

PHARMACY BOARD[657]

Adopted and Filed

Pursuant to the authority of Iowa Code section 124.212B, the Governor’s Office of Drug Control Policy and the Board of Pharmacy hereby amend Chapter 100, “Iowa Real-Time Electronic Pseudoephedrine Tracking System,” Iowa Administrative Code.

The amendments add probation or parole officer to the list of agents included in the definition of “law enforcement officer,” provide an alternative method of entering information into the pseudoephedrine tracking system (PTS) regarding a transaction completed when the PTS was unavailable, and clarify the processes for release of information from the PTS to law enforcement officers.

These amendments are not subject to waiver.

Notice of Intended Action was published in the March 21, 2012, Iowa Administrative Bulletin as **ARC 0053C**. The Governor’s Office of Drug Control Policy and the Board received no written comments regarding the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were approved by the Governor’s Office of Drug Control Policy on April 10, 2012, to be sent to the Board of Pharmacy and placed on the Board’s next meeting agenda for approval and adoption. The amendments were approved by the Board of Pharmacy during the April 27, 2012, meeting of the Board.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 124.212B.

These amendments will become effective on July 18, 2012.

The following amendments are adopted.

ITEM 1. Amend rule **657—100.2(124)**, definition of “Law enforcement officer,” as follows:

“*Law enforcement officer*” means all of the following:

1. State police officer.
2. City or county police officer.
3. Sheriff or deputy sheriff.
4. State or public university safety and security officer.
5. Department of natural resources officer.
6. Certified or full-time peace officer of this or another state.
7. Federal peace officer.
8. Criminal analyst assigned to a law enforcement agency.
9. Probation or parole officer.

ITEM 2. Amend subrule 100.3(4) as follows:

100.3(4) Availability of electronic PTS. If the electronic PTS is unavailable for use, the dispenser shall maintain a written record of each transaction pursuant to 657—subrule 10.32(6). The dispenser shall enter the information from the written record into the PTS within 72 hours of the time the PTS is again available and shall include in the electronic record that the record is a delayed entry.

~~a. A written record of each purchase shall be maintained pursuant to 657—subrule 10.32(6).~~

~~b. The information shall be provided to the office for inclusion in the PTS within 72 hours after the PTS becomes operational.~~

~~c. A PTS administrator shall enter the information from the written record into the PTS within 72 hours of receipt.~~

ITEM 3. Amend subrule 100.4(2) as follows:

100.4(2) Law enforcement release. PTS reports may be provided to a law enforcement officer whose duty is to enforce the drug laws of this state, another state, or the United States pursuant to this subrule pursuant to rule 657—100.4(124).

~~a.~~ A law enforcement officer shall register with the PTS prior to requesting reports. To ensure the identity of the officer and to maintain confidentiality of PTS information, the officer's identity shall be verified and registration shall be approved by the office or the administrator for the officer's agency.

~~b.~~ A law enforcement officer may request information or data from the PTS by providing to a PTS administrator a case or reference number for an ongoing investigation and by articulating reasonable suspicion.

~~e. b.~~ At the discretion of the office, law Law enforcement officers ~~may~~ shall be given direct access to all data from the PTS pursuant to the federal Combat Methamphetamine Epidemic Act and 21 CFR § 1314.45.

~~d. c.~~ If a law enforcement officer requests PTS information ~~on purchases or attempted purchases in excess of the monthly limit established in 657—subrule 10.32(3) or subrule 100.3(2), a subpoena or other court order is required~~ directly from the PTS, the law enforcement officer shall enter the purpose of the request into the PTS and shall certify the request is part of the officer's official duties.

~~e.~~ Data collected on purchases in excess of limits established pursuant to the federal Combat Methamphetamine Epidemic Act may be released to law enforcement officers by PTS administrators without a court order or articulating reasonable suspicion.

[Filed 5/16/12, effective 7/18/12]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/13/12.