



## **What Wisconsin Pharmacists Need to Know about the Reclassification of Pseudoephedrine<sup>1</sup>**

Effective October 1, 2005, Pseudoephedrine is a Schedule V Controlled Substance in Wisconsin per 2005 Wisconsin Act 14. This means that all pseudoephedrine and pseudoephedrine-containing products (Over-The-Counter and prescription) will be classified as a C-V substance.

### **Storage of Pseudoephedrine Products:**

All O-T-C products containing pseudoephedrine with the exception of liquid and liquid filled gel caps are to be stored behind the pharmacy counter for sale only by a pharmacist or a person who is working under the direction of a pharmacist. These products are no longer available for self-service purchase, because of their potential for abuse in making methamphetamine.

### **Dispensing of Pseudoephedrine Products:**

The reclassification will require pseudoephedrine to be dispensed in accordance with Phar 961.23 and Wisconsin Act 14. The dispensing of an O-T-C pseudoephedrine product is subject to the following conditions:

1. That it be dispensed and sold only in good faith as a medicine.
2. That it be sold at retail only by a registered pharmacist or someone working under the direction of a registered pharmacist –e.g., pharmacy technician, pharmacy student (*A registered pharmacist must sign the logbook, see below*)
3. That it be sold at a retail establishment and *bear the name and address of the establishment on the immediate container of the said preparation.*
4. Any person purchasing pseudoephedrine must present to the seller the person's correct name, *address and an identification card containing the person's photograph* (a photo ID is not required for non-pseudoephedrine Schedule V controlled substances.)
5. No person may knowingly solicit, hire, direct, employ, or use another to purchase pseudoephedrine on their behalf with the intent to acquire more than the specified thirty-day limit of pseudoephedrine.
6. The purchaser must be 18 years of age or older.
7. The seller shall record the following information in a Schedule V Controlled Substances logbook<sup>2</sup>
  - The date of the purchase
  - The name of the purchaser
  - The address of the purchaser
  - The name of the product sold
  - The quantity of the pseudoephedrine product sold
  - The purchaser shall sign the record of this transaction
  - The pharmacist shall sign the record of this transaction, either as seller or the supervisor of a non-pharmacist seller.
  - Photo ID and age must be verified. (*It is not required to have this documentation in your logbook. However, PSW recommends that you do include it as a separate entry to ensure compliance with all aspects of legislation.*)

- The logbook may be kept in either a *paper or electronic format* and shall be maintained by the pharmacy for *at least 2 years*.
- Only a pharmacist or a law enforcement officer may have access to information recorded with respect to the sale of a pseudoephedrine product. Any law enforcement officer requesting access to information contained in the logbook must present a valid court order.

**Schedule V logbooks<sup>2</sup> specifically for pseudoephedrine sales are available for purchase from the PSW office (608) 827-9200. Log form templates may also be accessed on-line at [www.pswi.org](http://www.pswi.org). Follow the pseudoephedrine links located on the PSW Home Page**

- The maximum quantity of pseudoephedrine that can be purchased is *7.5 grams per 30 days*, regardless of where it is purchased (in a pharmacy, over the internet, by mail, etc.)
- Possession of *more than 9 grams of pseudoephedrine* (other than the liquid or liquid filled capsules) constitutes a presumption of possession with the intent to manufacture methamphetamine.
- Immunity is provided for pharmacists that unintentionally sell more pseudoephedrine than is allowed by the Act within a thirty-day period provided that it is in good faith, in reasonable reliance on the information provided by the purchaser and the pharmacist reports it to law enforcement within 30 days after the occurrence.
- The giving of a false name or false address by the purchaser shall be evidence of a violation. (There are safeguards in place for pharmacists that are shown fake identification.)

### **Dispensing of Prescription Drug Products Containing Pseudoephedrine**

Any prescription drug product containing pseudoephedrine will be classified as a Schedule V controlled substance in Wisconsin as of the effective date in Act 14 and, therefore, is subject to Act 14 and WI Statutes Chapter 961, and WI Administrative Code Chapter Phar 8 (record-keeping, dispensing and renewals, etc.). Prescription drug products containing pseudoephedrine are not subject to the logbook requirements.



### **What Wisconsin Consumers Need to Know**

Effective October 1, 2005, all but a few of the cold and allergy products containing pseudoephedrine (e.g., Sudafed®) that you have been able to buy over the counter at many stores in the past will be available only from pharmacies. Wisconsin's new law makes pseudoephedrine a *controlled substance*, which means it has a high potential for abuse in making the illegal drug methamphetamine ("meth"). The purpose of the law is to greatly reduce the number of hazardous meth labs in Wisconsin.

#### **To buy O-T-C pseudoephedrine at a pharmacy, Wisconsin law requires consumers to:**

- Be at least 18 years of age
- Present a photo ID
- Provide their name and address for entry into a logbook
- Provide their signature for the logbook
- Limit their purchase to no more than 7.5 grams of pseudoephedrine from a pharmacy or retailer, separately or collectively, in a 30-day period.

- Present a prescription **only if** they require more than the 7.5 grams of pseudoephedrine per 30-day limit for legitimate medical use.

### **Purchasing pseudoephedrine at a convenience store or grocery store:**

Consumers will still be allowed to purchase pseudoephedrine in liquid and liquid-filled gel cap formulations from these locations as an over-the-counter product. However, they will need to visit a pharmacy for other types of products containing pseudoephedrine.



## **Penalties**

### **Penalties for Pharmacy Violators:**

#### **Selling pseudoephedrine to a minor:**

- Class I Felony (up to 3.5 years in prison, or a \$10,000 fine, or both)

#### **Selling pseudoephedrine over the limits:**

- Class I Felony (up to 3.5 years in prison, or a \$10,000 fine, or both)

### **Penalties for Purchasers:**

#### **Possessing materials for manufacturing methamphetamine:**

- Class H Felony (up to 6 years in prison, or a \$10,000 fine, or both)
- Penalties may be increased by 5 years for possession with intent to distribute near a school, playground, public park, jail, public housing project, or a public swimming pool.
- Penalties may also be enhanced for intent or distribution in a prison or using public transit.

#### **Obtaining pseudoephedrine fraudulently:**

- Class H Felony (up to 6 years in prison, or a \$10,000 fine, or both)

#### **Purchasing pseudoephedrine over the limits via the Internet or mail order:**

- Class I Felony (up to 3.5 years in prison, or a \$10,000 fine, or both)

#### **Straw purchasing—Adults: Paying or using a person over the age of 17 to buy pseudoephedrine on one's behalf:**

- Class I Felony (up to 3.5 years in prison, or a \$10,000 fine, or both)

#### **Straw purchasing—Minors: Paying or using a person under the age of 18 to buy pseudoephedrine on one's behalf:**

- Class H Felony (up to 6 years in prison, or a \$10,000 fine, or both)

#### **Purchasing pseudoephedrine over the limits in person:**

- Misdemeanor (up to 30 days in jail, or a \$500 fine, or both)

### **Penalties for Juveniles:**

#### **Possessing Materials for Manufacturing Methamphetamine:**

- For first offense, a fine of not less than \$250 or not more than \$500
- For a violation committed within 1 year of a previous violation, a fine not less than \$300
- For a violation committed within 1 year or 2 or more violations, a fine not less than \$500
- Drug testing, counseling, and treatment may also be ordered

### **Other Applicable Penalties Under Current Law:**

#### **Possession or attempted possession of Meth**

- Class I Felony (up to 3.5 years in prison, or a \$25,000 fine, or both)

#### **Possession of Meth with intent to Manufacture, Distribute, or Deliver:**

- 3 grams or less: Class F Felony (up to 12.5 years in prison, or a \$25,000 fine, or both)
- 4 to 10 grams: Class E Felony (up to 15 years in prison, or a \$50,000 fine, or both)
- 11 to 50 grams: Class D Felony (up to 25 years in prison, or a \$100,000 fine, or both)
- More than 50 grams: Class C Felony (up to 40 years in prison, or a \$100,000 fine, or both)
- 5 year penalty enhancer if the Meth or its analogs are distributed to a minor

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### **Notes**

<sup>1</sup> 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 (see note below) 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.

**(Underline added to text: Pseudoephedrine is an isomer of ephedrine; therefore, any product containing ephedrine is also subject to this statute.)**

<sup>2</sup> Two samples of log form templates are contained in this packet of information. First, there is a standard, multiple patient entry log page. If this form is used, please be sure that any patient information contained in the log is readily obscured (covered) when a new patient is signing the book (If not, you may be in violation of WI Stats. Ch. 146 regarding confidentiality of patient health care records). Second, a single patient entry log page is included for your use if you prefer this style. In addition, the law does allow the pharmacy to maintain the logbook in an electronic format if you so choose; either record format must be kept by the pharmacy for 2 years.

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### **APPENDIX**

**For more information on pseudoephedrine-related topics, please visit the following web-sites:**

WI Law

<http://www.legis.state.wi.us/2005/data/acts/05Act14.pdf>

National Institute on Drug Abuse

<http://www.nida.nih.gov/Infofacts/methamphetamine.html>

DEA:

<http://www.fas.org/irp/agency/doj/dea/product/meth/toc.htm>

<http://www.fas.org/irp/agency/doj/dea/product/meth/diversion.htm>

<http://www.fas.org/irp/agency/doj/dea/product/meth/production.htm>

<http://www.deaiversion.usdoj.gov/pubs/brochures/pseudo/index.htm>

“Bill limits sale of cold medicines used to make meth” Milwaukee Journal Sentinel

<http://www.jsonline.com/news/state/may05/325156.asp>