For quickest response, please use email or phone, if possible, for communication with HHSC related to this state plan amendment.

Persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact the HHSC Provider Finance Department by calling (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202302343
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: June 28, 2023

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Public Notice - The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the waiver application for the Home and Community-based Services (HCS) program.

The Texas Health and Human Services Commission (HHSC) is submitting a request to the Centers for Medicare & Medicaid Services (CMS) to amend the waiver application for the Home and Community-based Services (HCS) program. HHSC administers the HCS Program under the authority of Section 1915(c) of the Social Security Act. The proposed effective date for this amendment is September 1, 2023.

The amendment request proposes to make the changes described below based on the 2024-2025 General Appropriations Act, House Bill 1, 88th Legislature, Regular Session, 2023, (Article II, HHSC Rider 30(a)) which appropriated funding to increase attendant base wages in the HCS program.

Appendix J

HHSC revised the calculations for the overall projected cost of waiver services (Factor D) for waiver years one (9/1/23-8/31/24) through five (9/1/27-8/31/28). The updated projections in Appendix J account for rate increases for the following services provided by the waiver provider: Respite, Residential Support, Supervised Living, and Supported Home Living; and the following services delivered through the consumer directed services option: Respite and Supported Home Living.

A public rate hearing will be held on July 11, 2023, at 9:00 a.m. in Austin, Texas. The hearing will be held in the HHSC, John H Winters Building, Public Hearing Room 125, First Floor, 701 W. 51st Street, Austin, Texas 78751. Members of the public may attend the rate hearing in person. HHSC will also broadcast the public hearing; the broadcast can be accessed at https://hhs.texas.gov/about-hhs/communications-events/live-archived-meetings. The broadcast will be archived and accessible on demand at the same website.

The proposed amendment is estimated to result in an annual aggregate expenditure of $3,203,747 for federal fiscal year (FFY) 2023, consisting of $1,929,280 in federal funds and $1,274,468 in state general revenue. For FFY 2024, the estimated annual aggregate expenditure is $38,444,968 consisting of $23,151,357 in federal funds and $15,293,611 in state general revenue. For FFY 2025, the estimated annual aggregate expenditure is $38,423,120 consisting of $23,145,885 in federal funds and $15,277,235 in state general revenue.

The HCS waiver program provides services and supports to individuals with intellectual disabilities who live in their own homes, in the home of a family member, or another community setting such as a three-person or four-person residence operated by an HCS program provider. Services and supports are intended to enhance quality of life, functional independence, and health and well-being in continued community-based living and to supplement, rather than replace, existing informal or formal supports and resources. Services in the HCS waiver program include respite, supported employment, adaptive aids, audiology, occupational therapy, physical therapy, prescribed drugs, speech and language pathology, financial management services, support consultation, behavioral support, cognitive rehabilitation therapy, dental treatment, dietary services, employment assistance, individualized skills and socialization, minor home modifications, nursing, residential assistance, social work, supporting home living, and transition assistance services.

Written Comments. Written comments regarding the proposed payment rates may be submitted instead of, or in addition to, oral testimony until 5:00 p.m. on the day of the hearing. Written comments may be sent by U.S. mail to the Texas Health and Human Services Commission, Attention: Provider Finance Department, Mail Code H-400, P.O. Box 149030, Austin, Texas 78714-9030; by fax to Provider Finance at (512) 730-7475; or by email to PFD-LTSS@hhs.texas.gov. In addition, written comments may be sent by overnight mail or hand delivered to the Texas Health and Human Services Commission, Attention: Provider Finance, Mail Code H-400, North Austin Complex, 4601 W. Guadalupe St., Austin, Texas 78751.

The HHSC local offices of social services will post this notice for 30 days and will have copies of the proposed changes available for review.

To obtain a free copy of the proposed changes, ask questions, or obtain additional information, please contact Julyya Alvarez by U.S. mail, telephone, fax, or email at the addresses and numbers below.

Addresses:

U.S. Mail

Texas Health and Human Services Commission

Attention: Julyya Alvarez, Waiver Coordinator, Federal Coordination, Rules and Committees

701 West 51st Street, Mail Code H-310

Austin, Texas 78751

Telephone

(512) 438-4321

Fax

Attention: Julyya Alvarez, Waiver Coordinator at (512) 323-1905

Email

TX_Medicaid_Waivers@hhs.texas.gov

For the in-person hearing, persons with disabilities who wish to attend the hearing and require auxiliary aids or services should contact Provider Finance at (512) 730-7401 at least 72 hours before the hearing so appropriate arrangements can be made.

TRD-202302344
Karen Ray
Chief Counsel
Texas Health and Human Services Commission
Filed: June 28, 2023

♦ ♦ ♦

Department of State Health Services

Order Placing Brorphine and Eutylone in Schedule I

The Drug Enforcement Administration issued a final order permanently placing brorphine (1–(1–(1–(4-bromophenyl)ethyl)piperidin-4–yl)–1,3-dihydro-2*H*-benzo[*d*]imidazol-2-one), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts is possible within the specific chemical designation, in schedule I of the Controlled Substances Act. This final order was published on April 5, 2023, in the *Federal Register*, Volume 88, Number 43, pages 13692-13694. This action was taken based on the following:

1. Brorphine has a pharmacological profile similar to fentanyl (schedule II) and other schedule I and II synthetic opioids;
2. The use of brorphine presents a high risk of abuse and has negatively affected users and communities;
3. Brorphine has no currently accepted medical use in treatment in the United States;
4. There is a lack of accepted safety for use of brorphine under medical supervision; and,
5. This scheduling action discharges the United States' obligations under the Single Convention on Narcotic Drugs (1961).

The Drug Enforcement Administration issued a final rule establishing a specific listing for eutylone (Other names: 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)butan-1-one; bk-EBDB) in schedule I of the Controlled Substances Act with its own unique drug code. This final rule was published on April 10, 2023, in the *Federal Register*, Volume 88, Number 68, pages 21101-21102. This action is taken based on the following:

1. Eutylone has been controlled in the United States as a positional isomer of pentylone, a schedule I hallucinogen. This action establishes a specific listing for eutylone with its own unique drug code; and,
2. Placement of eutylone in schedule I enables the United States to meet its obligations under the 1971 Convention on Psychotropic Substances.

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, Jennifer Shuford, M.D., does hereby order that the substances brorphine and eutylone be placed in schedule I.

-Schedule I opiates

The following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, if the existence of these isomers, esters, ethers, and salts are possible within the specific chemical designation:

(1) Acetyl-α-methylfentanyl (*N*-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-*N*-phenylacetamide);
(2) Acetylmethadol;
(3) Acetyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide);
(4) Acryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacrylamide) (Other name: acryloylfentanyl);
(5) AH-7921 (3,4-dichloro-*N*-[1-(dimethylamino) cyclohexymethyl]benzamide);
(6) Allylprodine;
(7) Alphacetylmethadol (except levo-α-cetylmethadol, levo-α-acetylmethadol, levomethadyl acetate, or LAAM);
(8) α-Methylfentanyl or any other derivative of fentanyl;
(9) α-Methylthiofentanyl (*N*-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl] *N*-phenylpropanamide);
(10) Benzethidine;
(11) β-Hydroxyfentanyl (*N*-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-*N*-phenylpropanamide);
(12) β-Hydroxy-3-methylfentanyl (*N*-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-*N*-phenylpropanamide);
(13) β-hydroxythiofentanyl (Other names: *N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylproprionamide; *N*-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidnyl]-*N*-phenylpropanamide);

(14) β-Methyl fentanyl (*N*-phenyl-*N*-(1-(2-phenylpropyl)piperidin-4-yl)propionamide);
(15) β′-Phenyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*,3-diphenylpropanamide) (Other name: 3-phenylpropanoyl fentanyl);
(16) Betaprodine;
*(17) Brorphine (1–(1–(1–(4-bromophenyl)ethyl)piperidin-4–yl)–1,3-dihydro-2*H*-benzo[*d*]imidazol-2-one);
(18) Butyryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutanamide);
(19) Clonitazene;
(20) Crotonyl fentanyl (Other name: (6-2-5) (E)-*N*-(1-Phenethylpiperidin-4-yl)-*N*-phenylbut-2-enamide);
(21) Cyclopentyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-Phenylcyclopentanecarboxamide;
(22) Cyclopropyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopropanecarboxamide);
(23) Diampromide;
(24) Diethylthiambutene;
(25) Difenoxin;
(26) Dimenoxadol;
(27) Dimethylthiambutene;
(28) Dioxaphetyl butyrate;
(29) Dipipanone;
(30) Ethylmethylthiambutene;
(31) Etonitazene;
(32) Etoxeridine;
(32) Fentanyl carbamate (ethyl (1-phenethylpiperidin-4-yl)(phenyl)carbamate);
(34) 4-Fluoroisobutyryl fentanyl (*N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide) (Other name: *p*-fluoroisobutyryl fentanyl);
(35) 2′-Fluoro *o*-fluorofentanyl (*N*-(1-(2-fluorophenethyl)piperidin-4-yl)-*N*-(2-fluorophenyl)propionamide (Other name: 2′-fluoro 2-fluorofentanyl);
(36) Furanyl fentanyl (*N*-(1-phenethylpiperdin-4-yl)-*N*-phenylfuran-2-carboxamide);
(37) Furethidine;
(38) Hydroxypethidine;
(39) Isobutyryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylisobutyramide;
(40) Isotonitazene (*N,N*-diethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine);

(41) Ketobemidone;
(42) Levophenacylmorphan;
(43) Meprodine;
(44) Methadol;
(45) Methoxyacetyl fentanyl (2-methoxy-*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide);
(46) 4′-Methyl acetyl fentanyl (*N*-(1-(4-methylphenethyl)piperidin-4-yl)-*N*-phenylacetamide;
(47) 3-Methylfentanyl (*N*-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-*N*-phenylpropanamide);
(48) 3-Methylthiofentanyl (*N*-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-*N*-phenylpropanamide);
(49) Moramide;
(50) Morpheridine;
(51) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(52) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
(53) Noracymethadol;
(54) Norlevorphanol;
(55) Normethadone;
(56) Norpipanone;
(57) Ocfentanil (*N*-(2-fluorophenyl)-2-methoxy-*N*-(1-phenethylpiperidin-4-yl)acetamide);
(58) *o*-Fluoroacryl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)acrylamide);
(59) *o*-Fluorobutyryl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide (Other name:2-fluorobutyryl fentanyl);
(60) *o*-Fluorofentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide) (Other name: 2-fluorofentanyl);
(61) *o*-Fluoroisobutyryl fentanyl (*N*-(2-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide);
(62) *o*-Methyl acetylfentanyl (*N*-(2-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)acetamide (Other name: 2-methyl acetylfentanyl);
(63) *o*-Methyl methoxyacetyl fentanyl (2-methoxy-*N*-(2-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)acetamide (Other name: 2-methyl methoxyacetyl fentanyl);
(64) *p*-Chloroisobutyryl fentanyl (*N*-(4-chlorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide;
(65) *p*-Fluorobutyryl fentanyl (*N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide);
(66) *p*-Fluorofentanyl (*N*-(4-fluorophenyl)-*N*-[1-(2-phenethyl)-4 piperidinyl] propanamide);

(67) *p*-Fluoro furanyl fentanyl (*N*-(4-fluorophenyl)-*N*-(1-phenethylpiperidin-4-yl)furan-2-carboxamide);
(68) *p*-Methoxybutyryl fentanyl (*N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide;
(69) *p*-Methylfentanyl (*N*-(4-methylphenyl)-*N*-(1-phenethylpiperidin-4-yl)propionamide (Other name: 4-methylfentanyl);
(70) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(71) Phenadoxone;
(72) Phenampromide;
(73) Phencyclidine;
(74) Phenomorphan;
(75) Phenoperidine;
(76) Phenyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbenzamide (Other name: benzoyl fentanyl);
(77) Piritramide;
(78) Proheptazine;
(79) Properidine;
(80) Propiram;
(81) Tetrahydrofuranyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenyltetrahydrofuran-2-carboxamide);
(82) Thiofentanyl (*N*-phenyl-*N*-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);
(83) Thiofuranyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylthiophene-2-carboxamide (Other names: 2-thiofuranyl fentanyl; thiophene fentanyl);
(84) Tilidine;
(85) Trimeperidine;
(86) U-47700 (3,4-dichloro-*N*-[2-(dimethylamino)cyclohexyl]-*N*-methylbenzamide;
(87) Valeryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide); and,
(88) Zipeprol (1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol).

-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 isomers, esters, ethers, salts and salts of isomers, esters, and ethers if the existence of the

salts, esters, ethers isomers, and salts of isomers, esters, ethers is possible within the specific chemical designation:

(1) Fentanyl-related substances.

(1-1) 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:

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

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

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

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

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

(1-2) This definition includes, but is not limited to, the following substances:

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

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

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

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

*(2) 1-(1-(1-(4-Bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2*H*-benzo[d]imidazol-2-one (Other names: brorphine; 1-[1-[1-(4-bromophenyl)ethyl]-4-piperidinyl]-1,3-dihydro-2*H*-benzimidazol-2-one);

(3) 2-(2-(4-Butoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)-*N*,*N*-diethylethan-1-amine (Other name: butonitazene);

(4) 2-(2-(4-Ethoxybenzyl)-1*H*-benzimidazol-1-yl)-*N*,*N*-diethylethan-1-amine (Other names: etodesnitazene; etazene);

(5) *N*,*N*-Diethyl-2-(2-(4-fluorobenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine (Other name: flunitazene);

(6) *N*,*N*-Diethyl-2-(2-(4-methoxybenzyl)-1*H*-benzimidazol-1-yl)ethan-1-amine (Other name: metodesnitazene);

(7) *N*,*N*-Diethyl-2-(2-(4-methoxybenzyl)-5-nitro-1*H*-benzimidazol-1-yl)ethan-1-amine (Other name: metonitazene);

(8) 2-(4-Ethoxybenzyl)-5-nitro-1-(2-(pyrrolidin-1-yl)ethyl)-1*H*-benzimidazole (Other names: *N*-pyrrolidino etonitazene; etonitazepyne); and,

(9) *N*,*N*-Diethyl-2-(5-nitro-2-(4-propoxybenzyl)-1*H*-benzimidazol-1-yl)ethan-1-amine (Other name: protonitazene).

-Schedule I hallucinogenic substances

Unless specifically excepted or unless listed in another schedule, a material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic 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 (for the purposes of this Schedule I hallucinogenic substances section only, the term "isomer" includes optical, position, and geometric isomers):

(1) α-Ethyltryptamine (Other names: etryptamine; Monase; α-ethyl-1*H*-indole-3-ethanamine; 3-(2-aminobutyl) indole; α-ET; AET);

(2) 4-Bromo-2,5-dimethoxyamphetamine (Other names: 4-bromo-2,5-dimethoxy-α-methylphenethylamine; 4-bromo-2,5-DMA);

(3) 4-Bromo-2,5-dimethoxyphenethylamine (Other names: Nexus; 2C-B; 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; α-desmethyl DOB);

(4) 2,5-Dimethoxyamphetamine (Other names: 2,5-dimethoxy-α-methylphenethylamine; 2,5-DMA);

(5) 2,5-Dimethoxy-4-ethylamphetamine (Other name: DOET);

(6) 2,5-Dimethoxy-4-(n)-propylthiophenethylamine, its optical isomers, salts and salts of isomers (Other name: 2C-T-7);

(7) 4-Methoxyamphetamine (Other names: 4-methoxy-α-methylphenethylamine; paramethoxyamphetamine; PMA);

(8) 5-Methoxy-3,4-methylenedioxyamphetamine (Other name: MMDA);

(9) 4-Methyl-2,5-dimethoxyamphetamine (Other names: 4-methyl-2,5-dimethoxy-α-methyl-phenethylamine; "DOM";"STP");

(10) 3,4-Methylenedioxyamphetamine (Other names: MDA; Love Drug);

(11) 3,4-Methylenedioxymethamphetamine (Other names: MDMA; MDM; Ecstasy; XTC);

(12) 3,4-Methylenedioxy-*N*-ethylamphetamine (Other names: *N*-ethyl-α-methyl-3,4(methylenedioxy)phenethylamine; *N*-ethyl MDA; MDE; MDEA);

(13) *N*-Hydroxy-3,4-methylenedioxyamphetamine (Other name: *N*-hydroxy MDA);

(14) 3,4,5-Trimethoxyamphetamine (Other name: TMA);

(15) 5-Methoxy-*N,N*-dimethyltryptamine (Other names: 5-methoxy-3-[2-(dimethylamino)ethyl]indole; 5-MeO-DMT);

(16) α-Methyltryptamine (Other name: AMT);

(17) Bufotenine (Other names: 3-β-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; *N,N*-dimethylserotonin; 5-hydroxy-*N,N*-dimethyltryptamine; mappine);

(18) Diethyltryptamine (Other names: *N,N*-Diethyltryptamine; DET);

(19) Dimethyltryptamine (Other name: DMT);

(20) 5-Methoxy-*N,N*-diisopropyltryptamine, its isomers, salts, and salts of isomers (Other name: 5-MeO-DIPT);

(21) Ibogaine (Other names: 7-Ethyl-6,6-β-7,8,9,10,12,13-octhydro-2-methoxy-6,9-methano-5*H*-pyrido[1′,2′:1,2] azepino [5,4-b] indole; *Tabernanthe iboga);*

(22) Lysergic acid diethylamide;

(23) Marihuana, the term marihuana does not include hemp, as defined in Title 5, Agriculture Code, Chapter 121;

(24) Mescaline;

(25) Parahexyl (Other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6*H*-dibenzo[b,d]pyran; Synhexyl);

(26) Peyote, unless unharvested and growing in its natural state, meaning all parts of the plant classified botanically as *Lophophora williamsii Lemaire*, whether growing or not, the seeds of the plant, an extract from a part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts;

(27) *N*-ethyl-3-piperidyl benzilate;

(28) *N*-methyl-3-piperidyl benzilate;

(29) Psilocybin;

(30) Psilocyn;

(31) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), except for tetrahydrocannabinols in hemp (as defined under Section 297A(1) of the Agricultural Marketing Act of 1946), 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;

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.)

(32) Ethylamine analog of phencyclidine (Other names: *N*-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; *N*-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE);

(33) Pyrrolidine analog of phencyclidine (Other names: 1-(1 phenyl-cyclohexyl)-pyrrolidine; PCPy; PHP; rolicyclidine);

(34) Thiophene analog of phencyclidine (Other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP);

(35) 1-[1-(2-Thienyl)cyclohexyl]pyrrolidine (Other name: TCPy);

(36) 4-Methylmethcathinone (Other names: 4-methyl-*N*-methylcathinone; mephedrone);

(37) 3,4-Methylenedioxypyrovalerone (Other name: MDPV);

(38) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (Other name: 2C-E);

(39) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (Other name: 2C-D);

(40) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (Other name: 2C-C);

(41) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (Other name: 2C-I);

(42) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (Other name: 2C-T-2);

(43) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (Other name: 2C-T-4);

(44) 2-(2,5-Dimethoxyphenyl)ethanamine (Other name: 2C-H);

(45) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (Other name: 2C-N);

(46) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (Other name: 2C-P);

(47) 3,4-Methylenedioxy-*N*-methylcathinone (Other name: Methylone);

(48) (1-Pentyl-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (Other names: UR-144; 1-pentyl-3-(2,2,3,3-tetramethylcyclopropoyl)indole);

(49) [1-(5-Fluoro-pentyl)-1*H*-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone (Other names: 5-fluoro-UR-144; 5-F-UR-144; XLR11; (5-flouro-pentyl)-3-(2,2,3,3-tetramethylcyclopropoyl)indole);

(50) *N*-(1-Adamantyl)-1-pentyl-1*H*-indazole-3-carboxamide (Other names: APINACA; AKB48);

(51) Quinolin-8-yl 1-pentyl-1*H*-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: PB-22; QUPIC);

(52) Quinolin-8-yl 1-(5-fluoropentyl)-1*H*-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5-fluoro-PB-22; 5F-PB-22);

(53) *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other name: AB-FUBINACA);

(54) *N*-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (Other name: ADB-PINACA);

(55) 2-(4-Iodo-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine (Other names: 25I-NBOMe; 2CI-NBOMe; 25I; Cimbi-5);

(56) 2-(4-Chloro-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine (Other names: 25C-NBOMe; 2C-C-NBOMe; 25C; Cimbi-82);

(57) 2-(4-Bromo-2,5-dimethoxyphenyl)-*N*-(2-methoxybenzyl)ethanamine (Other names: 25B-NBOMe; 2C-B-NBOMe; 25B; Cimbi-36);

(58) Marihuana extract, meaning an extract containing one or more cannabinoids that has been derived from any plant of the genus Cannabis, other than separated resin (whether crude or purified) obtained from the plant;

(59) 4-Methyl-*N*-ethylcathinone (Other name: 4-MEC);

(60) 4-Methyl-α-pyrrolidinopropiophenone (Other name: 4-MePPP);

(61) α-Pyrrolidinopentiophenone (Other name: [α]-PVP);

(62) 1-(1,3-Benzodioxol-5-yl)-2-(methylamino)butan-1-one (Other names: butylone; bk-MBDB);

(63) 2-(Methylamino)-1-phenylpentan-1-one (Other name: pentedrone);

(64) 1-(1,3-Benzodioxol-5-yl)-2-(methylamino)pentan-1-one (Other names: pentylone; bk-MBDP);

(65) 4-Fluoro-*N*-methylcathinone (Other names: 4-FMC; flephedrone);

(66) 3-Fluoro-*N*-methylcathinone (Other name: 3-FMC);

(67) 1-(Naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one (Other name: naphyrone);

(68) α-Pyrrolidinobutiophenone (Other name: α-PBP);

(69) *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1*H*-indazole-3-carboxamide (Other name: AB-CHMINACA);

(70) *N*-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1*H*-indazole-3-carboxamide (Other name: AB-PINACA);

(71) [1-(5-Fluoropentyl)-1*H*-indazol-3-yl](naphthalen-1-yl)methanone (Other name: THJ-2201);

(72) 1-Methyl-4-phenyl-1,2,5,6-tetrahydro-pyridine (Other name: MPTP);

(73) *N*-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexyl-methyl)-1*H*-indazole-3-carboxamide (Other names: MAB-CHMINACA; ABD-CHMINACA);

(74) Methyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (Other names: 5F-ADB; 5F-MDMB-PINACA);

(75) Methyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-caboxamido)-3-methylbutanoate (Other name: 5F-AMB);

(76) *N*-(Adamantan-1-yl)-1-(5-fluoropentyl)-1*H*-indazole-3-carboxamide (Other names: 5F-APINACA; 5F-AKB48);

(77) *N*-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (Other name: ADB-FUBINACA);

(78) Methyl 2-(1-(cyclohexylmethyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (Other names: MDMB-CHMICA; MMB-CHMINACA);

(79) Methyl 2-(1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (Other name: MDMB-FUBINACA);

(80) Methyl 2-(1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamido)-3-methylbutanoate (Other names: FUB-AMB; MMB-FUBINACA; AMB-FUBINACA);

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

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

(83) 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);

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

(85) 1-(5-Fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-pyrrolo[2,3-b]pyridine-3-carboxamide (Other name: 5F-CUMYL-P7AICA);

(86) 1-(1,3-Benzodioxol-5-yl)-2-(ethylamino)pentan-1-one (Other names: *N*-ethylpentylone; ephylone);

(87) Methyl 2-(1-(4-fluorobutyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate) (Other names: 4F-MDMB-BINACA; 4F-MDMB-BUTINACA);

(88) 1-(4-Methoxyphenyl)-*N*-methylpropan-2-amine (Other names: *p*-methoxymethamphetamine; PMMA);

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

(90) Methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (Other names: 5F-MDMB-PICA; 5F-MDMB-2201);

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

(92) 1-(5-Fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (Other names: 5F-CUMYL-PINACA; SGT-25);

(93) (1-(4-Fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (Other name: FUB-144);

(94) *N*-Ethylhexedrone (Other name: 2-(ethylamino)-1-phenylhexan-1-one);

(95) α-Pyrrolidinohexanophenone (Other names: α-PHP; α-pyrrolidinohexiophenone; 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one);

(96) 4-Methyl-α-ethylaminopentiophenone (Other names: 4–MEAP; 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one);

(97) 4′-Methyl-α-pyrrolidinohexiophenone (Other names: MPHP; 4′-methyl-α-pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one);

(98) α-Pyrrolidinoheptaphenone (Other names: PV8; 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one),

(99) 4′-Chloro-α-pyrrolidinovalerophenone (Other names: 4-chloro-α-PVP; 4′-chloro-α-pyrrolidinopentiophenone; 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one);

(100) 2-(ethylamino)-2-(3-methoxyphenyl)cyclohexan-1-one (Other names: methoxetamine; MXE); and,

*(101) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)butan-1-one (Other names: eutylone; bk-EBDB).

Changes are marked by an asterisk(*)

TRD-202302347

Cynthia Hernandez
General Counsel
Department of State Health Services
Filed: June 28, 2023

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Texas Higher Education Coordinating Board

Notice of Intent to Engage in Negotiated Rulemaking--Research Funds Implementation (Texas Public Universities and Health-Related Institutions)

The 88th Texas Legislature, Regular Session, passed House Bill 1595 and House Joint Resolution 3 (HJR 3), which redesignates the National Research University Fund as the Texas University Fund, or TUF. The bill adjusts the requirements for receipt of the Texas Comprehensive Research Fund (TCRF) and the Core Research Support Fund (CRSF), which would also be redesignated as the National Research Support Fund (NRSF). Contingent on passage of HJR 3, the vote for which would take place November 7, the provisions of the bill go into effect on January 1, 2024.

In preparation for implementation of this legislation, rules must be adopted to govern the distribution of funding and applicable performance metrics. New distribution criteria would be based on federal and private research expenditures for all three programs and on the number of doctoral degrees for TUF and NRSF.

The Texas Higher Education Coordinating Board ("THECB") intends to engage in negotiated rulemaking to develop these rules for Texas public universities and health-related institutions. 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 Texas public universities and health-related institutions soliciting their interest and willingness to participate in the negotiated rulemaking process or nominate a representative from their system/institution.

From this effort 14 individuals responded (out of approximately 61 affected entities) and expressed an interest to participate or nominated a representative from their system/institution to participate on the negotiated rulemaking committee for research funds implementation. The positions held by the volunteers and nominees indicate 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 the research funds implementation:

1. Public universities;

2. Public health-related institutions; and

3. Texas Higher Education Coordinating Board.

The THECB proposes to appoint the following 13 individuals to the negotiated rulemaking committee for research funds implementation to represent affected parties and the agency:

Public Health-Related Institutions

Amy L. Hazen, Director, Research Planning, Support, and Collaboration, The University of Texas Health Science Center at Houston (The University of Texas System)

Public Universities

Can (John) Saygin, Senior Vice President, Research, The University of Texas Rio Grande Valley (The University of Texas System)

Cris Milligan, Assistant Vice President, Research Administration, University of Houston (University of Houston System)

Diane Stearns, Provost and Executive Vice President, Academic Affairs, Tarleton State University (Texas A&M University System)

Emily Deardorff, Associate Vice Chancellor, Government Relations, University of North Texas System

Holly Hansen-Thomas, Vice Provost, Research, Innovation, and Corporate Engagement, Texas Woman's University System

Janet Donaldson, Associate Vice President, Research and Innovation, Texas A&M University-Corpus Christi (Texas A&M University System)

Kaaren Downey, Contract Manager, Sponsored Research, West Texas A&M University (Texas A&M University System)

Kimberly Andrews Espy, Provost and Senior Vice President, Academic Affairs, The University of Texas at San Antonio (The University of Texas System)

Kouider Mokhtari, Associate Vice President, Research, The University of Texas at Tyler (The University of Texas System)

Lorenzo M. Smith, Provost and Executive Vice President, Academic Affairs, Stephen F. Austin State University

Michael Blanda, Associate Vice President, Research and Federal Regulations, Texas State University (Texas State University System)

Texas Higher Education Coordinating Board

Emily Cormier, Assistant Commissioner, Funding and Resource Planning

Meetings will be open to the public. If there are persons who are significantly affected by these proposed rules and are not represented by the persons named above, those persons may apply to the agency for membership on the negotiated rulemaking committee or nominate another person to represent their interests. Application for membership must be made in writing and include the following information:

1. Name and contact information of the person submitting the application;

2. Description of how the person is significantly affected by the rule and how their interests are different than those represented by the persons named above;

3. Name and contact information of the person being nominated for membership; and

4. Description of the qualifications of the nominee to represent the person's interests.

The THECB requests comments on the Notice of Intent to engage in negotiated rulemaking and on the membership of the negotiated rulemaking committee for research funds implementation. Comments and applications for membership on the committee must be submitted by July 16, 2023, to Laurie A. Frederick, Convener, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711, or via email at Laurie.Frederick@highered.texas.gov.

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