



STATE OF WISCONSIN
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CONTROLLED SUBSTANCES BOARD
Room 121C, 1400 E. Washington Avenue, Madison
Contact: Dan Williams 608-267-7223
February 27, 2012

The following agenda describes the issues that the Board plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the meeting minutes for a description of the actions and deliberations of the Board.

1:00 P.M.

OPEN SESSION – CALL TO ORDER – ROLL CALL

A. Adoption of Agenda (1-2)

B. Public Hearing on CSB 3 Relating to Special Use Authorizations (3-16)

- 1) Consideration of and responses to comments on CSB 3 from the Legislative Clearinghouse and from the public **(17-18)**

C. Approval of Minutes – December 15, 2011 (19-24)

D. Secretary Matters

E. Bureau Director Matters

F. Presentation of Proposed Stipulations, Final Decisions and Orders including any received after printing of the agenda

G. Board Discussion Items including any received after printing of agenda

- 1) Division of Enforcement Matters
- 2) Education and Examination Issues Matters
- 3) Credentialing Matters
- 4) Practice Questions/Issues
- 5) Legislation/Administrative Rule Matters
- 6) Liaison Reports
- 7) Speaking Engagement, Travel, Public Relation Requests

H. Informational Items including any received after preparation of the agenda

I. New Business

J. Public Comments

CONVENE TO CLOSED SESSION to deliberate on cases following hearing (s. 19.85(1) (a), Stats.; consider closing disciplinary investigation with administrative warning (s. 19.85(1)(b), Stats. and 440.205, Stats., to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.; and, to confer with legal counsel (s. 19.85(1)(g), Stats.)

K. Deliberation of Proposed Stipulations, Final Decisions and Orders including any received after printing of the agenda

L. Review of SUA Application(s) and Supporting Documentation

1) Jay O'Neil K9 O'Neil LLC (25-40)

M. Deliberation of other items received after printing of agenda

- 1) Case Closings
- 2) Case Status Report
- 3) Proposed Decisions
- 4) Summary Suspensions
- 5) Objections and Responses to Objections
- 6) Complaints
- 7) Administrative Warnings
- 8) Matters Relating to Costs
- 9) Monitoring Cases
- 10) Appearances from Requests Received or Renewed
- 11) Examination Issues
- 12) Application Issues
- 13) PAP Cases
- 14) Motions

N. Consulting with Legal Counsel

RECONVENE TO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

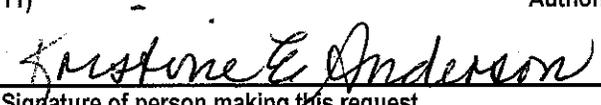
O. Vote on Items Considered or Deliberated Upon in Closed Session, if Voting is Appropriate

P. Other Board Business

ADJOURNMENT

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kris Anderson, DBS Paralegal		2) Date When Request Submitted: February 6, 2012 <small>Items will be considered late if submitted after 4:30 p.m. and less than:</small> <ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 	
3) Name of Board, Committee, Council, Sections: Controlled Substances Board			
4) Meeting Date: February 27, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Public hearing on CSB 3 (SUA's)	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Board to conduct public hearing on CSB 3 (SUA's) to allow members of the public and/or board members to provide comments on the proposed rules.			
11) Authorization			
Signature of person making this request 		Date 2/6/12	
Supervisor (if required)		Date	
Bureau Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: <ol style="list-style-type: none"> 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting. 			

STATE OF WISCONSIN
CONTROLLED SUBSTANCES BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : CONTROLLED SUBSTANCES BOARD
CONTROLLED SUBSTANCES BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 11-)

PROPOSED ORDER

An order of the controlled substances board to create ch. CSB 3, relating to the requirements and procedures for granting special use authorizations.

Analysis prepared by the department of safety and professional services.

ANALYSIS

Statutes interpreted:

Section 961.335, Stats.

Statutory authority:

Sections 227.11 (2), 961.335 (8), Stats.

Explanation of agency authority:

Section 227.11 (2), Stats., permits an agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency if the agency deems such rules necessary to effectuate the purposes of the statute. Section 961.335 (8), Stats., expressly authorizes the Wisconsin controlled substances board to promulgate rules relating to the board's issuance of special use authorization permits (SUA's), including rules regarding the criteria and procedures for obtaining SUA's, records retention and disclosure requirements for permit holders, submissions of protocols, and suspension or revocation of SUA's.

Related statute or rule:

Sections 961.41, 961.42, and 941.43, Stats., establish Wisconsin's proscriptions against the unlawful manufacture, distribution, dispensing, delivery, or possession of any controlled substance. Section 961.335, Stats., provides for certain exceptions to those proscriptions. A search of Wisconsin's statutes and administrative code revealed only one reference to s. 961.335, the SUA statute, in s. 961.54 (3), Stats. Such reference is not related to the issuance of SUA's.

Plain language analysis:

The proposed administrative code chapter will set forth rules for the issuance of SUA's by the controlled substances board. These rules will include definitions of terms used in the chapter; general requirements for SUA's; procedures and criteria for obtaining an initial permit and an amendment to an initial permit; limitations on drugs and drug quantities for use in training narcotics dogs; requirements for recordkeeping, records retention, and disclosure of records related to SUA's; and acts constituting violations of an SUA permit.

Summary of, and comparison with, existing or proposed federal regulation:

The federal laws describing the requirements for manufacturers, distributors, and dispensers of controlled substances, Schedules I-V, are found at 21 U.S.C. ss. 821-830. All persons manufacturing, distributing, dispensing, or possessing for any purpose other than prescribed medical treatment, must obtain federal registration to do so. *Id.* The application requirements and procedures are set forth in the Code of the Federal Register at 21 C.F.R., Part 1301. There are 10 different categories of business activities, each of which requires separate registration: manufacturing; distributing; reverse distributing; dispensing or instructing; research – Sched. I; research – Sched.'s II-V; narcotic treatment program; importing; exporting; and chemical analysis. 21 C.F.R. s. 1301 (13). Those regulations comprise the federal equivalent of the "special use authorizations" referred to in the new administrative rules proposed herein.

Comparison with rules in adjacent states:

Illinois:

Statutes: Under the Illinois Controlled Substances Act, all persons who manufacture, distribute, or dispense any controlled substance, or engage in chemical analysis or instructional activities using controlled substances, or who purchases, stores, or administers euthanasia drugs must obtain a registration issued by the Illinois Department of Financial and Professional Regulation. The Act requires the department to promulgate rules administering the registration function. Section 720 ILCS 570/301. Registered persons may possess, manufacture, distribute, or dispense controlled substances, or administer euthanasia drugs to the extent authorized by their registration and in conformity with the other provisions of the Act. Registration is site-specific, so persons operating at more than one site must have separate registration for each. Sections 720 ILCS 570/302 (a), (b), and (d). The department may deny, refuse to renew, suspend, or revoke a registration upon finding that the applicant or registrant has provided false information on an application, had his or her federal controlled substances registration suspended or revoked, been convicted of certain crimes, failed to take effective preventative measures against diversion, or violated any provision of the Illinois Controlled Substances Act or the Methamphetamine Precursor Control Act, or any of the rules promulgated under those Acts. Sections 720 ILCS 570/304 (a) and (b).

<http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=072005700HArt%2E+III&ActID=1941&ChapterID=53&SeqStart=2600000&SeqEnd=5000000>.

Administrative rules: The Illinois Administrative Code sets forth rules promulgated by the Department of Financial and Professional Regulation for implementing the provisions of the Controlled Substances Act. Title 77, ch. XV, pt. 3100, Ill. Admin. Code. Among other things, these rules require separate registrations for any of six different types of controlled substances

activities deemed independent of each other. The independent-activities rule also describes several exceptions thereto. For instance, the first two of the different types of activities are 1) manufacturing controlled substances, and 2) distributing controlled substances. However, persons registered to manufacture a basic class of controlled substances, or one substance in particular, may distribute the same without a separate distribution registration. Sections 3100.50 a), b), Title 77, Ill. Admin. Code. Other rules provide instructions for registration applicants, and authorize the department to deny, limit, suspend, or revoke any registration upon finding the registrant in violation of any of the statutes or rules regarding controlled substances. Sections 3100.100, .160, Title 77, Ill. Admin. Code.

<http://www.ilga.gov/commission/jcar/admincode/077/07703100sections.html>.

Comparison of approaches: The Illinois laws regarding registration for use of controlled substances do not address “special uses” in a separate, or stand-alone, section as Wisconsin law does. Similar to Wisconsin though, the Illinois Controlled Substances Act includes a registration requirement, and charges a state agency with the administration of that requirement. The Illinois statutes and rules also contain provisions for certain non-medicinal-related uses that are substantially similar to the provisions of Wisconsin’s special use authorization law, s. 961.335, Stats. One exception to the similarity is that, unlike the proposed Wisconsin rules, Illinois law does not specifically reference narcotic dog trainers in either its Controlled Substances Act or administrative code.

While Illinois’s approach to controlled substances user registration differs in part from the approach taken by the Wisconsin controlled substances board’s proposed rules, the fundamental policy of regulating uses of controlled substances not related to medical treatment is the same. Unlike Wisconsin’s controlled substances law, the Illinois law is silent regarding the use of controlled substances for training narcotic dogs. That silence may cause confusion for persons using controlled substances for that purpose. Wisconsin’s special use authorization statute provides for uses not specified in the statute by permitting the controlled substances board to approve “other special uses, without restriction because of enumeration.” s. 961.335 (1), Stats. Accordingly, in addition to the special uses the Wisconsin statute does specify, the board’s proposed rules address other “special,” but well-known purposes, such as euthanasia at humane shelters or under municipal animal control laws, and the training of narcotic dogs. The board believes increased clarity will result in less confusion for both permit applicants and administrators.

Iowa:

Statutes: The Iowa statutes require that all persons who manufacture, distribute, or dispense any controlled substance, or who propose to engage in the manufacture, distribution, or dispensing of any controlled substance, obtain and maintain a biennial registration from the Iowa Board of Pharmacy. Registration applies to one site only, so persons operating at more than one site must have separate registrations for each. Registered persons may possess, manufacture, distribute, dispense, or conduct research using controlled substances to the extent authorized by their registration only and in conformity with the other provisions of Iowa’s controlled substances registration law. Sections 124.302, 1., 2., 4., Iowa Code. The pharmacy board may suspend, revoke, or restrict a registration to manufacture, distribute, or dispense a controlled substance upon certain findings, including that the registrant has committed such acts as would render the

registrant's registration inconsistent with the public interest as determined under s. 124.304 1.d., Iowa Code. <http://www.state.ia.us/ibpe/pdf/IC124.pdf>

Administrative rules: Iowa's administrative code contains rules implementing the statutes regarding the use of controlled substances. The rules establish further specifications of who or what entities must register, and seven different types of activities, each of which requires separate registration. In addition, the rules include application instructions and procedures; specific requirements for the approved uses of controlled substances; descriptions of, and requirements for separate registrations of separate sites; requirements and procedures for modifying or terminating a current registration based on several different types of changes; and registration enforcement provisions. Beyond requiring "[m]anufacturers, distributors, reverse distributors, importers and exporters," of controlled substances to register, the list of persons and entities that must register includes all individual medical practitioners, pharmacies, hospitals, animal shelters, care facilities, researchers, dog trainers, analytical laboratories, and teaching institutions. Rules 657—10.1-.12, IAC.

<http://www.legis.state.ia.us/asp/ACODocs/ruleList.aspx?agency=657&chapter=10>

Comparison of approaches: Like Illinois, and unlike Wisconsin, Iowa takes an approach to registration for controlled substances use that does not treat non-medicinal-related uses separately. Nevertheless, Iowa's controlled substances laws do require registration of persons using controlled substances for non-medicinal-related purposes, and charges a state agency with administering that requirement. Iowa sets forth comprehensive registration provisions in its administrative rules that are substantially similar to Wisconsin's special use authorization statute. In addition, the scope of Iowa's rules is more consistent with the Wisconsin board's proposed rules than not. Thus, Iowa's approach to administering its "special use" laws is essentially the same as the approach the Wisconsin controlled substances board contemplates in the instant rule-making proposal.

Michigan

Statutes: Michigan's controlled substances law is set forth in that state's public health code, Act 368 of 1979, Art. 7. The statutes require any person who manufactures, distributes, prescribes, or dispenses a controlled substance in Michigan to obtain a license for such purposes issued by the Michigan Board of Pharmacy or its Administrator. Sections 333.7303, Art. 7, Michigan Compiled Laws (MCL). The administrator is authorized to promulgate rules for controlled substances licensure and the enforcement thereof. Section 333.7301, MCL. License holders may possess, manufacture, distribute, prescribe, dispense, or conduct research with the specified controlled substances to the extent authorized only, and as is consistent with all other provisions of Article 7. Licenses apply to specific sites, so persons operating at more than one site must have separate registrations for each. Persons licensed as pharmacists must also obtain a separate controlled substances license. Sections 333.7303 (1), (2), (5), MCL. The pharmacy board's disciplinary subcommittee may deny, limit, suspend, or revoke a license, or fine or reprimand a licensee, or order the licensee to perform community service or make restitution upon certain specified findings, including that the applicant or licensee has violated, or attempted to violate, any of the statutes in Article 7, or any of the rules promulgated thereunder. Section 333.7311 (1), MCL. The statutes require licensees to keep records of, and to annually inventory all

stocked Schedule II-V controlled substances. Licensees must report their annual inventory to the Administrator. Section 333.7321 (2), MCL.

[http://www.legislature.mi.gov/\(S\(nmvaabic1r5tk45u0orwga0\)\)/mileg.aspx?page=MclPASearch](http://www.legislature.mi.gov/(S(nmvaabic1r5tk45u0orwga0))/mileg.aspx?page=MclPASearch)

Administrative rules: Michigan's administrative code specifies the particular type of activities a controlled substances license authorizes. There are six types of activities, and persons engaging in more than one type must obtain separate licenses for each. The list of activity types briefly describes the permissible practices under each license. Rules 338.3132 (1), Mich. Admin. Code. Other rules include provisions regarding the use of controlled substances for animal euthanasia, theft and diversion of controlled substances, storage, record-keeping obligations, and exceptions to the licensure requirement. Rules 338.3137 - .3143, and .3151 - .3153, Mich. Admin. Code. http://www.state.mi.us/orr/emi/admincode.asp?AdminCode=Single&Admin_Num=33803101&Dpt=&RngHigh=33923405

Comparison of approaches: Similar to the controlled substances laws of Illinois, Iowa, and Wisconsin, Michigan's laws require that any person who uses controlled substances for purposes not related to medical treatment must obtain a license for such purposes from a state agency, in Michigan's case, the Michigan Board of Pharmacy. Unlike Illinois, Iowa, and Wisconsin, Michigan law compels licensed pharmacists to hold a separate license for the use of controlled substances within the scope of their practice. Moreover, Michigan's controlled substances statutes are far more comprehensive with respect to the licensing requirement than the Wisconsin special use authorization statute. The Michigan statutes contain many of the provisions that the Wisconsin controlled substances board proposes to codify as administrative rules. Michigan's approach to regulating controlled substances use thus differs significantly from Wisconsin's, and may ultimately be more onerous to its pharmacists than Wisconsin's approach.

Minnesota:

Statutes: Chapter 151, Minn. Stats., authorizes the Minnesota Board of Pharmacy to regulate the practice of pharmacy, the manufacture, wholesale, and retail sale of drugs within that state, and to license wholesale drug distributors. The pharmacy board is also charged with administering ch. 152, Minn. Stats., which regards scheduling and regulation of controlled substances. Section 152.02, subd. 7, Minn. Stats. Pursuant to s. 151.06, subds. 1. (a) (1), (2), (6), (7), (10), 1. (c), Minn. Stats., the board must promulgate uniform rules for carrying out and enforcing the governing statutes. The statutes require the board to register, on an annual basis, every person engaged in manufacturing drugs, medicines, chemicals, or poisons for medicinal purposes. Section 151.25, Minn Stats. The Minnesota pharmacy and controlled substances statutes do not specifically address uses that are not directly or indirectly related to medical treatment of patients. The pharmacy board may deny, suspend, revoke, or refuse to renew any required registration or license on grounds such as fraud or deception in securing a registration or license, unprofessional conduct or conduct endangering public health, and gross immorality.

<http://www.revisor.mn.gov/statutes/?id=151>

Administrative rules: Chapter 6800 of Minnesota's administrative code pertains to the state's board of pharmacy and its oversight of pharmacists and pharmacies. The code provides for four general types of licenses: pharmacists, pharmacies, drug manufacturers and wholesalers, and controlled substances researchers. Any person engaging in research, teaching, or educational

projects involving the use of controlled substances must obtain registration for these uses, renewable annually, from the board. Section 6800.4400, subp. 1., Minn. Admin. Code. Registration requires that the registrant have policies and procedures for effective controls against theft and diversion of all stocked inventory, unauthorized access, substance waste, and returns. Further, registrants must maintain adequate records showing purchases and purchase receipts, use, transfer, and disposal of the controlled substances specified in the registration. To track the effectiveness of the required controls, registrants must inventory stocked controlled substances annually. Section 6800.4400, subpt. 3., Minn. Admin. Code. Disciplinary proceedings against any pharmacy board licensee or registrant are governed by ss. 6800.9100 - .9700, Minn. Admin. Code. <https://www.revisor.mn.gov/rules/?id=6800>

Comparison of approaches: By administrative rule, Minnesota registers persons using controlled substances for research or instructional purposes separately from pharmacists and pharmacies. Minnesota's approach to regulating non-medicinal-related uses is, in that sense, similar to Wisconsin's. However, unlike Wisconsin, neither Minnesota's pharmacy or controlled substances statutes, nor its administrative rules address the use of controlled substances in humane shelters or for training narcotic dogs. Moreover, the law regarding research or educational use of controlled substances appears only in Minnesota's administrative code, and not in its statutes. The administrative rule specific to such uses references only persons involved in research or teaching. Finally, the enforcement procedures applicable to alternative use registration are subsumed within the pharmacy board's general enforcement authority, rather than set forth within the context of research or teaching use registration.

Minnesota's rules on controlled substances licensure thus appear to provide very little guidance to persons involved in research or teaching activities. For instance, there are no rules establishing the precise requirements and procedures for registration applications or record-keeping, and none defining violations warranting disciplinary action. The absence of such written requirements and procedures would seem to promote a lack of clarity, and generate numerous inquiries from applicants and current registrants. Inadequate clarity with respect to registration requirements and procedures could also permit more challenges to board decisions on registration issues than may otherwise occur. The rules proposed by the Wisconsin controlled substances board would serve to avoid such potentialities, and in doing so, conserve scarce state resources.

Summary of factual data and analytical methodologies:

These proposed rules are for the purpose of clarifying the requirements and procedures regarding SUA permits for both applicants and the controlled substances board, and to establish procedures for the enforcement of an SUA's terms when violations occur. Under s. 961.335 (8), the board "may promulgate rules relating to the granting of special use permits... and suspension or revocation of permits." Pursuant to s. 227.23, Stats., following the enactment of s. 961.335, the board created various forms outlining SUA requirements and procedures. However, the controlled substances board currently has no clear rules covering the enforcement aspect of its authority under s. 961.335. Thus, these proposed rules will not only more clearly delineate the statutory requirements and the administrative procedures for obtaining and amending an SUA, it will also define those actions or the lack thereof that will result in permit suspension or

revocation. As these new rules are necessary for both of such purposes, the board had no need to review empirical factual data, nor did it require the use of analytical methodologies in the drafting of this proposal.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:

Pursuant to s. IV, 3. a., EO # 50, the rules proposed herein were posted on both the state's and the department's administrative rules websites for 14 days to solicit comments regarding the rule's potential economic impact on businesses, business sectors, professional associations, local government units, or potentially interested parties. In addition, e-mails solicitations were sent to several potentially interested parties. No responses to any of the solicitations were received.

Moreover, this proposal constitutes the first implementation of s. 961.335, Stats., the special permit authorization statute, by the Controlled Substances Board. Because the statutory requirements have been in place for several years, any economic or fiscal impact experienced by private businesses or public entities that may have resulted from the enactment of s. 961.335, Stats., has already been absorbed by such entities as a part of routine operations.

Anticipated costs incurred by private sector:

The department finds that this rule should have no significant fiscal effect on the private sector.

Fiscal estimate:

The department estimates that these proposed rules will have no significant fiscal impact.

Effect on small business:

The department concludes that the proposed rules will have no economic impact on small businesses. This proposal tracks legislation that has been in effect for several years. The department's Regulatory Review Coordinator may be contacted by email at Greg.Gasper@Wisconsin.gov, or by calling 608-266-8608.

Agency contact person:

Kris Anderson, Department of Safety and Professional Services, Division of Board Services, 1400 E. Washington Ave., Room 116, P.O. Box 8935, Madison, Wisconsin 53708; telephone: 608-261-2385; e-mail: Kristine1.Anderson@Wisconsin.gov.

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to Kris Anderson, Department of Safety and Professional Services, Division of Board Services, 1400 E. Washington Ave., Room 151, P.O. Box 8935, Madison, Wisconsin 53708-8935, or by e-mail: Kristine1.Anderson@Wisconsin.gov. Comments must be

received by the date and time of the public hearing on this proposal to be included in the record of rule-making proceedings.

(TEXT OF RULE)

SECTION 1. Ch. CSB 3, SPECIAL USE AUTHORIZATION, is created.

SECTION 2. CSB 3.01 is created to read:

CSB 3.01 Authority. The rules in ch. CSB 3 are adopted under authority in s. 961.335 (8), Stats.

SECTION 3. CSB 3.02 is created to read:

CSB 3.02 Definitions. As used in ch. CSB 3:

(1) "Board" means the controlled substances board.

(2) "Controlled substance" has the same meaning as that set forth in s. 961.01 (4).

(3) "Humane shelter" means a facility that is intended to provide for and promote the welfare, protection, shelter, and humane treatment of animals, and which is operated by a humane society, animal welfare society, animal rescue group or other non-profit group. A humane shelter shall include shelters that provide foster care.

(4) "Special use" means to manufacture, obtain, possess, use, administer, or dispense a controlled substance for purposes that include, but are not limited to, scientific research, instructional activities, chemical analysis, drug-detecting animal training, and euthanasia in humane shelters.

(5) "Special use authorization" means permission from the board to manufacture, obtain, possess, use, administer, or dispense a controlled substance for a special use.

(6) "SUA" means special use authorization.

(7) "SUA permit" means a special use authorization permit granted to an individual by the board.

SECTION 4. CSB 3.03 is created to read:

CSB 3.03 Permits generally.

(1) No person may manufacture, obtain, possess, use, administer, or dispense a controlled substance for a special use without a valid SUA permit for such purpose.

(2) An SUA permit may be issued to an individual only. Entities are not eligible to receive an SUA permit, except that an individual may be designated and authorized to receive the permit for a college or university department, research unit, or similar administrative organization unit. Students, laboratory technicians, research specialists, or chemical analysts under the designee's supervision may possess and use the substances named in the designee's permit for the authorized purposes without obtaining an individual permit.

(3) An SUA permit provides authorization to the holder only for the identified controlled substances in the specified amounts. A permit holder may use the authorized controlled substances only in the manner delineated in the SUA permit application, and as approved by the board. Any deviation from the permit's specifications will constitute a violation of the permit and may result in revocation or suspension of the permit as set forth in s. 3.08 (2) of this chapter.

(4) SUA permits are valid for one year from the date of issuance. SUA permits may not be extended or renewed. A new application must be completed and a new permit must be granted to continue authorization beyond an existing permit's expiration date.

SECTION 5. CSB 3.04 is created to read:

CSB 3.04 SUA permit application. (1) Every applicant for an SUA permit shall:

(a) Submit a completed application and any required checklists using forms provided by the board. A complete application must include a detailed description of the anticipated uses for each identified controlled substance in Schedules I - V of ch. 961, Stats., including each identified controlled substance by name and schedule and the protocols for such uses.

Note: Application forms and checklists are available upon request to the board office at 1400 E. Washington Ave., P.O. Box 8935, Madison, Wisconsin 53708, or online at <http://dsps.wi.gov>, under "Professions," then "Controlled Substance Special Use Authorization."

(b) Pay the applicable permit fee set forth in 961.335, Stats. No fee for an SUA permit is charged to employees of state agencies or institutions, for whom a permit is necessary to perform their employment functions.

(c) Provide proof of submission of an application for registration with the federal drug enforcement administration.

(d) Provide proof of the applicant's compliance with the Board's requirements for maintaining the physical security of the controlled substances identified in the application.

(e) Provide the calculations that led to the requested amounts.

(f) Individuals applying for an SUA permit shall provide any other information or documentation requested by the board.

(2) Researchers shall also provide the following:

(a) A detailed one-page description of each research protocol that involves the use of controlled substances.

(b) For research involving animals, verification of Institutional Animal Care and Use Committee approval.

(c) For research involving human subjects, verification of Institutional Review Board approval.

(3) Humane shelters shall also provide all of the following:

(a) Estimates as to the number of animals and dosage per animal.

(b) Documentation of completion of a board approved euthanasia by injection course by each staff member performing euthanasia.

(4) Narcotic dog trainers shall also provide the following:

(a) A letter from the sheriff or chief of police authorizing possession of controlled substances, accepting responsibility for the narcotic dog trainer, and agreeing to supervise the narcotic dog trainer's storage and use of controlled substances for dog training purposes.

(b) Verification of membership in a board approved national or state police dog association for each narcotic dog trainer.

(c) For private narcotic dog trainers, an appearance before the board will be required.

(5) Municipal law enforcement animal control shall also provide all of the following:

(a) A letter from the sheriff or chief of police authorizing possession of controlled substances, accepting responsibility for the animal control officer, and agreeing to supervise the animal control officer's storage and use of controlled substances for animal control purposes.

(b) Documentation of completion of a board approved euthanasia course by the officer performing euthanasia.

(6) Analytical labs shall also provide all of the following:

(a) An inventory listing the total weight in grams of each controlled substance in the lab or intended for purchase.

(b) An amended SUA application which includes the total weight in grams for each new or additional controlled substance purchased or added to the inventory that was not previously authorized.

(c) Provide a detailed description of standard operating procedures relating to the use of controlled substances, which shall include the receipt, use, and disposition of controlled substances.

(7) Every applicant for an SUA permit shall provide any other information or documentation requested by the board including information and documentation related to previous special use authorization permits.

(8) The board may request an appearance before the board if additional information is required.

SECTION 6. CSB 3.05 is created to read:

CSB 3.05 Limitations on narcotic dog trainer drugs and drug quantities.

Narcotic dog trainers will be limited to having possession of the following drugs and quantities at any given time during the permit period.

(1) Up to 2 kilograms of marijuana. Marijuana may require periodic replacement during the permit period. Total use per year, taking into account replacement, must be requested.

(2) Up to 30 grams of cocaine.

(3) Up to 30 grams of cocaine base, i.e. crack cocaine.

(4) Up to 30 grams of heroin.

(5) Up to 30 grams of methamphetamine.

(6) Other controlled substances or quantities may be requested and approved with justification.

SECTION 7. CSB 3.06 is created to read:

CSB 3.06 Amendment. (1) A permit shall be effective only for the person, substances and project specified on its face and for additional projects which derive directly from the stated project. An individual holding a valid SUA permit may apply for an amendment to the permit by filing a written request with the board indicating the justification for the amendment and by paying a \$5 fee. The board may approve a properly submitted request to amend for:

(a) A change to the original permit-holder.

(b) The addition of new individuals to the permit who are participating in the functions for which the authorization was approved.

(c) An increase in the amount of a previously authorized controlled substance.

(d) The addition of specific controlled substances or schedules not previously authorized.

(2) An application for an amendment must be submitted to the department and approved by the board prior to a permit holder operating under the terms of the amendment.

(3) Individuals applying for an amendment shall provide any other information or documentation requested by the board including information and documentation related to previous special use authorization permits.

SECTION 8. CSB 3.07 is created to read:

CSB 3.07 Record-keeping; records retention; disclosure. (1) A permit holder shall maintain current and accurate records of all of the following:

(a) The purchase of controlled substances pursuant to the permit, including receipts.

(b) The disbursement, use, and disposition of all controlled substances authorized by the permit.

(c) The total weight in grams of each controlled substance on hand.

(d) Documentation related to any discrepancies in a controlled substance inventory and usage, and all documentation related to investigation of such discrepancies.

(2) A permit holder must retain the records described in sub. (1) for four years after the expiration of the special use authorization permit.

(3) A permit holder must provide copies of the original records upon request of the board or the department of safety and professional services, except for those that are protected from disclosure by s. 961.335 (7), Stats.

SECTION 9. CSB 3.08 is created to read:

CSB 3.08 Violations. (1) The following acts will constitute a violation of an SUA permit:

(a) Any deviation from the permit's specifications related to drugs, schedules of drugs, or amounts authorized.

(b) Failure to comply with any of the rules of this chapter or chapter 961.335, Stats.

(c) Failure to maintain physical security requirements for controlled substances as required by state and federal law.

(d) Failure to comply with board approved euthanasia standards.

Note: The Board considers the most current version of the euthanasia standards as stated in the AVMA panel on euthanasia.

(e) Failure to notify the board of the revocation or limitation of a drug enforcement administration registration, within three business days.

(2) Any violation of a special use authorization permit may result in the suspension or revocation of the special use authorization permit in the board's exclusive discretion.

SECTION 10. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated _____

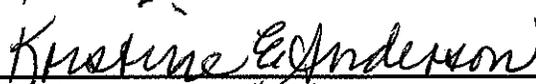
Agency _____

Chairperson
Controlled Substances Board

CSB 3 (Special use authorizations) Final (apprv'd) PH draft

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Kris Anderson, DBS Paralegal		2) Date When Request Submitted: February 6, 2012	
Items will be considered late if submitted after 4:30 p.m. and less than:			
<ul style="list-style-type: none"> ▪ 10 work days before the meeting for Medical Board ▪ 14 work days before the meeting for all others 			
3) Name of Board, Committee, Council, Sections: Controlled Substances Board			
4) Meeting Date: February 27, 2012	5) Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Consideration of and responses to comments on CSB 3 (SUA's) from the legislative clearinghouse and from the public	
7) Place Item in: <input checked="" type="checkbox"/> Open Session <input type="checkbox"/> Closed Session <input type="checkbox"/> Both	8) Is an appearance before the Board being scheduled? If yes, who is appearing? <input type="checkbox"/> Yes by _____ (name) <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed: Board to consider and determine responses to comments on CSB 3 (SUA's) from the legislative clearinghouse and from the public			
11) Authorization <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;">  Signature of person making this request </div> <div style="width: 35%; text-align: right;"> 2/6/12 Date </div> </div>			
Supervisor (if required)			Date
Bureau Director signature (indicates approval to add post agenda deadline item to agenda) Date			
Directions for including supporting documents:			
1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Board Services Bureau Director. 3. If necessary, Provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

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**CONTROLLED SUBSTANCES BOARD
MINUTES
DECEMBER 15, 2011**

PRESENT: Yvonne Bellay, DVM; Robert Block; Alan Bloom; Timothy Boehmer, R.Ph.;
Doug Englebert, R. Ph.

STAFF: Dan Williams, Executive Director; Lydia Thompson, Legal Counsel; Karen
Rude-Evans, Bureau Assistant; other DSPS staff

GUESTS: Martin Koch, Wisconsin State Crime Lab; Phueng Cha, DHS-Pharmacy Student;
Jay O'Neil, Dane County Sheriff's Office; Nathaniel Petreman and Kevin Mika,
NORML; Joseph Wydeven, Colorado DOR ; Shereen Vorachek

CALL TO ORDER

Robert Block, Chair, called the meeting to order at 9:00 a.m. A quorum of five (5) members was confirmed.

ADOPTION OF AGENDA

Amendments:

- Item F – Presentation and Review of Special Use Authorization Applications:
 - 1) **APPEARANCE 9:05 A.M.** – Jay O'Neil, K9 O'Neil, LLC
- Item G – Update of PDMP Rule Writing – insert additional materials after page 10
- Item H – Review and Approve CSB 3 Rule-Making Order, insert additional materials after page 30
- Item 4a –Practice Question re: analogs, insert additional material after page30
- Item 4b – add Correspondence regarding cyclobenzaprine
- Item 5b – add 2011 Senate Bill 317
- Item 5c – add 2011 Assembly Bill 203
- Item 5d – add 2011 Wisconsin Act 100
- Item K6 – Informational Items – add PDMP

MOTION: Timothy Boehmer moved, seconded by Alan Bloom, to adopt the agenda as amended. Motion carried unanimously.

APPROVAL OF MINUTES OF SEPTEMBER 8, 2011

MOTION: Alan Bloom moved, seconded by Timothy Boehmer, to approve the minutes of September 8, 2011 as written. Motion carried unanimously.

ELECTION OF OFFICERS

Robert Block announced that this will be his last meeting with the Controlled Substances Board. The Attorney General will appoint a new member to replace him.

NOMINATION: Timothy Boehmer nominated Doug Englebert for Chair.

Robert Block called for nominations a total of three times. Hearing no additional nominations, a vote was called.

Doug Englebert was elected Chair by unanimous vote.

NOMINATION: Timothy Boehmer nominated Alan Bloom for Vice Chair.

Robert Block called for nominations a total of three times. Hearing no additional nominations, a vote was called.

Alan Bloom was elected Vice Chair by unanimous vote.

NOMINATION: Timothy Boehmer nominated Yvonne Bellay for Secretary.

Robert Block called for nominations a total of three times. Hearing no additional nominations, a vote was called.

Yvonne Bellay was elected Secretary by unanimous vote.

2012 Election Results

Chair	Doug Englebert
Vice Chair	Alan Bloom
Secretary	Yvonne Bellay

Board Appointments/Liaisons

SUA Reviewers – Yvonne Bellay, Alan Bloom
Legislative Liaison - Robert Block, Doug Englebert (alternate)
State Council on AODA – Doug Englebert

SECRETARY MATTERS

There was no report at this time.

EXECUTIVE DIRECTOR MATTERS

Dan Williams introduced himself to the Board.

SUA APPLICATION REVIEW(S)

JAY O’NEIL/K9 O’NEIL LLC

Jay O’Neil appeared before the Board for a review of his SUA application. The Board requested Mr. O’Neil to submit a letter from law enforcement to the Department. The application will be reviewed after receipt of the document.

UPDATE ON THE PDMP RULE WRITING PROCESS AND TIMELINE

Chad Zadrazil presented information to the Board regarding the PDMP rule writing process and the updates from the December 14, 2011 meeting of the Pharmacy Examining Board.

REVIEW AND APPROVE CSB 3 (SUA’s) RULE-MAKING ORDER FOR SUBMISSION TO THE LEGISLATIVE CLEARINGHOUSE

The Board reviewed and made changes to the proposed language creating CSB 3, relating to the requirements and procedures for granting special use authorizations.

MOTION: Timothy Boehmer moved, seconded by Yvonne Bellay, to approve the amended draft CSB 3 Rule-Making Order as discussed. Motion carried unanimously.

Lydia Thompson discussed the timeline for the rule-making process with the Board.

OVERVIEW OF PRESENTATION TO THE WISCONSIN LAW ENFORCEMENT CANINE HANDLERS ASSOCIATION (WLECHA)

Robert Block outlined his presentation to the WLECHA.

BOARD DISCUSSION ITEMS

Practice Questions/Issues

The Board discussed the following:

- Legal Counsel memo regarding scheduling of controlled substance analogs
- Correspondence regarding cyclobenzaprine

Legislative/Administrative Rules Matters

The Board reviewed the following:

- Discussion of possible re-introduction of medical marijuana bill
- 2011 Senate Bill 317 relating to electronic prescriptions for schedule II controlled substances
- 2011 Assembly Bill 203 relating to pseudoephedrine purchase
- 2011 Wisconsin Act 100 (SB 245) relating to procurement of prescription drugs by a faculty member at an institute of higher education for the purpose of lawful research, teaching or testing

INFORMATIONAL ITEMS

The informational items were reviewed.

NEW BUSINESS

There was no new business.

PUBLIC COMMENTS

Nathaniel Petreman and Joseph Wydeven addressed the Board.

THANK YOU TO ROBERT BLOCK

Legal Counsel Lydia Thompson thanked Robert Block for his service to the Board.

ADJOURNMENT

MOTION: Timothy Boehmer moved, seconded by Alan Bloom, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 11:38 a.m.

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