

The Combat Methamphetamine Epidemic Act of 2006

The *Combat Methamphetamine Epidemic Act of 2006 (CMEA)*, an amendment to the US Patriot Act, was made law on March 9, 2006. The new law assigned the description of *scheduled listed chemical product* (SLCP) to any non-prescription medication that contains ephedrine, pseudoephedrine (PSE) or phenylpropanolamine. The law limits the quantity of all forms of product (as base) sold at retail and may not exceed for any purchaser a total of 3.6 grams daily or 9 grams during a thirty day period. No more than 7.5 grams of product, as base, may be imported by means of shipping via private or commercial carrier or the USPS as a part of that 30 day maximum. These limits are intended for the consumer and not for the retailer to enforce. However, a retailer – pharmacy or other retailer - may not act recklessly in selling these products. All non-liquid products must be sold in blister packs, not to contain more than 2 dosage units per package. These purchase limits went into effect on April 8, 2006. All other provisions of the law will become effective September 30, 2006

All SLCPs offered for retail sale must not be available for direct access by the consumer before the sale. The law recommends a *behind-the-counter* placement of these products which also includes circumstances in which the products may be stored in a locked cabinet in the facility; again, preventing direct customer access.

All sellers are to maintain a written or electronic list of sales of SLCPs. The law refers to this list as a *logbook*. This logbook is to be used to record each sale and the following information is required to be documented: identity of each product sold, by name; the quantity sold; the name and address of each purchaser, and; the date and time of the sale. Every prospective purchaser must present a valid identification card with photo, or an acceptable document issued by a State or Federal Government, and sign the log book. Any misrepresentation by the Purchaser will be subject to criminal penalties under the Act; a misrepresentation notice, including penalties, must be in the logbook available for review by the purchaser at the time of sale. The logbook must be maintained for not fewer than 2 years. These requirements do not apply to any purchase of a single sales package that contains not more than 60 mg of PSE. The specific criteria for the logbook will be forthcoming from the Drug Enforcement Administration (DEA), Department of Justice.

Each seller must provide to the DEA a self-certification that all individuals delivering products to purchasers or obtaining payments from purchasers have undergone training that ensures that the requirements of this Act are understood. The seller must maintain records of such training at each place of business where such products are sold. A separate certification is required for each place of business. The DEA is planning to develop an Internet-based certification program for all regulated sellers. Once the DEA has received notice of certification from the seller, the information will be passed on to the appropriate State and local officials. In addition, a regulated seller may take reasonable measures to guard against employing individuals who present a risk to theft and diversion of SLCP, which may include asking employment applicants whether they have been convicted of any crime involving or related to such products or controlled substances.

Information contained in the logbooks is private and it will only be disclosed as appropriate to the DEA or in good faith to State and local law enforcement agencies. A violation of the law will occur for any seller who refuses to provide sales logbook information to law enforcement authorities. The DEA will develop additional regulations to ensure that the information in the

logbook is not used for any other purposes, but to ensure compliance with this law or to facilitate a product recall for the purpose of public health and safety.

Mail order retailers are not immune to the law. The DEA will establish procedures through regulations for sellers to confirm the identity of the purchaser prior to the shipping of the product. As mentioned earlier, there will be a 30 day limit of 7.5 grams of SLCP base that can be sold to a customer by the mail order seller.

The DEA also has the authority to exempt a chemical from the scheduled list of chemical products through regulation if it can be determined that the product cannot be used in the illicit manufacture of methamphetamine.

The penalties for violation of the law include a civil penalty of up to \$25,000; and, if committed knowingly, imprisonment of up to one year in addition to a fine to be determined by existing federal crime laws; or, if committed after a prior conviction for a violation of the Controlled Substances Act, then imprisonment of up to two years in addition to a fine to be determined by existing federal criminal laws. In addition, if a regulated seller or distributor sells at retail a SLCP in violation of this Act, or knowingly and recklessly sells a product in violation, or discloses information from the logbook in violation of the Act, the DEA may by order prohibit such seller or distributor from selling any SLCP.

There is no pre-emption of State or local laws. All sellers and distributors must comply with State or local laws, as well. If there is a conflict between a provision of the federal law and the State or local law, then the most stringent provision must be followed. Until such time as the DEA distributes its guidelines for the federal logbook and the Wisconsin Attorney General's office issues its guidelines for compliance with both federal and State law, PSW suggests dividing your logbook into two sections. The first section should be solely for solid dosage forms. The second section should be reserved for liquids, combination liquids and gel caps. Monitor the daily and monthly purchases in section one according to federal and Wisconsin law; 3.6 grams per day and 7.5 grams per month. Section two should follow federal law at 3.6 grams per day and 9 grams per month. Both sections should contain a header with some type of misrepresentation notice for the purchaser to review. All law enforcement officials may have access to section one per Wisconsin statutes. Only federal law enforcement officials may view the information in section two until the DEA clarifies the privacy status of the federal logbook. Please be sure that all staff involved in the sales of C-V Wisconsin OTCs and federal SLCP are trained and certified by you.

If you have any questions about the federal methamphetamine epidemic act of 2006 or WI Act 14 which defines the sale of PSE in Wisconsin, contact PSW or refer to our web site at www.pswi.org .