), 1-hexyl-3-(naphthalen-1-oyl)indole (JWH-019), 1-Butyl-3-(1-naphthoyl)indole (JWH-073), 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone (JWH-081), 4-methoxynaphthalen-1-yl-(1-pentyl-2-methylindol-3-yl)methanone (JWH-098), (1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethanone (JWH-200), 7-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone (JWH-164), 2-(2-chlorophenyl)-1-(1-pentylindol-3-yl)ethanone (JWH-203), 4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone (JWH-210), 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone (JWH-250), 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398), (6aR,10aR)- 9-(Hydroxymethyl)- 6,6-dimethyl- 3-(2-methyloctan-2-yl)- 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (HU-210), (dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol ) (HU-211), (R)-**

**(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de)-1,4-benzoxazin-6-yl]-1-napthalenylmethanone (WIN-55/212-2), 2-[(1R,3S)-3-hydroxycyclohexyl]- 5-(2-methyloctan-2-yl)phenol (CP47,497), dimethylheptylpyran**

Subd. 3. Schedule II. The following items are listed in Schedule II:

(1) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, ~~including the following: raw opium, opium extracts, opium fluid extracts, powdered opium, granulated opium, tincture of opium, apomorphine, codeine, ethylmorphine, hydrocodone, hydromorphone, metopon, morphine, oxycodone, oxymorphone, thebaine.~~ excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following: Raw opium; Opium extracts; Opium fluid; Powdered opium, Granulated opium, Tincture of opium, Codeine, Dihydroetorphine, Ethylmorphine, Etorphine hydrochloride, Hydrocodone, Hydromorphone, Metopon, Morphine, Oxycodone, Oxymorphone, Thebaine, Oripavine.

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (a), except that these substances shall not include the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, cocaine compound, derivative, or preparation of coca leaves, (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine. ~~the salts and isomers of cocaine and ecgonine~~, and the salts of their isomers.

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy). ~~Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (d), except that the substances shall not include decocainized coca leaves or extraction of coca~~

~~leaves, which extractions do not contain cocaine or ecgonine.~~

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, or unless listed in another schedule, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation: Alfentanil; Alphaprodine; Anileridine; Bezitramide; Bulk Dextropropoxyphene (nondosage forms); Carfentanil; Dihydrocodeine; Dihydromorphinone; Diphenoxylate; Fentanyl; Isomethadone; Levo-alpha-acetylmethadol (LAAM); Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane; Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine - Intermediate - A, 4-cyano-1-methyl-4-phenylpiperidine; Pethidine - Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine - Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan; Remifentanil; Sufentanil; Tapentadol .

(3) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Methamphetamine, its salts, isomers, and salts of its isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate~~.~~;

(e) Lisdexamfetamine.

(4) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

~~(a) Methaqualone~~

~~(b)~~ (a) Amobarbital

(b) Glutethimide

(c) Secobarbital

(d) Pentobarbital

(e) Phencyclidine

(f) Phencyclidine immediate precursors:

(i) 1-phenylcyclohexylamine

(ii) 1-piperidinocyclohexanecarbonitrile.

(g) Immediate precursors to amphetamine and methamphetamine: phenylacetone.

(5) Hallucinogenic substances. Nabilone [another name for Nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1- hydroxy-6,6-dimethyl-9H-dibenzo [b,d] pyran-9-one].

Subd. 4. Schedule III. The following items are listed in Schedule III:

(1) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including its salts, isomers (whether optical, positional, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: ~~Any material, compound, mixture, or preparation which contains any quantity of~~

(a) ~~Amphetamine, its salts, optical isomers, and salts of its optical isomers~~; Phenmetrazine, and its salts; ~~Methamphetamine, its salts, isomers, and salts of isomers; Methylphenidate and which is required by federal law to be labeled with the symbol prescribed by 21 Code of Federal Regulations Section 1302.03 and in effect on February 1, 1976 designating that the drug is listed as a Schedule III controlled substance under federal law.~~

(b) Benzphetamine;

(c) Chlorphentermine;

(d) Clortermine;

(e) Phendimetrazine.

(2) Depressants. Unless specifically excepted or unless listed in another schedule, ~~Any~~ any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(a) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(b) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

(c) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules~~:~~ ;

(d) Chlorhexadol; ~~Glutethimide;~~
(e) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug, and Cosmetic Act;
(f) Ketamine, its salts, isomers and salts of isomers;
(g) Lysergic acid;
(h) Lysergic acid amide;
(i) Methyprylon;
(j) Sulfondiethylmethane;
(k) Sulfonethylmethane;
(l) Sulfonmethane;
(m) Tiletamine and zolazepam and any salt thereof;
(n) Embutramide

~~(d) Gamma hydroxybutyrate, any salt, compound, derivative, or preparation of gamma hydroxybutyrate, including any isomers, esters, and ethers and salts of isomers, esters, and ethers of gamma hydroxybutyrate whenever the existence of such isomers, esters, and salts is possible within the specific chemical designation.~~

~~(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:~~

~~(a) Benzphetamine~~

~~(b) Chlorphentermine~~

~~(c) Clortermine~~

~~(d) Mazindol~~

~~(e) Phendimetrazine.~~

~~(4)~~ (3) Nalorphine.

~~(5)~~ (4) Narcotic Drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows: ~~Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:~~

(a) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(b) Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(c) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(d) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(f) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(g) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(h) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Anabolic steroids and human growth hormone. (a) Anabolic steroids, ~~which~~, for purposes of this subdivision, means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, and includes: ~~androstanediol; androstanedione; androstenediol; androstenedione; bolasterone; boldenone; calusterone; chlorotestosterone; chorionic gonadotropin; clostebol; dehydrochloromethyltestosterone; (triangle)1-dihydrotestosterone; 4-dihydrotestosterone; drostanolone; ethylestrenol; fluoxymesterone; formebolone; furazabol; human growth hormones; 13b-ethyl-17a-hydroxygon-4-en-3-one; 4-hydroxytestosterone; 4-hydroxy-19-nortestosterone; mestanolone; mesterolone; methandienone; methandranone; methandriol; methandrostenolone; methenolone; 17a-methyl-3b, 17b-dihydroxy-5a-androstane; 17a-methyl-3a, 17b-dihydroxy-5a-androstane; 17a-methyl-3b, 17b-dihydroxyandrost-4-ene; 17a-methyl-4-hydroxynandrolone; methyldienolone; methyltrienolone; methyltestosterone; mibolerone; 17a-methyl-(triangle)1-dihydrotestosterone; nandrolone; nandrolone phenpropionate; norandrostenediol; norandrostenedione; norbolethone; norclostebol; norethandrolone; normethandrolone; oxandrolone; oxymesterone; oxymetholone; stanolone; stanozolol; stenbolone; testolactone; testosterone; testosterone propionate; tetrahydrogestrinone; trenbolone; and any salt, ester, or ether of a drug or substance described in this paragraph.~~

(i) 3[beta],17-dihydroxy-5a-androstane

(ii) 3[alpha],17[beta]-dihydroxy-5a-androstane

(iii) 5[alpha]-androstan-3,17-dione

(iv) 1-androstenediol (3[beta],17[beta]-dihydroxy-5[alpha]-androst-1- ene)

(v) 1-androstenediol (3[alpha],17[beta]-dihydroxy-5[alpha]-androst-1- ene)

(vi) 4-androstenediol (3[beta],17[beta]-dihydroxy-androst-4-ene)

(vii) 5-androstenediol (3[beta],17[beta]-dihydroxy-androst-5-ene)

(viii) 1-androstenedione ([5[alpha]]-androst-1-en-3,17-dione)

(ix) 4-androstenedione (androst-4-en-3,17-dione)

(x) 5-androstenedione (androst-5-en-3,17-dione)

(xi) bolasterone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyandrost- 4-en-3-one)

(xii) boldenone (17[beta]-hydroxyandrost-1,4,-diene-3-one)

(xiii) boldione (androsta-1,4-diene-3,17-dione)

(xiv) calusterone (7[beta],17[alpha]-dimethyl-17[beta]-hydroxyandrost- 4-en-3-one)

(xv) clostebol (4-chloro-17[beta]-hydroxyandrost-4-en-3-one)

(xvi) dehydrochloromethyltestosterone (4-chloro-17[beta]-hydroxy- 17[alpha]-methyl-androst-1,4-dien-3-one)

(xvii) desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst- 2-en-17[beta]-ol) (a.k.a., madol)

(xviii) [Delta]1-dihydrotestosterone (a.k.a. '1-testosterone') (17[beta]- hydroxy-5[alpha]-androst-1-en-3-one)

(xix) 4-dihydrotestosterone (17[beta]-hydroxy-androstan-3-one)

(xx) drostanolone (17[beta]-hydroxy-2[alpha]-methyl-5[alpha]- androstan-3-one)

(xxi) ethylestrenol (17[alpha]-ethyl-17[beta]-hydroxyestr-4-ene)

(xxii) fluoxymesterone (9-fluoro-17[alpha]-methyl-11[beta],17[beta]- dihydroxyandrost-4-en-3-one)

(xxiii) formebolone (2-formyl-17[alpha]-methyl-11[alpha],17[beta]- dihydroxyandrost-1,4-dien-3-one)

(xxiv) furazabol (17[alpha]-methyl-17[beta]-hydroxyandrostano[2,3-c]- furazan)

(xxv) 13[beta]-ethyl-17[beta]-hydroxygon-4-en-3-one

(xxvi) 4-hydroxytestosterone (4,17[beta]-dihydroxy-androst-4-en-3-one)

(xxvii) 4-hydroxy-19-nortestosterone (4,17[beta]-dihydroxy-estr-4-en-3- one)

(xxviii) mestanolone (17[alpha]-methyl-17[beta]-hydroxy-5-androstan-3- one)

(xxix) mesterolone (1[alpha]methyl-17[beta]-hydroxy-[5[alpha]]- androstan-3-one)

(xxx) methandienone (17[alpha]-methyl-17[beta]-hydroxyandrost-1,4- dien-3-one)

(xxxi) methandriol (17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost- 5-ene)

(xxxii) methenolone (1-methyl-17[beta]-hydroxy-5[alpha]-androst-1-en-3- one)

(xxxiii) 17[alpha]-methyl-3[beta], 17[beta]-dihydroxy-5a-androstane

(xxxiv) 17[alpha]-methyl-3[alpha],17[beta]-dihydroxy-5a-androstane

(xxxv) 17[alpha]-methyl-3[beta],17[beta]-dihydroxyandrost-4-ene

(xxxvi) 17[alpha]-methyl-4-hydroxynandrolone (17[alpha]-methyl-4- hydroxy-17[beta]-hydroxyestr-4-en-3-one)

(xxxvii) methyldienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9(10)- dien-3-one)

(xxxviii) methyltrienolone (17[alpha]-methyl-17[beta]-hydroxyestra-4,9- 11-trien-3-one)

(xxxix) methyltestosterone (17[alpha]-methyl-17[beta]-hydroxyandrost- 4-en-3-one)

(xl) mibolerone (7[alpha],17[alpha]-dimethyl-17[beta]-hydroxyestr- 4-en-3-one)

(xli) 17[alpha]-methyl-[Delta]1-dihydrotestosterone (17b[beta]- hydroxy-17[alpha]-methyl-5[alpha]-androst-1-en-3-one) (a.k.a. '17- [alpha]-methyl-1-testosterone')

(xlii) nandrolone (17[beta]-hydroxyestr-4-en-3-one)

(xliii) 19-nor-4-androstenediol (3[beta], 17[beta]-dihydroxyestr-4-ene)

(xliv) 19-nor-4-androstenediol (3[alpha], 17[beta]-dihydroxyestr-4-ene)

(xlv) 19-nor-5-androstenediol (3[beta], 17[beta]-dihydroxyestr-5-ene)

(xlvi) 19-nor-5-androstenediol (3[alpha], 17[beta]-dihydroxyestr-5-ene)

(xlvii) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene- 3,17-dione)

(xlviii) 19-nor-4-androstenedione (estr-4-en-3,17-dione)

(xlix) 19-nor-5-androstenedione (estr-5-en-3,17-dione

(l) norbolethone (13[beta], 17[alpha]-diethyl-17[beta]-hydroxygon- 4-en-3-one)

(li) norclostebol (4-chloro-17[beta]-hydroxyestr-4-en-3-one)

(lii) norethandrolone (17[alpha]-ethyl-17[beta]-hydroxyestr-4-en-3- one)

(liii) normethandrolone (17[alpha]-methyl-17[beta]-hydroxyestr-4-en-3-one)

(liv) oxandrolone (17[alpha]-methyl-17[beta]-hydroxy-2-oxa-[5[alpha]]- androstan-3-one)

(lv) oxymesterone (17[alpha]-methyl-4,17[beta]-dihydroxyandrost-4-en- 3-one)

(lvi) oxymetholone (17[alpha]-methyl-2-hydroxymethylene-17[beta]- hydroxy-[5[alpha]]-androstan-3-one)

(lvii) stanozolol (17[alpha]-methyl-17[beta]-hydroxy-[5[alpha]]- androst-2-eno[3,2-c]-pyrazole)

(lviii) stenbolone (17[beta]-hydroxy-2-methyl-[5[alpha]]-androst-1-en-3- one)

(lix) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone)

(lx) testosterone (17[beta]-hydroxyandrost-4-en-3-one)

(lxi) tetrahydrogestrinone (13[beta], 17[alpha]-diethyl-17[beta]- hydroxygon-4,9,11-trien-3-one)

(lxii) trenbolone (17[beta]-hydroxyestr-4,9,11-trien-3-one)

(lxiii) Any salt, ester, or ether of a drug or substance described in this paragraph.

Anabolic steroids are not included if they are: (i) expressly intended for administration through implants to cattle or other nonhuman species; and (ii) approved by the United States Food and Drug Administration for that use. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

(b) Human growth hormones

(7) Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product.

(8) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts: Buprenorphine.

Subd. 5. Schedule IV. ~~The following items are listed in Schedule IV: Barbital; Butorphanol; Carisoprodol; Chloral betaine; Chloral hydrate; Chlordiazepoxide; Clonazepam; Clorazepate; Diazepam; Diethylpropion; Ethchlorvynol; Ethinamate; Fenfluramine; Flurazepam; Mebutamate; Methohexital; Meprobamate except when in combination with the following drugs in the following or lower concentrations: conjugated estrogens, 0.4 mg; tridihexethyl chloride, 25mg; pentaerythritol tetranitrate, 20 mg; Methylphenobarbital; Oxazepam; Paraldehyde; Pemoline; Petrichloral; Phenobarbital; and Phentermine.~~

(a) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(1) Not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;
(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2- propionoxybutane).

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam
(2) Barbital
(3) Bromazepam
(4) Camazepam
(5) Chloral betaine
(6) Chloral hydrate
(7) Chlordiazepoxide
(8) Clobazam
(9) Clonazepam
(10) Clorazepate
(11) Clotiazepam
(12) Cloxazolam
(13) Delorazepam
(14) Diazepam
(15) Dichloralphenazone
(16) Estazolam
(17) Ethchlorvynol
(18) Ethinamate
(19) Ethyl Loflazepate
(20) Fludiazepam
(21) Flurazepam
(22) Halazepam
(23) Haloxazolam
(24) Ketazolam
(25) Loprazolam
(26) Lorazepam
(27) Lormetazepam
(28) Mebutamate
(29) Medazepam
(30) Meprobamate
(31) Methohexital
(32) Methylphenobarbital

(33) Midazolam
(34) Nimetazepam
(35) Nitrazepam
(36) Nordiazepam
(37) Oxazepam
(38) Oxazolam
(39) Paraldehyde
(40) Petrichloral
(41) Phenobarbital
(42) Pinazepam
(43) Prazepam
(44) Quazepam
(45) Temazepam
(46) Tetrazepam
(47) Triazolam
(48) Zaleplon
(49) Zolpidem
(50) Zopiclone

(c) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, positional, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
Fenfluramine.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Cathine ((+)-Norpseudoephedrine)
(2) Diethylpropion
(3) Fencamfamine
(4) Fenproporex
(5) Mazindol
(6) Mefenorex
(7) Modafinil
(8) Pemoline (including organometallic complexes and chelates thereof)
(9) Phentermine

(10) Pipradrol
(11) Sibutramine
(12) SPA ((-)-1-dimethylamino-1,2-diphenylethane)

Subd. 6. Schedule V; restrictions on methamphetamine precursor drugs.(a) As used in this subdivision, the following terms have the meanings given:

(1) "methamphetamine precursor drug" means any compound, mixture, or preparation intended for human consumption containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients; and

(2) "over-the-counter sale" means a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

(b) The following items are listed in Schedule V:

(1) any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(i) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(ii) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(iii) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit; or

(iv) not more than ~~15 milligrams of anhydrous morphine per 100 milliliters or per 100 grams; and~~ 100 milligrams of opium per 100 milliliters or per 100 grams

(v) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a stimulant effect on the central nervous system, including its salts, isomers, and salts of

isomers: Pyrovalerone.

(3) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(i) Pregabalin
(ii) Lacosamide ((R)-2-acetoamido-N-benzyl-3-methoxy-propionamide)

(4) any compound, mixture, or preparation containing ephedrine or pseudoephedrine as its sole active ingredient or as one of its active ingredients.

(c) No person may sell in a single over-the-counter sale more than two packages of a methamphetamine precursor drug or a combination of methamphetamine precursor drugs or any combination of packages exceeding a total weight of six grams, calculated as the base.

(d) Over-the-counter sales of methamphetamine precursor drugs are limited to:

(1) packages containing not more than a total of three grams of one or more methamphetamine precursor drugs, calculated in terms of ephedrine base or pseudoephedrine base; or

(2) for nonliquid products, sales in blister packs, where each blister contains not more than two dosage units, or, if the use of blister packs is not technically feasible, sales in unit dose packets or pouches.

(e) A business establishment that offers for sale methamphetamine precursor drugs in an over-the-counter sale shall ensure that all packages of the drugs are displayed behind a checkout counter where the public is not permitted and are offered for sale only by a licensed pharmacist, a registered pharmacy technician, or a pharmacy clerk. The establishment shall ensure that the person making the sale requires the buyer:

(1) to provide photographic identification showing the buyer's date of birth; and

(2) to sign a written or electronic document detailing the date of the sale, the name of the buyer, and the amount of the drug sold.

A document described under clause (2) must be retained by the establishment for at least three years

and must at all reasonable times be open to the inspection of any law enforcement agency.

Nothing in this paragraph requires the buyer to obtain a prescription for the drug's purchase.

(f) No person may acquire through over-the-counter sales more than six grams of methamphetamine precursor drugs, calculated as the base, within a 30-day period.

(g) No person may sell in an over-the-counter sale a methamphetamine precursor drug to a person under the age of 18 years. It is an affirmative defense to a charge under this paragraph if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in section 340A.503, subdivision 6.

(h) A person who knowingly violates paragraph (c), (d), (e), (f), or (g) is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days, or to payment of a fine of not more than $1,000, or both.

(i) An owner, operator, supervisor, or manager of a business establishment that offers for sale methamphetamine precursor drugs whose employee or agent is convicted of or charged with violating paragraph (c), (d), (e), (f), or (g) is not subject to the criminal penalties for violating any of those paragraphs if the person:

(1) did not have prior knowledge of, participate in, or direct the employee or agent to commit the violation; and

(2) documents that an employee training program was in place to provide the employee or agent with information on the state and federal laws and regulations regarding methamphetamine precursor drugs.

(j) Any person employed by a business establishment that offers for sale methamphetamine precursor drugs who sells such a drug to any person in a suspicious transaction shall report the transaction to the owner, supervisor, or manager of the establishment. The owner, supervisor, or manager may report the transaction to local law enforcement. A person who reports information under this subdivision in good faith is immune from civil liability relating to the report.

(k) Paragraphs (b) to (j) do not apply to:

(1) pediatric products labeled pursuant to federal regulation primarily intended for administration to children under 12 years of age according to label instructions;

(2) methamphetamine precursor drugs that are certified by the Board of Pharmacy as being manufactured in a manner that prevents the drug from being used to manufacture methamphetamine;

(3) methamphetamine precursor drugs in gel capsule or liquid form; or

(4) compounds, mixtures, or preparations in powder form where pseudoephedrine constitutes less than one percent of its total weight and is not its sole active ingredient.

(l) The Board of Pharmacy, in consultation with the Department of Public Safety, shall certify methamphetamine precursor drugs that meet the requirements of paragraph (k), clause (2), and publish an annual listing of these drugs.

(m) Wholesale drug distributors licensed and regulated by the Board of Pharmacy pursuant to sections 151.42 to 151.51 and registered with and regulated by the United States Drug Enforcement Administration are exempt from the methamphetamine precursor drug storage requirements of this section.

(n) This section preempts all local ordinances or regulations governing the sale by a business establishment of over-the-counter products containing ephedrine or pseudoephedrine. All ordinances enacted prior to the effective date of this act are void.

Subd. 7. Board of Pharmacy; regulation of substances. The Board of Pharmacy is authorized to regulate and define additional substances which contain quantities of a substance possessing abuse potential in accordance with the following criteria:

(1) The Board of Pharmacy shall place a substance in Schedule I if it finds that the substance has: A high potential for abuse, no currently accepted medical use in the United States, and a lack of accepted safety for use under medical supervision.

(2) The Board of Pharmacy shall place a substance in Schedule II if it finds that the substance has: A high potential for abuse, currently accepted medical use in the United States, or currently accepted medical use with severe restrictions, and that abuse may lead to severe psychological or physical dependence.

(3) The Board of Pharmacy shall place a substance in Schedule III if it finds that the substance has: A potential for abuse less than the substances listed in Schedules I and II, currently accepted medical use

in treatment in the United States, and that abuse may lead to moderate or low physical dependence or high psychological dependence.

(4) The Board of Pharmacy shall place a substance in Schedule IV if it finds that the substance has: A low potential for abuse relative to the substances in Schedule III, currently accepted medical use in treatment in the United States, and that abuse may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

(5) The Board of Pharmacy shall place a substance in Schedule V if it finds that the substance has: A low potential for abuse relative to the substances listed in Schedule IV, currently accepted medical use in treatment in the United States, and limited physical dependence and/or psychological dependence liability relative to the substances listed in Schedule IV.

Subd. 8. Add, delete, or reschedule substances. The state Board of Pharmacy may, by rule, add substances to or delete or reschedule substances listed in this section**. ~~The state Board of Pharmacy, after consulting with the Advisory Council on Controlled Substances, shall annually, on or before May 1 of each year, conduct a review of the placement of controlled substances in the various schedules.~~**

In making a determination regarding a substance, the Board of Pharmacy shall consider the following: The actual or relative potential for abuse, the scientific evidence of its pharmacological effect, if known, the state of current scientific knowledge regarding the substance, the history and current pattern of abuse, the scope, duration, and significance of abuse, the risk to public health, the potential of the substance to produce psychic or physiological dependence liability, and whether the substance is an immediate precursor of a substance already controlled under this section. The state Board of Pharmacy may include any nonnarcotic drug authorized by federal law for medicinal use in a schedule only if such drug must, under either federal or state law or rule, be sold only on prescription.

**The Board of Pharmacy may not reschedule a drug that is in schedule I, except that the Board may reschedule such drug pursuant to subdivision 12 of this section.**

Subd. 8a. Methamphetamine precursors. The State Board of Pharmacy may, by order, require that nonprescription ephedrine or pseudophedrine products sold in gel capsule or liquid form be subject to the sale restrictions established in subdivision 6 for methamphetamine precursor drugs, if the board concludes that ephedrine or pseudophedrine products in gel capsule or liquid form can be used to manufacture methamphetamine. In assessing the need for an order under this subdivision, the board shall consult at least annually with the advisory council on controlled substances, the commissioner of

public safety, and the commissioner of health.

Subd. 9. Except substances by rule. The state Board of Pharmacy may by rule except any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivision 4, clauses (1) and (2) or in subdivisions 5 and 6 from the application of all or any part of this chapter, if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system; provided, that such admixtures shall be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

Subd. 10. Dextromethorphan. Dextromethorphan shall not be deemed to be included in any schedule by reason of the enactment of Laws 1971, chapter 937, unless controlled pursuant to the foregoing provisions of this section.

Subd. 11.[Repealed, 1993 c 337 s 20]

Subd. 12. Coordination of controlled substance regulation with federal law and state statute. If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the state Board of Pharmacy, the state Board of Pharmacy shall similarly control the substance under this chapter, after the expiration of 30 days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance. Such order shall be filed with the secretary of state. If within that 30-day period, the state Board of Pharmacy objects to inclusion, rescheduling, or deletion, it shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the state Board of Pharmacy shall publish its decision, which shall be subject to the provisions of chapter 14.

In exercising the authority granted by this chapter, the state Board of Pharmacy shall be subject to the provisions of chapter 14. **The Board may use the expedited process described in section 14.389 when exercising its authority under subdivisions 7, 8, 9 and 12 of this section. . ~~The state Board of Pharmacy shall provide copies of any proposed rule under this chapter to the advisory council on controlled substances at least 30 days prior to any hearing required by section 14.14, subdivision 1. The state Board of Pharmacy shall consider the recommendations of the advisory council on controlled substances, which may be made prior to or at the hearing.~~**

The state Board of Pharmacy shall annually submit a report to the legislature on or before December 1 that specifies what changes the board made to the controlled substance schedules maintained by the

board in Minnesota Rules, parts 6800.4210 to 6800.4250, in the preceding 12 months. The report must include specific recommendations for amending the controlled substance schedules contained in subdivisions 2 to 6, so that they conform with the controlled substance schedules maintained by the board in Minnesota Rules, parts 6800.4210 to 6800.4250.

~~**Subd. 13. Implementation study. Annually, the state Board of Pharmacy shall study the implementation of this chapter in relation to the problems of drug abuse in Minnesota.**~~