

Questions, Answers and Suggestions Regarding Wisconsin Act 14
("Pseudoephedrine Law")

Q1. Can I store the pseudoephedrine products in an area of the pharmacy other than the professional area and train staff to log the sale and, if questions arise, to contact the pharmacist? Can the pharmacists then sign the log at another time during the day?

A. PSW recommends that you maintain your pseudoephedrine inventory in the professional area of the pharmacy. It makes the pharmacist more accessible to answer questions, assist technical staff, sign the log book and also reduce the opportunity for theft.

The law does not specify when the pharmacist must sign the logbook. It would be prudent to sign the logbook in a timely and practical manner.

Q2. Can someone over 18 years in age purchase a pseudoephedrine product for another individual over 18 years in age?

A. Yes, they can as long as the purchaser or recipient does not exceed the 30-day maximum limit indicated in Act 14.

Q3. How would deliveries of pseudoephedrine products be handled?

A. The purchaser and the seller must sign the logbook for the sale of any pseudoephedrine product. The individual pharmacy should consider establishing a policy and procedure that addresses this service and complies with the law.

Q4. What should the pharmacy do if a law enforcement officer requests access to our pseudoephedrine sales log?

A. A law enforcement officer should present the pharmacy with a court order to obtain access to the pharmacy's pseudoephedrine sales log. Do not provide the law enforcement officer with the original document; make a photocopy of the information that the officer needs and remember to exclude information that the officer doesn't need.

Q5. Are there Federal or State laws that prohibit the viewing of the information appearing in the sales log for C-V products, including pseudoephedrine products, i.e. HIPAA?

A. WI Statutes 146 considers the pseudoephedrine sales log a patient care document and as such the pharmacist must make every effort to keep the information in the log confidential

Q6. What is the status of prescription drugs like Allergra-D, Claritin-D and Zyrtec-D? Are they now Schedule V in WI?

A. According to WI Act 14, any pseudoephedrine product is classified as Schedule V in WI. According to WI Statutes 961.01 (20c)

“Pseudoephedrine product” means a material, compound, mixture, or preparation containing any quantity of pseudoephedrine or any of its salts, isomers, or salts of isomers but does not include such a product if any of the following applies:

(a) The product is a pseudoephedrine liquid or a liquid-filled pseudoephedrine gelcap. This paragraph does not apply if the controlled substances board has determined, by rule, that the product can be readily used in the manufacture of methamphetamine.

(b) The controlled substances board has determined, by rule, that the product cannot be readily used in the manufacture of methamphetamine.

As such, pharmacists must follow the rules set forth in WI Administrative Codes Phar 8 dealing with the requirements for controlled substances regarding records, prescription filing and dispensing,

Q7. Can physician's hand out samples of Claritin-D, Allegra-D or Zyrtec-D?

A. Since these products are controlled substances pursuant to WI Act 14, the physician is acting as a dispenser and thus will be required to maintain a dispensing log of such products to individual patients.

Q8. If a person has a prescription for a product such as Allegra-D, which contains pseudoephedrine, can they purchase a 3-month supply even though this represents possession of more than 9 grams of pseudoephedrine?

A. Possession of more than 9 grams of pseudoephedrine is an *assumption* of intent to manufacture (see 961.65). The possession of a 3 month supply of a compound-prescription product like Allegra-D (180 units containing a total of 21.6 grams of pseudoephedrine) can be proven factually as not to be an intent to manufacture since the purchase was authorized (a legal prescription was written) by a physician for a legitimate medical purpose (see 961.41 (3j)) Basically, this section provides an exemption to the possession limit when the medication is prescribed by a physician.