

STATE OF WISCONSIN  
Department of Safety and Professional Services

IN THE MATTER OF RULE-MAKING PROCEEDINGS BEFORE THE  
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

ORDER OF THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES  
ADOPTING EMERGENCY RULES

ORDER

An order of the Department of Safety and Professional Services to create SPS 10.01 (10) (am), relating to prescribing hydrocodone combination products.

Analysis prepared by the Department of Safety and Professional Services.

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FINDING OF EMERGENCY

Per 2015 Act 34, the Department is not required to provide evidence that promulgating this emergency rule is necessary for the preservation of the public peace, health, safety or welfare and is not required to provide a finding of emergency.

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ANALYSIS

**Statutes interpreted:** ss. 449.18, 961.39

**Statutory authority:** ss. 449.18 (6) (cm)

**Explanation of agency authority:**

The secretary of the department of safety and professional services shall, after consultation with the optometry examining board, the medical examining board and the pharmacy examining board, promulgate rules specifying those therapeutic pharmaceutical agents that may or may not be prescribed or administered. [s 449.18 (6) (cm), Stats.]

**Related statute or rule:** SPS 10

**Plain language analysis:**

Hydrocodone combination products were rescheduled to Schedule II controlled substances by the federal government effective October 6, 2014 and the Wisconsin Controlled Substances Board effective November 1, 2014. The scheduling change removed the ability for optometrists to prescribe hydrocodone combination products. 2015 Act 34 specifically added language to the statutes to allow optometrists to prescribe hydrocodone combination products pursuant to promulgation of rules.

**Summary of, and comparison with, existing or proposed federal regulation:** None

**Comparison with rules in adjacent states:**

**Illinois:** Illinois allows the prescribing of hydrocodone combination products by optometrist.

**Iowa:** Iowa allows the prescribing of hydrocodone combination products by optometrist.

**Michigan:** Michigan allows the prescribing of hydrocodone combination products by optometrists.

**Minnesota:** Minnesota allows the prescribing of hydrocodone combination products by optometrists.

**Summary of factual data and analytical methodologies:**

The Department consulted with the Medical Examining Board, Optometry Examining Board and Pharmacy Examining Board. The Department is promulgating rules in accordance with 2015 Act 34 provisions.

**Fiscal Estimate:**

This rule will have no fiscal impact

**Effect on small business:**

These proposed rules do not have an economic impact on small businesses, as defined in s. 227.114 (1), Stats. The Department's Regulatory Review Coordinator may be contacted by email at Eric.Esser@wisconsin.gov, or by calling (608) 267-2435.

**Agency contact person:**

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TEXT OF RULE

SECTION 1. SPS 10.01 (10) (am) is created to read:

SPS 10.01 (10) (am) Controlled substances in schedule II only as any of the following:

1. Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.
2. Not more than 300 milligrams of hydrocodone per 100 milliliters or per 100 grams or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

SECTION 2. EFFECTIVE DATE. Pursuant to s. 227.24 (1) (c), Stats., these rules shall take effect upon publication in the official state newspaper.

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(END OF TEXT OF RULE)

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