

Training for Employees of Establishments where Products Containing Pseudoephedrine are Sold

Methamphetamine Lab Prevention Act of 2005
N.C.G.S. § 90-113.50

North Carolina Department of Justice
and the
North Carolina Commission for Mental Health,
Developmental Disabilities and Substance Abuse Services
DHHS, DMHDDSAS

Why is Training Important?

- The State of North Carolina, along with many other states and the federal government, has recognized the growing problem of the use of the powerful drug *Methamphetamine*
- Pseudoephedrine, a key ingredient in the manufacture of Methamphetamine, is also a common cold remedy
- North Carolina law stipulates that retailers require employees of establishments involved in the sale of pseudoephedrine products in the form of tablets or caplets be trained in a program conducted by or approved by the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services, N.C.G.S. 90-113.55

What are pseudoephedrine products used for?

Legally:

- Pseudoephedrine is used to make cough, cold and allergy drug products
- Pseudoephedrine is used to treat cold allergies and runny nose
- Some common trade names of products containing pseudoephedrine include: Triaminic, Sudafed, PediaCare, Claritin, Allegra & Alavert

Illegally:

- Pseudoephedrine can be used to make methamphetamine

Methamphetamine is...

- A powerfully addictive stimulant that affects the central nervous system. The drug is easily made in clandestine laboratories with relatively inexpensive over-the-counter ingredients. However, the manufacturing process is dangerous
- A Schedule II stimulant - meaning it has high potential for abuse and is available only through prescription that cannot be refilled. There are limited accepted medical reasons for its use, such as the treatment of narcolepsy, attention deficit disorder, and for short-term use, obesity
- A white, odorless, bitter tasting crystalline powder that can be easily dissolved in water or alcohol

Methamphetamine Use

- Sometimes referred to as “speed”, “meth” and “chalk”. In its smoked form it is often referred to as “ice”, “crystal”, “crank” and “glass”
- Manufactured in many forms and can be smoked, snorted, injected or orally ingested
- Methamphetamine alters moods in different ways depending on how it is taken

Manufacture of Methamphetamine

- The most common ingredient is over-the-counter cold and asthma medicines containing pseudoephedrine
- Chemicals added include ether (found in starter fluid), paint thinner, Freon, acetone, anhydrous ammonia (fertilizer), iodine crystals, red phosphorus (from matchbooks), brake cleaner, drain cleaner, battery acid, and lithium (from inside batteries)
- Supplies include aluminum foil, coffee filters, gas and water cans, picnic coolers, mason jars/glass containers, plastic funnels and rubber hoses
- Because methamphetamine can be made with readily available inexpensive materials, there is great variation in the processes and chemicals used. This means the final product sold as “methamphetamine” may not be methamphetamine, but a highly altered chemical mixture with some stimulant-like effects

What is the purpose of the North Carolina “Methamphetamine Lab Prevention Act of 2005”

Because pseudoephedrine products in the form of tablets, caplets or gel caps can be used illegally to make methamphetamine, the law

- Establishes requirements for selling those products
- Authorizes the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services to add or delete specific pseudoephedrine products and modify specific storage, security, transaction limits, and record-keeping requirements applicable to particular pseudoephedrine products
- Provides for civil and criminal penalties for violations of the law

Requirements for Selling Products containing Pseudoephedrine

North Carolina Law requires that:

- Pseudoephedrine products in the form of tablets, caplets, or gel caps be sold only in blister packages - not offered for retail sale loose in bottles
- Pseudoephedrine products in the form of tablets and caplets be stored and sold behind a pharmacy counter
- Pseudoephedrine products in the form of tablets and caplets be sold in limited quantities
- Pseudoephedrine products in the form of tablets and caplets not be sold to individuals less than 18 years of age without a prescription

Requirements for Selling Products containing Pseudoephedrine (cont'd)

North Carolina Law requires that:

- Purchasers of a pseudoephedrine product in the form of tablets and caplets present photo identification
 - If the retailer has reasonable grounds to believe the prospective purchaser is under 18 years of age, the retailer shall require the prospective purchaser to furnish photo identification showing their date of birth
- A Logbook of sales of pseudoephedrine products in the form of tablets and caplets be kept
- Signs be posted informing customers of the sales limits on pseudoephedrine products in the form of tablets and caplets and that sales records are kept and may be made available to law enforcement

Requirements for Selling Products containing Pseudoephedrine (cont'd)

North Carolina Law requires that:

- Retailers ensure employees of establishments involved in the sale of pseudoephedrine products in the form of tablets or caplets are trained in a program conducted or approved by the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

Transaction Limits on Pseudoephedrine Products in the Form of Tablets and Caplets

- No more than 2 packages containing a combined total of 3.6 grams of products containing pseudoephedrine per person per calendar day
- No more than 3 packages containing a combined total of 9 grams of products containing pseudoephedrine per person within a 30-day period

Note: These sales limits do NOT apply if the customer is purchasing these products pursuant to a valid prescription

Logbook

- A Logbook of pseudoephedrine products in the form of tablets and caplets must be:
 - constructed and maintained to minimize the disclosure of personal information to unauthorized persons, and
 - maintained for 2 years from each transaction date and may be destroyed after 2 years
 - readily available within 48 hours of the sale for inspection by Federal, State or local law enforcement
- The records are privileged information, not public record
- The records are for the exclusive use of the retailer and law enforcement

Logbook: Contents

The Logbook must contain:

- the name and address of every purchaser
- each pseudoephedrine product purchased
- the number of grams the product contains
- the purchase date of the transaction
- a substantially similar statement in at least 10-point boldface type at the top of every page:

"North Carolina law strictly prohibits the purchase of more than two packages of certain products containing pseudoephedrine (3.6 grams total) per day, and more than three packages (9 grams total) of certain products containing pseudoephedrine within a 30-day period. By my signature, I attest that the information I have provided in connection with this transaction is true and correct and that this transaction does not exceed the purchase restrictions. I acknowledge that knowing and willful violation of the purchase restrictions or the furnishing of false information in connection therewith may subject me to criminal penalties."

- the customer's signature attesting to the validity of the information. Electronic signatures are acceptable.

Logbook: Electronic Signatures

If the form attesting to the validity of the information is signed in electronic format, the retailer may display in a clear and conspicuous manner the statement on a sign placed immediately adjacent to the electronic signature device, instead of including the statement in electronic format. If the retailer chooses to display the statement on a sign, the retailer shall:

- instruct the purchaser to read the statement prior to signing; and
- include on the form for signature contained in the electronic device a statement substantially similar to the following:
"I have read, understand, and agree with the statement just shown to me concerning the requirements under State law pertaining to pseudoephedrine purchases."

Posting Signs

- A sign must be posted in a clear and conspicuous manner in the area where the pseudoephedrine products in tablet or caplet form are offered for sale
- The sign should contain language substantially similar to the following:

"North Carolina law strictly prohibits the purchase of more than two packages (3.6 grams total) of certain products containing pseudoephedrine per day, and more than three packages (9 grams total) of certain products containing pseudoephedrine within a 30-day period. This store will maintain a record of all sales of these products which may be accessible to law enforcement officers."

Penalties for Violating North Carolina State Law

A retailer who willfully and knowingly violates the North Carolina law is guilty of:

- a Class A1 misdemeanor for the first offense
- a Class I felony for a second or subsequent offense

A retailer convicted of a third offense occurring on the premises of a single establishment shall be prohibited selling pseudoephedrine products at that establishment

Any purchaser or employee who willfully and knowingly violates the North Carolina law is guilty of:

- a Class 1 misdemeanor for the first offense
- a Class A1 misdemeanor for a second offense
- a Class I felony for a third or subsequent offense

Penalties for Violating North Carolina State Law (cont'd)

A retailer who fails to train employees in accordance with North Carolina law, adequately supervise employees in transactions involving pseudoephedrine products, or reasonably discipline employees for violations shall be fined up to:

- five hundred dollars (\$500.00) for the first violation
- seven hundred fifty dollars (\$750.00) for the second violation
- one thousand dollars (\$1,000) for a third or subsequent violation of this section

Immunity

A retailer or an employee who, reasonably and in good faith,

- reports alleged criminal activity related to the sale or purchase of pseudoephedrine products to law enforcement, or
- refuses to sell a pseudoephedrine product to a person believed to be ineligible to purchase the product

is immune from civil liability - except in cases of willful misconduct

No retailer shall retaliate in any manner against any employee for a report made in good faith to law enforcement concerning alleged criminal activity related to the sale or purchase of pseudoephedrine products

Combat Methamphetamine Epidemic Act of 2005

The Combat Methamphetamine Epidemic Act of 2005 is a federal law signed on March 9, 2006 to regulate, among other things, retail over-the-counter sales of ephedrine, pseudoephedrine, and phenylpropanolamine products. Retail provisions of the Combat Methamphetamine Epidemic Act include daily sales limits and 30-day purchase limits, placement of product out of direct customer access, sales logbooks, customer ID verification, employee training, and self-certification of regulated sellers. The changes made by the Combat Methamphetamine Epidemic Act primarily affect persons selling products containing the List I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. The Combat Methamphetamine Epidemic Act is found as Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177).

All retail sellers of pseudoephedrine products in any form must comply with the Combat Methamphetamine Epidemic Act. Since the Combat Methamphetamine Epidemic Act does not preempt state law, North Carolina retailers must determine whether federal or North Carolina's provisions are more stringent and implement the more stringent provision. Information about the Combat Methamphetamine Epidemic Act can be found at deaddiversion.usdoj.gov

What I have Learned from this Training

Now I know:

- That pseudoephedrine products in the form of tablets and caplets must be stored and sold behind a pharmacy counter
- That I cannot sell more than 3.6 grams or 2 packages of the product in tablet or caplet form per day to a customer
- That more than 9 grams or 3 packages of the product in tablet or caplet form may not be purchased in a 30-day period by a customer
- How to keep a Logbook of records of sales
- That North Carolina retailers must also comply with the federal Combat Methamphetamine Act of 2005, Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005, Public Law 109-177.

For Additional Information Visit

- North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services at dhhs.state.nc.us/mhddsas/commission
- North Carolina Department of Justice at ncdoj.gov
- United States Drug Enforcement Agency (DEA), Office of Diversion Control at deadiversion.usdoj.gov
- United States Department of Justice at usdoj.gov/methawareness