

## **PHARMACY BOARD [657]**

### **Adopted and Filed**

The Board of Pharmacy hereby amends Chapter 10, “Controlled Substances,” Iowa Administrative Code.

#### *Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code sections 124.201 and 124.201A and 2020 Iowa Acts, Senate File 2119.

#### *State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 124.201 and 124.201A and 2020 Iowa Acts, Senate File 2119.

#### *Purpose and Summary*

The amendments to rule 657—10.39(124) make temporary amendments to the Iowa Code for scheduling action in the Iowa Controlled Substances Act to match similar action taken by the federal Drug Enforcement Administration. The amendments add one substance (synthetic opioid) to Schedule I and remove FDA-approved cannabidiol products containing less than 0.1 percent tetrahydrocannabinol (THC).

The amendments add two subrules to current rule 657—10.39(124). The new subrules may be renumbered upon adoption as 10.39(4) and 10.39(5) to conform to the hierarchy of the new rule 657—10.39(124) proposed in **ARC 5155C**, IAB 8/26/20.

#### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 23, 2020, as **ARC 5195C**. The Board received one comment from the Consumer Healthcare Products Association which expressed concern that the removal of FDA-approved cannabidiol products containing no more than 0.1 percent THC from schedule V of the CSA would cause confusion in the marketplace since the December 2018 Agriculture Improvement Act (“2018 Farm Bill”) declared any cannabidiol product containing no more than 0.3 percent THC no longer a controlled substance. While the commenter is accurate in the Farm Bill’s declaration of cannabidiol products, this amendment simply removes from the Iowa CSA

the specific language that is in direct conflict with federal law and meant to conform to the federal CSA. The amendments are identical to those noticed.

*Adoption of Rule Making*

This rule making was adopted by the Board on \_\_\_\_\_, 2020.

*Fiscal Impact*

This rule making has no fiscal impact to the state of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 657—Chapter 34.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

*Effective Date*

This rule making will become effective on \_\_\_\_\_, 2020.

The following rule-making action is adopted:

ITEM 1. Adopt the following **new** subrule 10.39(8):

**10.39(8)** Amend Iowa Code section 124.212 as amended by 2020 Iowa Acts, Senate File 2119, by rescinding subsection 6.

ITEM 2. Adopt the following **new** subrule 10.39(9):

**10.39(9)** Amend Iowa Code section 124.204(9) as amended by 2020 Iowa Acts, Senate File 2119, by adding the following new paragraph:

*ay.* N,N-diethyl-2-(2-(4 isopropoxybenzyl)-5-nitro-1H-benzimidazol-1-yl)ethan-1-amine, its

isomers, esters, ethers, salts and salts of isomers, esters and ethers (other names: isotonitazene; N,N-diethyl-2-[[4-(1-methylethoxy)phenyl]methyl]-5-nitro-1H-benzimidazole-1-ethanamine).