

SOUTH CAROLINA BOARD OF HEALTH AND ENVIRONMENTAL CONTROL

Temporary Placement of Butyryl fentanyl and Beta-hydroxythiofentanyl into Schedule I of the S.C. Controlled Substances Act

Whereas, pursuant to S.C. Code Section 44-53-160(C), the S.C. Board of Health and Environmental Control (Board) is authorized to add a substance as a controlled substance if the federal government has so designated; and

Whereas, the U.S. Department of Justice, Drug Enforcement Administration (DEA), published on May 12, 2016, its Final Order to temporarily schedule the synthetic opioids, *N*-(1-phenethylpiperidin-4-yl)-*N*-phenylbutyramide (butyryl fentanyl) and *N*-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylpropionamide (beta-hydroxythiofentanyl), into schedule I pursuant to the scheduling provisions of the Controlled Substances Act (CSA), effectively immediately. This action is based on a finding by the Administrator that the placement of these synthetic opioids into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety. <https://www.gpo.gov/fdsys/pkg/FR-2016-05-12/pdf/2016-11219.pdf>

Whereas, the DEA is currently aware of at least 40 confirmed fatalities associated with butyryl fentanyl and 7 confirmed fatalities associated with beta-hydroxythiofentanyl. Based on the documented case reports of overdose fatalities, the abuse of butyryl fentanyl and beta-hydroxythiofentanyl leads to the same qualitative public health risks as heroin, fentanyl and other opioid analgesic substances. The public health risks attendant to the abuse of heroin and opioid analgesics are well established and have resulted in large numbers of drug treatment admissions, emergency department visits, and fatal overdoses.

Whereas, as published in the Federal Register, in order to find that placing a substance temporarily into schedule I of the CSA is necessary to avoid an imminent hazard to the public safety, the DEA is required to consider three of the eight factors set forth in section 201(c) of the CSA, 21 U.S.C. 811(c): The substance's history and current pattern of abuse; the scope, duration and significance of abuse; and what, if any, risk there is to the public health. 21 U.S.C. 811(h)(3). Consideration of these factors includes actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution. 21 U.S.C. 811(h)(3). A substance meeting the statutory requirements for temporary scheduling may only be placed in schedule I. 21 U.S.C. 811(h)(1). Substances in schedule I are those that have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. 21 U.S.C. 812(b)(1).

Whereas, available data and information for butyryl fentanyl and beta-hydroxythiofentanyl indicate these synthetic opioid substances have a high potential for abuse, no currently accepted medical use in treatment in the United States, and a lack of accepted safety for use under medical supervision. Therefore, the DEA has determined that placing butyryl fentanyl and beta-hydroxythiofentanyl into schedule I is necessary to avoid an imminent hazard to the public safety; and

Now, therefore, the Board of Health and Environmental Control adopts the temporary scheduling of butyryl fentanyl and beta-hydroxythiofentanyl into S.C. Schedule I for Controlled Substances, published in the Federal Register of May 12, 2016, as set forth below and amends S.C. Code Section 44-53-190 (C) to include:

N-(1-phenethylpiperidin-4-yl)-*N*-phenylbutyramide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: butyryl fentanyl); and

N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-*N*-phenylpropionamide, its isomers, esters, ethers, salts and salts of isomers, esters and ethers (Other names: beta-hydroxythiofentanyl).

IT IS SO ORDERED.



Allen Amsler, Chairman
S.C. Board of Health and Environmental Control

May 12, 2016
Columbia, South Carolina