NEW JERSEY DEPARTMENT OF LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

CONTROLLED DANGEROUS SUBSTANCES

ORDER OF THE DIRECTOR

WHEREAS, fentanyl, a synthetic opioid analgesic, is a Schedule II narcotic substance under federal and New Jersey law, is considered the most potent opioid available for use in medical treatment, being 50 to 100 times more potent than morphine, is approved for managing acute or chronic pain most often associated with advanced cancer; and is potentially lethal even at very small doses; and

WHEREAS, fentanyl is abused for its intense euphoric effects, and can serve as a direct substitute for heroin in opioid dependent individuals, but is 30 to 50 times more potent than heroin and results in frequent overdoses that can lead to respiratory depression and death; and

WHEREAS, legitimately produced fentanyl (also known as "pharmaceutical fentanyl") can be diverted for misuse and abuse, however, most cases of fentanyl-related deaths have been linked to illicitly manufactured fentanyl and fentanyl analogs, collectively referred to here as "illicit fentanyl;" and

WHEREAS, illicit fentanyl is produced by drug trafficking networks in clandestine laboratories and has been seized in numerous illegal laboratories in Mexico, and the precursor chemicals for these products most often originate from companies located in Mexico, Germany, Japan and China; and

WHEREAS, illicit fentanyl, whose origin or purity is often not known, is sold on illicit drug markets either as pharmaceutical fentanyl or in combination with other illicit drugs such as heroin or cocaine, with or without a user's knowledge, or is produced in pill form and disguised as common prescription drugs like hydrocodone, oxycodone, and alprazolam, and is responsible for a growing number of overdose deaths and non-fatal overdoses throughout the United States; and

WHEREAS, in 2015, the United States Drug Enforcement Administration ("DEA") declared that "drug incidents and overdoses related to fentanyl are occurring at an alarming rate throughout the United States and represent a significant threat to public health and safety," and noted over 700 deaths attributed to fentanyl and its analogs between late 2013 and 2014, and that the majority of these reported overdose deaths were attributed to illicit fentanyl, rather than diverted pharmaceutical fentanyl; and

WHEREAS, in reporting the increases in deaths and non-fatal overdoses attributed to fentanyl and its analogs, the DEA specifically identified five (5) states as examples of the "fentanyl surge," including New Jersey, and noted that New Jersey saw a significant spike in fentanyl cases in 2014, reporting as many as 80 in the first six months of the fiscal year; and

WHEREAS, illicit fentanyl poses a significant danger to persons who abuse these substances, and overdose may lead to seizures, severe drowsiness, low blood pressure, slowed heartbeat and respiratory reduction, and the Centers for Disease Control and Prevention ("CDC") has noted that while illicit fentanyl-related overdoses can be reversed with naloxone – an opioid antagonist that can reverse potentially fatal opioid-induced respiratory depression and is used as part of the initial treatment of suspected

opioid overdose – a higher dose or multiple number of doses per overdose event may be required to revive a patient due to the high potency of these illicit substances; and

WHEREAS, illicit fentanyl poses a significant danger to public health workers, first responders and law enforcement personnel who come in contact with these substances by absorbing them through the skin or by accidental inhalation of airborne powder, with the CDC specifically noting that in August 2015, New Jersey law enforcement officers conducting a narcotics field test on an illicit substance experienced shortness of breath, dizziness and respiratory distress after coming into contact with an unknown substance that was later determined to be a mix of cocaine, heroin and fentanyl; and

WHEREAS, on July 17, 2015, the DEA issued a Final Order to temporarily place the synthetic opioid known as "acetyl fentanyl," with a chemical composition of N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide, in Schedule I of the federal Controlled Substances Act (21 U.S.C. § 812(c)) in order to avoid an imminent hazard to public safety, because the substance has high potential for abuse and has no currently accepted medical use in treatment in the United States; and

WHEREAS, on May 12, 2016, the DEA issued a Final Order to temporarily place the synthetic opioids known as "butyryl fentanyl," with a chemical composition of N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide, and "beta-hydroxythiofentanyl," with a chemical composition of N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide, also known as N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide, in Schedule I of the federal Controlled Substances Act (21 U.S.C.

§ 812(c)) in order to avoid an imminent hazard to public safety, because the substances have high potential for abuse and have no currently accepted medical use in treatment in the United States; and

WHEREAS, on September 27, 2016, the DEA issued a Notice of Intent to temporarily place the synthetic opioid known as "furanyl fentanyl," with a chemical composition of N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide, in Schedule I of the federal Controlled Substances Act (21 U.S.C. § 812(c)) in order to avoid an imminent hazard to public safety, because the substance has high potential for abuse and has no currently accepted medical use in treatment in the United States; and

WHEREAS, acetyl fentanyl, butyryl fentanyl and beta-hydroxythiofentanyl are Schedule I substances under the New Jersey Controlled Dangerous Substances Act (the "Act") pursuant to N.J.S.A. 24:21-3c., which provides that if any substance is designated as a controlled substance under federal law and notice thereof is given to the Director of the Division of Consumer Affairs, the Director shall similarly control the substance under the Act after the expiration of 30 days from publication in the Federal Register of a Final Order designating a substance as a controlled dangerous substance unless within that 30-day period the Director objects to the federal scheduling order; and

WHEREAS, currently furanyl fentanyl is not a Schedule I substance under the New Jersey Controlled Dangerous Substances Act as a result of the DEA Notice of Intent issued on September 27, 2016, pursuant to N.J.S.A. 24:21-3c., which requires the expiration of 30 days from the date of publication in the Federal Register of the Final Order temporarily placing furanyl fentanyl in Schedule I prior to this substance being similarly scheduled in New Jersey, absent action by the Director; and

WHEREAS, New Jersey has seen a significant increase in 2016 in the number of cases of overdose deaths involving illicit fentanyl analogs, including furanyl fentanyl, which has been identified in at least 25 overdose deaths, and has been recovered by law enforcement personnel at other scenes where naloxone was deployed in New Jersey; and

WHEREAS, the Division of Consumer Affairs has worked closely with the New Jersey State Police, Office of Forensic Science, to identify additional specific fentanyl analogs that have been implicated in overdose incidents in New Jersey, as well as general structural classes of opioids from which new synthetic fentanyl products, with altered chemical structures, may emerge, because of unscrupulous individuals who seek to thwart state and/or federal regulatory, administrative, or statutory bans by developing or synthesizing new illicit fentanyl products that are not expressly covered under these bans; and

WHEREAS, the New Jersey Controlled Dangerous Substances Act confers upon the Director of the Division of Consumer Affairs the authority to add a substance to the list of controlled dangerous substances in the State by regulation if he finds that a substance has a potential for abuse (N.J.S.A. 24:21-3.a.), and in particular, to place a substance in Schedule I if he finds that the substance has high potential for abuse and has no accepted medical use in treatment in the United States (N.J.S.A. 24:21-5.a.); and

WHEREAS, the New Jersey Controlled Dangerous Substances Act confers upon the Director of the Division of Consumer Affairs the authority to issue an order scheduling any controlled dangerous substance under the Act when the delay occasioned by acting through the promulgation of a regulation would constitute an imminent danger to the public health or safety pursuant to N.J.S.A. 24:21-31.b.(3).

NOW, THEREFORE, I, STEVE C. LEE, Director of the New Jersey Division of Consumer Affairs, in order to combat the imminent danger to the health, safety, and welfare of the people of the State of New Jersey posed by the use, sale, and distribution of illicit fentanyl analogs that are not controlled substances under Federal law, or that are controlled substances under Federal law but are not similarly scheduled in New Jersey as of this date pursuant to N.J.S.A. 24:21-3c., established by the foregoing, **ORDER** that:

1. Illicit fentanyls are hereby controlled dangerous substances, added to Schedule I, under the New Jersey Controlled Dangerous Substances Act and the regulations promulgated pursuant thereto.

2. Illicit fentanyls include any material, compound, mixture or preparation that is not listed as a controlled substance in Schedules I through V, is not a federal Food and Drug Administration ("FDA") approved drug and contains any quantity of the following substances, their salts, isomers (whether optical, positional or geometric), homologues (analogs), and salts of isomers, and homologues (analogs) unless specifically excepted whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:

i. **Furanyl Fentanyl**, with a chemical composition of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide, monohydrochloride or N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide;

ii. **3-Methylfentanyl**, with a chemical composition of 3-methyl-N-phenyl-N-[1-(2-phenethyl-4-piperidyl)-propanamide);

iii. **3-Methyl Butyrylfentanyl**, with a chemical composition of 3-Methyl, N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide, monohydrochloride;

iv. **Valeryl Fentanyl**, with a chemical composition of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide,monohydrochloride;

v. **Norfentanyl**, with a chemical composition of N-phenyl-N-4-piperidinyl-propanamide;

vi. **Para-Fluorobutyryl-Fentanyl**, with a chemical composition of N-(4-fluorophenyl)-N-[1-(2-phenylethyl)-4-piperidinyl]-butanamide, monohydrochloride; and

vii. **Carfentanyl**, with a chemical composition of 2-hydroxypropane-1, 2, 3-tricarboxylic acid; methyl 1-(2-phenylethyl)-4-(N-propanoylanilino) piperidine-4-carboxylateor.

3. This order shall take effect immediately and shall remain in effect for 270 days, consistent with the provisions of N.J.S.A. 24:21-31.b.(3)(a), or until such time as a regulation is formally proposed and adopted pursuant to this Order, whichever occurs first.

Steve C. Lee
Director
New Jersey Division of Consumer Affairs

9/27/16
Date