REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services

RULE CITATION: 10A NCAC 26F .0105

DEADLINE FOR RECEIPT: November 19, 2026

***PLEASE NOTE:* This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Paragraph (d), lines 18 through 20, "deletes" Fenfluramine from Schedule IV. However, Fenfluramine is listed as Schedule IV in N.C.G.S. 90-92(a)(2)a. Has your agency previously de-scheduled a drug which is scheduled by statute?

If this rule is approved, it would create a situation where the rule and the statute directly contradict each other. I recognize that G.S. 90-88(d) gives your agency authority to alter the drug schedules based on federal action, which has happened in this case. However, I don't see how your agency (or any agency) could have the authority to modify the language of a statute. This suggests to me that you cannot modify the scheduling of drugs which are explicitly scheduled in the General Statutes. Why am I wrong?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: November 13, 2026

10A NCAC 26F .0105 is proposed for amendment without notice or hearing as follows.

10A NCAC 26F .0105 SCHEDULE IV

(a) Schedule IV shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name, or brand name designated and listed in either G.S. 90-92 or this Rule. Each drug or substance has been assigned the Drug Enforcement Administration (DEA) controlled substances code number set forth in the Code of Federal Regulations, Title 21, Section 1308.l4.

(b) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds the following substances within Schedule IV for Depressants:

(1) Dichloralphenazone - DEA controlled substances code number 2467;

(2) Zopiclone - DEA controlled substances code number 2784;

(3) Fosporopol - DEA controlled substances code number 2138;

(4) Carisoprodol - DEA controlled substances code number 8192;

(5) Lemborexant - DEA controlled substances code number 2245; and

(6) Remimazolam - DEA controlled substances code number 2846.

(c) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds the following substances within Schedule IV for Stimulants: Serdexmethylphenidate – DEA controlled substances code number 1729.

(d) As specified in G.S. 90-88, following the Drug Enforcement Agency's decision to delete Fenfluramine, including its salts, isomers, and salts of such isomers, as a controlled substance under federal law, the Commission for MH/DD/SAS deletes Fenfluramine, including its salts, isomers, and salts of such isomers, from Schedule IV.

History Note: *Authority G.S. 90-88; 90-92; 143B-147;*
Eff. June 30, 1978;
Amended Eff. July 1, 1993; January 1, 1989; December 1, 1987; August 1, 1987;
Temporary Amendment Eff. May 28, 1998;
Temporary Amendment Expired March 12, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. January 1, 2002; February 15, 2001;
Amended Eff. July 1, 2012; July 1, 2011; November 1, 2005; April 1, 2003; August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. November 1, 2026; December 1, 2021.