

## **State Board of Pharmacy; Scheduling of Controlled Substance Analogs; House Sub. for SB 51**

**House Sub. for SB 51** amends the definitions of “controlled substance analog” and “marijuana,” expands the authority of the State Board of Pharmacy (Board) to allow greater flexibility in the emergency scheduling of controlled substance analogs and new drugs, and amends the duration of temporary scheduling by the Board. The bill also adds several drugs to and modifies drug classes of the schedules of controlled substances under the Uniform Controlled Substances Act. Specifically, the bill makes the following changes to the Act: adds several synthetic opioids to Schedule I; updates existing synthetic cannabinoid class definitions; adds thiafentanil to Schedule II; adds cannabidiol, when comprising the sole active ingredient of a drug product approved by the federal Food and Drug Administration, to Schedule IV; and adds brivaracetam to Schedule V.

### ***Definitions***

The bill clarifies the definition of “controlled substance analog” as defined in the Criminal Code (KSA 2016 Supp. 21-5701) and the Uniform Controlled Substances Act (Act) (KSA 2016 Supp. 65-4101) to mean a substance that is intended for human consumption and at least one of the following:

- The chemical structure of the substance is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in KSA 2016 Supp. 65-4105 or 65-4107, and amendments thereto;
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in KSA 2016 Supp. 65-4105 or 65-4107, and amendments thereto; or
- With respect to a particular individual, such individual represents or intends the substance to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in KSA 2016 Supp. 65-4105 or 65-4107, and amendments thereto.

The bill also clarifies that the definition of “marijuana” as defined in KSA 2016 Supp. 21-5701 and 65-4101 shall not include any substance listed in Schedules II through V of the Act.

### ***Reports***

In addition to the continuing required report on substances proposed by the Board for scheduling, rescheduling, or deletion by the Legislature, the bill requires the Board to submit to the Speaker of the House of Representatives and the President of the Senate a report of any

substances scheduled on an emergency basis during the preceding year, along with the reasons for the proposal and the scheduling.

### ***Emergency Scheduling Authority***

The bill expands the Board's authority to allow the initiation of scheduling of controlled substance analogs on an emergency basis upon the Board's finding of an imminent hazard to the public safety. The bill also allows the Board to schedule, on an emergency basis, new drugs, the language of which is incorporated in the bill to replace the statutory citation to the Kansas Food, Drug and Cosmetic Act, as follows:

- Any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or
- Any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

A new drug, as defined with regard to emergency scheduling, shall not include amygdalin (laetrile).

The bill changes the expiration of the temporary emergency scheduling of a substance from one year to July 1 of the following calendar year after the adoption of the scheduling rule, and clarifies a rule and regulation adopted with regard to emergency scheduling expires on July 1 of the calendar year following the year of its adoption.