

response, please use email or phone if possible for communication with HHSC related to this rate hearing.

TRD-202003868

Karen Ray

Chief Counsel

Texas Health and Human Services Commission

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Department of State Health Services

Order Extending the Temporary Scheduling of NM2201, 5F-AB-PINACA, 4-CN-CUMYL-BUTINACA, MMB-CHMICA, and 5F-CUMYL-P7AICA in Schedule I

The Acting Administrator of the Drug Enforcement Administration issued a temporary scheduling order to extend the temporary schedule I status of naphthalen-1-yl-1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (Other names: NM2201; CBL2201), *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide (Other name: 5F-AB-PINACA), 1-(4-Cyanobutyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL-BINACA; CUMYL-4CN-BINACA; SGT-78), methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3-methylbutanoate (Other names: MMB-CHMICA; AMB-CHMICA), and 1-(5-Fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-pyrrolo[2,3-*b*]pyridine-3-carboxamide (Other name: 5F-CUMYL-P7AICA). This order was published in the *Federal Register*, Volume 85, Number 134, pages 42296-42297 and was effective July 10, 2020.

The extension of the temporary scheduling of NM2201, 5F-AB-PINACA, 4-CN-CUMYL-BUTINACA, MMB-CHMICA, and 5F-CUMYL-P7AICA in schedule I is necessary to allow the permanent scheduling action to be completed.

Pursuant to Section 481.034(g), as amended by the 75th legislature, of the Texas Controlled Substances Act, Health and Safety Code, Chapter 481, at least thirty-one days have expired since notice of the above referenced actions were published in the *Federal Register*. In the capacity as Commissioner of the Texas Department of State Health Services, John Hellerstedt, M.D., does hereby order that temporary scheduling of NM2201, 5F-AB-PINACA, 4-CN-CUMYL-BUTINACA, MMB-CHMICA, and 5F-CUMYL-P7AICA in schedule I be extended.

-Schedule I temporarily listed substances subject to emergency scheduling by the U.S. Drug Enforcement Administration.

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following substances or that contains any of the substance's salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) *N*-(1-Phenethylpiperidin-4-yl)-*N*-phenylpentanamide (Other name: valeryl fentanyl);
- (2) *N*-(4-Methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide (Other name: *p*-methoxybutyryl fentanyl);
- (3) *N*-(4-Chlorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide (Other name: *p*-chloroisobutyryl fentanyl);
- (4) *N*-(1-Phenethylpiperidin-4-yl)-*N*-phenylisobutyramide (Other name: isobutyryl fentanyl);
- (5) *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopentanecarboxamide (Other name: cyclopentyl fentanyl);

(6) Fentanyl-related substances.

(6-1) Fentanyl-related substance means any substance not otherwise listed under another Administration Controlled Substance Code Number, and for which no exemption or approval is in effect under Section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that is structurally related to fentanyl by one or more of the following modifications:

(6-1-1) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(6-1-2) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino or nitro groups;

(6-1-3) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(6-1-4) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; and/or

(6-1-5) Replacement of the *N*-propionyl group by another acyl group;

(6-2) This definition includes, but is not limited to, the following substances:

(6-2-1) *N*-(1-(2-Fluorophenethyl)piperidin-4-yl)-*N*-(2-fluorophenyl)propionamide (Other name: 2'-fluoro-*o*-fluorofentanyl);

(6-2-2) *N*-(2-Methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)acetamide (Other name: *o*-methyl acetylfentanyl);

(6-2-3) *N*-(1-Phenethylpiperidin-4-yl)-*N*,3-diphenylpropanamide (Other names: β'-phenyl fentanyl; hydrocinnamoyl fentanyl);

(6-2-4) *N*-(1-Phenethylpiperidin-4-yl)-*N*-phenylthiophene-2-carboxamide (Other name: thiofuranyl fentanyl);

(6-2-5) (E)-*N*-(1-Phenethylpiperidin-4-yl)-*N*-phenylbut-2-enamide (Other name: crotonyl fentanyl);

(7) Naphthalen-1-yl-1-(5-fluoropentyl)-1*H*-indole-3-carboxylate (Other names: NM2201; CBL2201);

(8) *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide (Other name: 5F-AB-PINACA);

(9) 1-(4-Cyanobutyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL-BINACA; CUMYL-4CN-BINACA; SGT-78);

(10) Methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3-methylbutanoate (Other names: MMB-CHMICA; AMB-CHMICA);

(11) 1-(5-Fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-pyrrolo[2,3-*b*]pyridine-3-carboxamide (Other name: 5F-CUMYL-P7AICA);

(12) *N*-ethylpentylone (Other names: ephylone; 1-(1,3-benzodioxil-5-yl)-2-(ethylamino)-pentan-1-one);

(13) Ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (Other name: 5F-EDMB-PINACA);

(14) Methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (Other name: 5F-MDMB-PICA);

(15) *N*-(Adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (Other names: FUB-AKB48; FUB-APINACA; AKB48 *N*-(4-FLUOROBENZYL));

- (16) 1-(5-Fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide (Other names: 5F-CUMYL-PINACA; SGT-25);
- (17) (1-(4-Fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (Other name: FUB-144);
- (18) N-Ethylhexedrone (Other name: 2-(ethylamino)-1-phenylhexan-1-one);
- (19) α -pyrrolidinohexanophenone (Other names: α -PHP; α -pyrrolidinohexiophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one);
- (20) 4-Methyl- α -ethylaminopentiophenone (Other names: 4-MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one);
- (21) 4-Methyl- α -pyrrolidinohexiophenone (Other names: MPHP, 4'-methyl- α -pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one);
- (22) α -pyrrolidinoheptaphenone (Other names: PV8; 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one); and
- (23) 4-Chloro- α -pyrrolidinovalerophenone (Other names: 4-chloro- α -PVP; 4-chloro- α -pyrrolidinopentiophenone; 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one).

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Barbara L. Klein

General Counsel

Department of State Health Services

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Texas Higher Education Coordinating Board

Correction of Error

The Texas Higher Education Coordinating Board published proposed amendments to 19 TAC §4.314 in the August 21, 2020, issue of the *Texas Register* (45 TexReg 5748). Due to an error by the Texas Register, the proposed amendments to §4.134(10) were published incorrectly. The correct proposed amended text should read as follows:

(10) If the Coordinating Board's SARA Coordinator denies an institution's application for membership in SARA, a written reason for denial will be provided. [If institutional membership is denied, the board will provide a written reason for denial.] The institution may reapply at any time, having corrected any deficiencies, or may appeal the denial within 30 calendar days to the Coordinating Board's SARA Signatory. [SARA director of SREB. If the denial is upheld by SREB, the institution may appeal to NC-SARA.] The Coordinating Board's SARA Signatory will review the appeal and render a final decision. If the SARA Signatory upholds the denial, the institution may appeal to the SREB to determine if the board has met the requirements of SARA, but the SREB cannot overturn the final decision made by the Coordinating Board's SARA Signatory.

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Notice of Intent to Engage in Negotiated Rulemaking--Minority Health Research & Education Grant Program

(Texas Public and Private/Independent Universities and Health-Related Institutions)

The Texas Higher Education Coordinating Board (THECB) intends to engage in negotiated rulemaking to amend Chapter 6, Subchapter C, §6.74 rules for the distribution of Minority Health Research & Education Grant Program trustee funds for public and private/independent universities and health-related institutions of higher education and to

develop procedures for THECB staff to verify the accuracy of the application of funding distribution. This is in accordance with the provisions of Senate Bill 215 passed by the 83rd Texas Legislature, Regular Session.

In identifying persons likely affected by the proposed rules, the Convener of Negotiated Rulemaking sent a memo via GovDelivery to all chancellors and presidents at public and private/independent universities and health-related institutions of higher education soliciting their interest and willingness to participate in the negotiated rulemaking process, or to nominate a representative from their system/campus.

From this effort, 11 individuals responded (out of approximately 87) and nominated someone from their system/campus to participate on the negotiated rulemaking committee for Minority Health Research & Education Grant Program. The positions held by nominees include Associate Deans, Vice Presidents, Professors, an Associate Vice President/Chief of Staff, and an Assistant Commissioner. This indicates a probable willingness and authority of the affected interests to negotiate in good faith and a reasonable probability that a negotiated rulemaking process can result in a unanimous or, if the committee so chooses, a suitable general consensus on the proposed rule.

The following is a list of the stakeholders who are significantly affected by this rule and will be represented on the negotiated rulemaking committee for Minority Health Research & Education Grant Program:

1. Public universities;
2. Public health-related institutions;
3. Private universities;
4. Private health-related institutions;
5. Centers for Teacher Education; and
6. Texas Higher Education Coordinating Board.

The THECB proposes to appoint the following nine individuals to the negotiating rulemaking committee for Minority Health Research & Education Grant Program to represent affected parties and the agency:

Public Universities

Chiquessa L. Davis, Department Head of Post Licensure Nursing Programs and Assistant Professor for School of Nursing, Tarleton State University (Texas A&M University System)

Arzu Ari, Associate Dean for Research and Professor of Respiratory Care, Texas State University (Texas State University System)

Elizabeth Trejos-Castillo, Associate Chair and Graduate Program Director for Human Development and Family Studies, Texas Tech University (Texas Tech University System)

Brandi Levingston, Director of Programs in Rehabilitation, University of North Texas (University of North Texas System)

Erica Sosa, Associate Dean for Research and Associate Professor for Public Health, The University of Texas at San Antonio (The University of Texas System)

Public Health-Related Institutions

Olga Rodriguez, Associate Vice President and Chief of Staff, Texas A&M University Health Science Center (Texas A&M University System)

Emmanuel Elueze, Vice President for Medical Education and Professional Development and Professor of Medicine, The University of Texas Health Science Center at Tyler (The University of Texas System)