65-4102. Board of pharmacy to administer act; rules and regulations; authority to control; report to speaker of house and president of senate on substances proposed for scheduling, rescheduling or deletion; scheduling of the controlled substance analog or new drug. (a) The board shall administer this act and may adopt rules and regulations relating to the registration and control of the manufacture, distribution and dispensing of controlled substances within this state. All rules and regulations of the board shall be adopted in conformance with article 4 of chapter 77 of the Kansas Statutes Annotated, and amendments thereto, and the procedures prescribed by this act.

(b) Annually, the board shall submit to the speaker of the house of representatives and the president of the senate a report on substances proposed by the board for scheduling, rescheduling or deletion by the legislature with respect to any one of the schedules as set forth in this act and a report of the substances scheduled during the preceding calendar year under subsection (e), if any, along with the reasons for the proposal and the scheduling. In making a determination regarding the proposal to schedule, reschedule or delete a substance, the board shall consider the following:

(1) The actual or relative potential for abuse;

(2) the scientific evidence of its pharmacological effect, if known;

(3) the state of current scientific knowledge regarding the substance;

(4) the history and current pattern of abuse;

(5) the scope, duration and significance of abuse;

(6) the risk to the public health;

(7) the potential of the substance to produce psychological or physiological dependence liability; and

(8) whether the substance is an immediate precursor of a substance already controlled under this article.

(c) The board shall not include any nonnarcotic substance within a schedule if such substance may be lawfully sold over the counter without a prescription under the federal food, drug and cosmetic act.

(d) Authority to control under this section does not extend to distilled spirits, wine, malt beverages or tobacco.

(e) (1) Upon receipt of notice under K.S.A. 2017 Supp. 21-5715, and amendments thereto, or upon the board's finding of an imminent hazard to the public safety, the board shall initiate scheduling of the controlled substance analog or a new drug, as defined in this subsection, on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires on July 1 of the following calendar year after the adoption of the scheduling rule and regulation.

(2) With respect to the finding of an imminent hazard to the public safety, the board shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsections (b)(4), (5) and (6), and may also consider clandestine importation, manufacture or distribution, and if available, information concerning the other factors set forth in subsection (b).

(3) A rule and regulation may not be adopted under this subsection until the board initiates a rulemaking proceeding under subsection (a) with respect to the substance. A rule and regulation adopted under this subsection shall expire on July 1 of the calendar year following the year of its adoption.

(4) As used in this subsection, "new drug" means: (A) 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 (B) 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 that has not, other than in such investigations, been used to a material extent or for a material time under such conditions. The term "new drug" shall not include amygdalin (laetrile).

History: L. 1972, ch. 234, § 2; L. 1974, ch. 258, § 2; L. 1982, ch. 269, § 1; L. 1994, ch. 160, § 2; L. 2009, ch. 32, § 54; L. 2017, ch. 57, § 3; May 4.

21-5715. Treatment of a controlled substance analog. Within 10 days after the initiation of prosecution with respect to a controlled substance analog by indictment, complaint or information, the prosecuting attorney shall notify the board of pharmacy of information relevant to emergency scheduling as provided for in subsection (e) of K.S.A. 65-4102, and amendments thereto. After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may be commenced or continued.

History: L. 2009, ch. 32, § 15; July 1.

65-4111. Substances included in schedule IV. (a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code that has been assigned to it.

(b) Any material, compound, mixture or preparation that contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Alprazolam 2882
(2) Barbital 2145
(3) Bromazepam 2748
(4) Camazepam 2749
(5) Carisoprodol 8192
(6) Chloral betaine 2460
(7) Chloral hydrate 2465
(8) Chlordiazepoxide 2744
(9) Clobazam 2751
(10) Clonazepam 2737
(11) Clorazepate 2768
(12) Clotiazepam 2752
(13) Cloxazolam 2753
(14) Delorazepam 2754
(15) Diazepam 2765
(16) Dichloralphenazone 2467
(17) Estazolam 2756
(18) Ethchlorvynol 2540
(19) Ethinamate 2545
(20) Ethyl loflazepate 2758
(21) Fludiazepam 2759
(22) Flunitrazepam 2763
(23) Flurazepam 2767
(24) Fospropofol 2138
(25) Halazepam 2762
(26) Haloxazolam 2771
(27) Ketazolam 2772
(28) Loprazolam 2773
(29) Lorazepam 2885
(30) Lormetazepam 2774
(31) Mebutamate 2800
(32) Medazepam 2836
(33) Meprobamate 2820
(34) Methohexital 2264
(35) Methylphenobarbital (mephobarbital) 2250
(36) Midazolam 2884
(37) Nimetazepam 2837
(38) Nitrazepam 2834
(39) Nordiazepam 2838
(40) Oxazepam 2835
(41) Oxazolam 2839
(42) Paraldehyde 2585
(43) Petrichloral 2591
(44) Phenobarbital 2285
(45) Pinazepam 2883
(46) Prazepam 2764
(47) Quazepam 2881
(48) Temazepam 2925
(49) Tetrazepam 2886
(50) Triazolam 2887
(51) Zolpidem 2783
(52) Zaleplon 2781
(53) Zopiclone 2784
(54) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers and salts of these isomers (including tramadol). 9752
(55) Alfaxalone. 2731
(56) Suvorexant 2223

(c) Any material, compound, mixture, or preparation that contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible. The provisions of this subsection (c) shall expire on the date fenfluramine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(d) Any material, compound, mixture or preparation that contains any quantity of lorcaserin (1625), including its salts, isomers and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+)-norpseudoephedrine) 1230
(2) Diethylpropion 1610
(3) Fencamfamin 1760
(4) Fenproporex 1575
(5) Mazindol 1605
(6) Mefenorex 1580
(7) Pemoline (including organometallic complexes and chelates thereof) 1530
(8) Phentermine 1640

The provisions of this subsection (e)(8) shall expire on the date phentermine and its salts and isomers are removed from schedule IV of the federal controlled substances act (21 U.S.C. § 812; 21 code of federal regulations 1308.14).

(9) Pipradrol 1750

(10) SPA((-)-1-dimethylamino-1, 2-diphenylethane) 1635
(11) Sibutramine 1675
(12) Mondafinil 1680

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation that contains any quantity of the following, including salts thereof:

(1) Pentazocine 9709
(2) Butorphanol (including its optical isomers) 9720
[(3) Cannabidiol, when comprising the sole active ingredient of a drug product approved by the United States food and drug administrationSome other names for cannabidiol: 2-[(1R,6R)-3-Methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol]
(4) Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl)-2,6-dimethylphenyl]-1-oxopropyl][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid)(including its optical isomers) and its salts, isomers, and salts of isomers 9725

(g) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit 9167
(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propion-oxybutane) 9278

(h) Butyl nitrite and its salts, isomers, esters, ethers or their salts.

(i) The board may except by rule and regulation any compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances that have a depressant effect on the central nervous system.

History: L. 1972, ch. 234, § 11; L. 1974, ch. 258, § 5; L. 1978, ch. 257, § 3; L. 1979, ch. 204, § 1; L. 1982, ch. 269, § 5; L. 1985, ch. 220, § 4; L. 1986, ch. 241, § 3; L. 1989, ch. 200, § 4; L. 1990, ch. 231, § 1; L. 1991, ch. 199, § 4; L. 1993, ch. 70, § 2; L. 1996, ch. 257, § 2; L. 1998, ch. 190, § 1; L. 2000, ch. 108, § 4; L. 2001, ch. 171, § 5; L. 2011, ch. 83, § 6; L. 2012, ch. 107, § 8; L. 2014, ch. 79, § 3; L. 2015, ch. 27, § 4; L. 2016, ch. 95, § 4; L. 2017, ch. 57, § 6; May 4.

Section was also amended by L. 2011, ch. 10, § 4, but that version was repealed by L. 2011, ch. 83, § 9.