

KANSAS**PRODUCTS:**

- All products containing pseudoephedrine and ephedrine. (K.S.A. 65-4113)

EXEMPTIONS:

- Products sold pursuant to a prescription not subject to electronic log requirement. (K.S.A. 65-1643(g))

PURCHASE LIMITS:

- It is unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of PSE base or EPH base in any single transaction. (K.S.A. 65-7006)
- It is unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 9 grams of PSE base or EPH base within any 30-day period. (K.S.A. 65-7006)

SALES RESTRICTIONS:

- Products are designated as schedule V (K.S.A. 65-4113);
- Products may only be sold or distributed in a licensed pharmacy by a licensed pharmacist, a registered pharmacy technician or a pharmacy intern or student supervised by a licensed pharmacist. (K.S.A. 65-1643)

RECORDKEEPING REQUIREMENTS:

- Any person purchasing, receiving or otherwise acquiring products must produce a photo ID showing date of birth, sign a log and enter in the log, or allow the seller to enter in the log, the purchaser's address and the date and time of sale or allows the seller to enter such information into an electronic logging system pursuant to the statewide electronic logging system. The seller must determine that the name entered in the log corresponds to the name provided on the purchaser's identification and that the date and time entered are correct. The seller must also enter in the log the name of the controlled substance and the quantity sold (K.S.A. 65-1643);
- The sales log or database must be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer. (K.S.A. 65-1643)
- Note, Senate Bill 302 (2007) & House Bill 2062 (2007) established a task force to develop a plan for the creation and implementation of an electronic purchase log capable of, in real-time, checking compliance with all state, federal and local laws concerning the sale of ephedrine and pseudoephedrine. The plan must include suggestions for future action by the legislature regarding the electronic purchase log.

PRODUCT PLACEMENT:

- All PSE and EPH products must be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access. (K.S.A. 65-1643)

STATEWIDE ELECTRONIC LOGGING SYSTEM PROGRAM:

- Board shall establish a statewide electronic logging system for sale of methamphetamine. (K.S.A. 65-1643)
- Pharmacy shall maintain electronic recording log documenting the sale of methamphetamine precursors. (K.S.A. 65-1643)
- The information that pharmacies shall provide to the board shall include but not limited to: name, address of person receiving, purchasing or acquiring methamphetamine precursor; name of product and quantity purchased; date and time of purchase; name or initials of licensed pharmacist, registered technician or pharmacy intern or clerk supervised by licensed pharmacist who sold product. (K.S.A. 65-1643)
- Each pharmacy shall maintain the purchaser's signature. (K.S.A. 65-1643)
- Board may grant a waiver exempting a pharmacy from compliance upon showing good cause that it is otherwise unable to submit log information by electronic means for various reasons including but not limited to: mechanical or electronic failure or financial, technological or any undue burden on the pharmacy. (K.S.A. 65-1643)
- Such waiver may permit pharmacy to submit log information by paper form or other means, provided by that all information required is submitted in this alternative format. (K.S.A. 65-1643)
- Board shall promulgate rules and regulations specifying a standardized format for the log and the information that pharmacies are to submit. (K.S.A. 65-1643)
- The board is hereby authorized to contract with another agency of this state or with a private vendor, as necessary, to ensure the effective implementation and operation of the methamphetamine precursor recording log. (K.S.A. 65-1643)
- The state agency or private vendor selected shall have the technological capability to receive electronic log data from pharmacies submitted, and to send real time notification to law enforcement officials. Regardless of the entity selected to manage the program, pharmacies are not required to use any one particular vendor's product to comply with the requirements. (K.S.A. 65-1643)
- Any electronic system implemented by the state shall be capable of bridging with existing and future operational systems used by pharmacies at no cost to such pharmacies. Any contractor shall be bound to comply with the provisions regarding confidentiality of log information in this section, and amendments thereto, and shall be subject to the penalties, for unlawful acts. (K.S.A. 65-1643)
- All information collected for the program database and any records maintained by the board, or by any entity contracting with the board, submitted to,

maintained or stored as a part of the database, shall be retained for five years. (K.S.A. 65-1643)

- Such information and records shall then be destroyed unless a law enforcement entity has submitted a written request to the board for retention of specific information or records in accordance with procedures adopted by the board. (K.S.A. 65-1643)
- The board shall develop and implement a program to educate pharmacies and pharmacy employees about the program for the recording of methamphetamine precursors. (K.S.A. 65-1643)
- The board shall review the effectiveness of the program for the recording of methamphetamine precursors and submit an annual report to the senate standing committee on public health and welfare and the house standing committee on health and human services. (K.S.A. 65-1643)
- The board shall adopt, within six months after the effective date of this act, such rules and regulations the board deems necessary to carry out the provisions of this act. (K.S.A. 65-1643)

FUNDING FOR STATEWIDE ELECTRONIC LOGGING SYSTEM:

- Cost of maintaining statewide electronic logging system shall be borne by state, non-state units of government, private entities, or others. (K.S.A. 65-1643)
- Pharmacies shall not be required to bear the costs associated with establish and maintaining the program, through any additional charges, whether statewide, regional, county-wide or otherwise. (K.S.A. 65-1643)
- In the event statewide funding is not available, the board may implement the program on a non-statewide basis, whether such program is funded regionally, county-wide or otherwise. (K.S.A. 65-1643)
- Board shall by rules or regulations prescribe that such regional or non-statewide program comply with requirements applicable to a statewide program, including non-state governmental units or regional programs may not utilize different vendors. (K.S.A. 65-1643)
- Any requirements of this act shall only be applicable to pharmacies within such units of government or regions, if regional program is established, and all other pharmacies in the state shall be exempted from the requirements of the electronic log program. (K.S.A. 65-1643)
- If the state, other non-state units of government, private entities or others are unable to bear the costs of establishing and maintaining the electronic logging system, pharmacies within the state, or in the case of regional or other non-statewide programs, pharmacies within those program areas shall be relieved of any obligation to comply with the statewide electronic logging system program pursuant to this act. Such pharmacies shall still be subject to the requirements of maintaining a log. (K.S.A. 65-1643)

- Board shall not impose any additional charges for the establishment or maintenance of the program for the recording of methamphetamine precursors on a pharmacy. The board shall not charge any fees for the transmission of data to the program database or for the receipt of information from the database. (K.S.A. 65-1643)
- The state board of pharmacy may receive and expend, or supervise the expenditure of, any donation, gift, grant or bequest made to the board for furthering any phase of the statewide electronic logging system program. (K.S.A. 65-1643)

IMMUNITY FROM LIABILITY:

- A seller who in good faith releases information in a log to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct. (K.S.A. 65-1643)
- No pharmacy or pharmacy employee shall be liable to any person in a civil action for any damages or other relief arising from a sale of a methamphetamine precursor that occurs at another pharmacy. (K.S.A. 65-1643)

PENALTIES:

- A pharmacy that knowingly fails to submit methamphetamine precursor recording log information to the board as required by this act or knowingly submits incorrect log information shall be guilty of a severity level 10, nonperson felony. (K.S.A. 65-1643)
- A person authorized to have log information pursuant to this act who knowingly discloses such information in violation of this act shall be guilty of a severity level 10, nonperson felony. (K.S.A. 65-1643)
- A person authorized to have log information pursuant to this act who knowingly uses such information in a manner or for a purpose in violation of this act shall be guilty of a severity level 10, nonperson felony. (K.S.A. 65-1643)

STATE SCHEDULE V RESTRICTIONS MAY ALSO APPLY (TO BE DETERMINED BY THE BOARD OF PHARMACY). AMONG THOSE POSSIBLE RESTRICTIONS ARE THE FOLLOWING:

- Registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances in conformance with the security requirements of federal law, including the requirements of 21 CFR 1301.71 as in effect on April 1, 1999 (K.A.R. 68-20-15a);
- All registrants handling Schedule V preparations shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of 21 CFR 1304.04 as in effect on April 1, 1999, which is hereby adopted by reference, and shall be kept on file for a period of not less than five years (K.A.R. 68-20-16);

- A controlled substance listed in schedule V that is not a prescription drug as determined under the federal food, drug, and cosmetic act, may be dispensed by a pharmacist without a prescription to a purchaser at retail, provided that dispensing is done only by the pharmacist and not by a non-pharmacist employee, even if under the supervision of a pharmacist (although after the pharmacist has fulfilled his or her professional and legal responsibilities set forth in this act, the actual cash, credit transaction, or delivery, may be completed by a non-pharmacist), and no more than twenty-four (24) dosage units of any other such controlled substance may be dispensed at retail to the same purchaser in any given forty-eight (48) hour period (K.A.R. 68-20-22);
- Purchaser must be at least eighteen (18) years old, must present ID and sign a bound record book containing the name and address of the purchaser, the name and quantity of controlled substance purchased, the date of each purchase, and the name or initials of the pharmacist who dispensed the substance to the purchaser. (K.A.R. 68-20-22)

OTHER NOTABLE IMPLICATIONS DUE TO C-V DESIGNATION:

- Registration
 - Every person who distributes or dispenses any controlled substances within Kansas must obtain an annual registration issued by the board of pharmacy; separate registration is required for each independent activity and for each separate location.
 - KSA 65-4116; KAR 68-20-10
- Marketing
 - Controlled substances listed in schedule V may not be distributed on a gratuitous basis by a manufacturer or distributor to a practitioner, pharmacist or any other person.
 - KAR 68-20-15a
- Sales Limits and Restrictions
 - Purchaser must be at least 18 years old. The pharmacist must require every purchaser to furnish suitable ID showing proof of age where appropriate and sign a log.
 - KAR 68-20-22
- Security
 - Each registrant must provide effective controls and procedures to guard against theft and diversion of controlled substances (all schedules) in conformance with the security requirements of federal law. Physical security controls of non-practitioners must comply with 21 CFS 1301.72--1301.73
 - KAR 68-20-16a

- Inventories
 - C-V preparations must be subjected to the same inventory and record-keeping requirements as detailed in federal laws for C II-IV and must be taken in conjunction with inventory requirements relating to C II-IV.
 - KAR 68-20-16