



PSEUDOEPHEDRINE PURCHASES DURING THE COVID-19 DISASTER DECLARATION

April 15, 2020

On March 29, 2020, Governor Greg Abbott signed an Executive Order ordering that “every person in Texas shall, except where necessary to provide or obtain essential services, minimize social gatherings and minimize in-person contact with people who are not in the same household. . . In providing or obtaining essential services, people and businesses should follow the guidelines from . . . CDC by practicing . . . social distancing.”

DSHS understands that some consumers are having difficulty acquiring pseudoephedrine products while also practicing social distancing. DSHS also understands that pharmacies may have questions regarding the application of CDC recommendations to the requirements of Health and Safety Code (HSC) §486.014 and Title 21, United States Code (USC), Chapter 830 of the federal Controlled Substance Act. Under HSC §486.014 and 21 USC 830, the establishment must, with respect to physical consumer-purchaser contact:

- Require the person making the purchase to display a government-issued identification containing the person’s photograph;
- Confirm the person is 16 years of age or older; and
- Have the consumer sign for the purchase.

Under HSC §486.014 and 21 USC 830, the establishment may conduct the following steps without physical consumer-purchaser contact:

- Make a record of the sale including the name and date of birth of the person making the purchase, the address of the purchaser, the date and time of the purchase, the type of identification displayed by the person and the identification number, and the item and number of grams purchased;
- Transmit the record of sale electronically as required by Section 486.0141;
- Maintain a written or electronic log as required under 21 USC 830(e); and
- Confirm the sale does not exceed the allowable amounts provided under HSC §486.014(b) and 21 USC 830 and regulations.

Is a signature required?

The DEA currently states that a signature is still required to comply with 21 USC 830 and related regulations.

Electronic or paper forms may be used to obtain the consumer-purchaser's information and signature. The forms may be scanned into a digital log or attached to a paper log.

Limited Exception: a provider can issue a prescription for an over-the-counter product, negating the need for a signature (HSC § 486.002).

How will paper forms/signatures work with the electronic logging system?

The state electronic system used to track pseudoephedrine sales accepts verification data from pharmacies.

The data submitted does not include a copy of the purchaser's signature nor does it require the method of obtaining the signature, only a verification statement that the pharmacy received a signature.

Verification and signature strategies

DSHS understands the concern that requiring a signature for the purchase of pseudoephedrine could undermine public health efforts to combat the spread of the coronavirus. If a customer is worried about using a stylus or pen to sign the logbook, a sanitized wipe, gloves or a sterilized or sanitized stylus/pen could be offered for the customer to use.

Examples are provided below.

Drive thru pharmacy:

1. Request ID at drive thru.
2. If customer is 16 years of age or older, pharmacy staff provides form to consumer-purchaser.
3. Have customer-purchaser fill out and sign the paper form.
4. *Pharmacy staff goes inside pharmacy and confirms quantities permit sale.*
5. Proceed with retail purchase process.

Skype/Facetime + Curbside option:

1. Park and call pharmacy requesting pseudoephedrine product.

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2. Skype/Facetime and show government issued identification.
3. Pharmacy confirms identification, if possible, runs identification information, confirms age, and confirms amounts purchased via database.
4. If the sale is proper, walk out to consumer to obtain signature form.
5. Proceed with retail purchase process.