North Carolina Department of Health and Human Services
Commission for Mental Health, Developmental Disabilities and Substance Abuse Services
3018 Mail Service Center • Raleigh, North Carolina 27699-3018
Tel 919-715-2780 • Fax 919-508-0973 • Courier 56-20-24
Beverly Eaves Perdue, Governor
Lanier M. Cansler, Secretary
John R. Corne, Chairman

October 19, 2009

MEMORANDUM

TO: North Carolina Pharmacy Permit Holders

FROM: North Carolina Commission for Mental Health, Developmental Disabilities and Substance Abuse Services

RE: Training and Transaction Log Requirements for the Sale of Certain Pseudoephedrine Products in North Carolina

Session Law 2005-434, HB 248, referred to as the *Methamphetamine Lab Prevention Act*, amended Chapter 90 of the North Carolina General Statutes to create Article 5D "*Control of Methamphetamine Precursors*". The Session Law granted the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services (Commission) authority to control pseudoephedrine products, to develop training and education programs for employees where these products are available for sale, and to approve these training programs for implementation by retailers impacted by the legislation.

As you may be aware, methamphetamine can be manufactured by combining products commonly sold in many retail stores. One of the products used to manufacture methamphetamine is pseudoephedrine, which is commonly found in many over-the-counter cold medications. In an effort to limit access to pseudoephedrine, the North Carolina General Assembly imposed strict requirements on where and how certain pseudoephedrine products are sold in North Carolina. Effective January 15, 2006, pseudoephedrine products in the form of tablets and caplets ("restricted pseudoephedrine products") became available only from behind the counter of a pharmacy. In addition to strict requirements on where restricted pseudoephedrine products are sold, the legislation imposed transaction limits on the amount of restricted pseudoephedrine products sold, required the maintenance of records of disposition or transaction logs, mandated the posting of signs, and called for the training of employees.

The Methamphetamine Lab Prevention Act of 2005 was further amended by Session Law 2006-186 in an effort to ensure compliance with federal law. The amendments added gel caps to the products required to be offered for retail sale only in blister packages, modified the transaction limits, clarified the use of electronic transaction logs and referenced the requirements of the Combat Methamphetamine Act of 2005, Title VII of the USA PATRIOT Improvement and Reauthorization Act of 2005, P.L. 109-177. The Commission is charged with the following: 1) development and approval of training for employees involved in the sale of pseudoephedrine products; and 2) approval of transaction logs detailing the sale of restricted pseudoephedrine products. During its meeting November 14, 2005, the Commission adopted guidelines on what constitutes both an approved methamphetamine training program and a transaction log. Copies of these guidelines are attached. They have since been modified to reflect the changes in Session Law 2006-186. Also attached is an acknowledgement form to document compliance with the requirements of the Methamphetamine Lab Prevention Act.

Please review the required components for both the approved methamphetamine training program and transaction log to ensure your pharmacy is in full compliance with these requirements. If you have not already done so, complete the attached acknowledgement form documenting that your pharmacy is in compliance with the legislation. Return this document to the Commission by mailing to: North Carolina Commission for Mental Health, Developmental Disabilities and Substance Abuse Services, ATTN: W. Denise Baker, 3018 Mail Service Center, Raleigh, NC 27699-3018.

Additional guidance regarding the Methamphetamine Lab Prevention Act may be found by accessing the links below.

- North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services: http://www.dhhs.state.nc.us/mhddsas/commission/index.htm

- North Carolina Board of Pharmacy: http://www.ncbop.org/faqs/Pharmacist/faq_MethamphetamineAct.htm

- DEA's Office of Diversion Control: http://www.deadiversion.usdoj.gov/meth/q_a.htm

cc: Commission for MH/DD/SAS
DMH/DD/SAS Executive Leadership Team
DMH/DD/SAS Management Leadership Team
North Carolina Retail Merchants Association

REQUIRED FOR METHAMPHETAMINE TRAINING

N.C.G.S. 90-113.55 requires employees of establishments involved in the sale of pseudoephedrine products in the form of tablets and caplets receive training in a program conducted or approved by the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services (the "Commission"). At this time, pseudoephedrine products in the form of tablets and caplets may only be stored and sold from behind a pharmacy counter. Pharmacies failing to train such employees are subject to a fine of up to $500 for the first violation, up to $750 for a second violation, and up to $1,000 for a third and subsequent violations.

In order to be deemed an approved training program pursuant to N.C.G.S. 90-113.55, the Commission has determined that a methamphetamine training program shall include the following topics:

1) Methamphetamines
   a) What is "meth"?
   b) Common ingredients used to manufacture methamphetamines, including examples of chemical and brand names of common ingredients.

2) North Carolina law concerning the sale of pseudoephedrine products:
   a) Pseudoephedrine products that are restricted to being stored and sold from behind a pharmacy counter;
   b) Pseudoephedrine products that are not restricted to being stored and sold from behind a pharmacy counter;
   c) Sales limits for the purchaser and seller per month and day both by number of packages and amounts;
   d) Identification requirements;
   e) Age requirements to purchase pseudoephedrine products;
   f) Package requirements – for example, a pseudoephedrine product in the form of a tablet, caplet, or gel cap shall not be offered for retail sale loose in bottles but shall be sold only in blister packages.
   g) Proper completion and storage of the purchase log, including information required to be entered into the log;
   h) Who has authority to access the purchase log;
   i) Sign-posting requirements;
   j) Violations and applicable penalties for violations, including criminal penalties and fines; and
   k) Immunity for good faith reports to law enforcement of alleged criminal activity related to the sale or purchase of a pseudoephedrine product or for refusal to sell a pseudoephedrine product to a person reasonably believed to be an ineligible purchaser of pseudoephedrine products.

3) Acknowledgement by the employees involved in the sale of pseudoephedrine products in the form of tablets and caplets that they have received training on the sale of pseudoephedrine products.

Supporting information regarding the North Carolina Methamphetamine Lab Prevention Act of 2005 can be found at http://www.dhhs.state.nc.us/mhddsas/commission/index.htm.

RECORD OF DISPOSITION OR TRANSACTION LOG REQUIREMENTS FOR PURCHASE OF CERTAIN PSEUDOEPHEDRINE PRODUCTS

N.C.G.S. 90-113.52(c) mandates that a pharmacy record specific information concerning the purchase and purchaser of pseudoephedrine products sold in the form of tablets or caplets in a record of disposition or transaction log. This transaction log must be maintained by the pharmacy for a period of two years and made available to law enforcement within forty-eight hours of the time of the transaction.

The required information must be entered into a transaction log that is approved by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services (the "Commission"). The required transaction log may be in a written or electronic format. To be deemed an approved transaction log by the Commission, the transaction log must:

1) Be constructed so as to minimize disclosure of personal information to unauthorized persons;

2) Contain a statement in at least 10-point boldface type at the top of every page substantially similar to the following:

   "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."

   If the form attesting to the validity of this information is to be signed by the purchaser in electronic format, the retailer may choose to display in a clear and conspicuous manner the statement on a sign to be placed immediately adjacent to the device on which the electronic signature will be obtained, in lieu of including the full statement in electronic format. If the retailer chooses to display the statement on a sign rather than in electronic format, the retailer shall: (i) instruct the purchaser prior to signing to read the statement; and (ii) 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." Display of the sign in this manner shall satisfy the signage requirements of G.S. 90-113.54.

3) Contain the following data:
   a) The name and address of the purchaser;
   b) The pseudoephedrine product(s) purchased;
   c) The number of grams the product(s) contains;
   d) The purchase date of the transaction;
   e) The purchaser's signature attesting to the validity of the information entered into the transaction log.

ACKNOWLEDGEMENT OF APPROVED METHAMPHETAMINE TRAINING AND RECORD OF DISPOSITION OR TRANSACTION LOG FOR THE SALE OF CERTAIN PSEUDOEPHEDRINE PRODUCTS FOR INDEPENDENT PHARMACIES

☐ I, _____, am the permit-holder for _____ pharmacy located at _____. I hereby acknowledge that I have reviewed the required components adopted by the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services which are necessary to constitute an approved Methamphetamine Training Program and Record of Disposition or Transaction Log for the Sale of Certain Pseudoephedrine Products and that I have implemented:

1) A training program to train those employees involved in the sale of pseudoephedrine products in the form of tablets and caplets meeting these requirements; and
2) A record of disposition or transaction log for the sale of pseudoephedrine products in the form of tablets or caplets meeting these requirements.

OR

☐ I, _____, am the permit-holder for _____ pharmacy located at _____. I hereby acknowledge that pseudoephedrine products in the form of tablets or caplets are not available for sale by the above named pharmacy.

_____
PHARMACY PERMIT NUMBER

_____
SIGNATURE

_____
PHONE NUMBER

_____
DATE

ACKNOWLEDGEMENT OF APPROVED METHAMPHETAMINE TRAINING AND RECORD OF DISPOSITION OR TRANSACTION LOG FOR THE SALE OF CERTAIN PSEUDOEPHEDRINE PRODUCTS FOR CHAIN PHARMACIES

☐ I, _____, hereby acknowledge on behalf of _____ pharmacy, that I have reviewed the required components adopted by the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services which are necessary to constitute an approved Methamphetamine Training Program and Record of Disposition or Transaction Log for the Sale of Certain Pseudoephedrine Products and that the following has been implemented by all _____ pharmacies in North Carolina:

1) A training program to train those employees involved in the sale of pseudoephedrine products in the form of tablets and caplets meeting these requirements; and
2) A record of disposition or transaction log for the sale of pseudoephedrine products in the form of tablets or caplets meeting these requirements.

OR

☐ I, _____, hereby acknowledge on behalf of _____ pharmacy, that pseudoephedrine products in the form of tablets or caplets are not available for sale by the above named pharmacies.

_____
SIGNATURE

_____
PHONE NUMBER

_____
DATE