

March 31, 2021

Dear Chair Prusak and Members of the Committee,

I am writing to encourage your support of House Bill 2648.

As a local community pharmacist who has testified in favor of two similar bills in previous years (HB 2128 in 2017, and HB 2302 in 2019), I believe the Oregon legislature is sympathetic to the legislation. However, I believe the legislature has felt the prescription-only status offers extra protection against diversion and the environmental harms that come with the creation of methamphetamine labs compared with those of our neighboring states selling the product behind the counter with the National Precursor Log Exchange (NPLEx). Based on the reactions to previous testimony, Mr. Bovett's written testimony against this bill ([3993 \(oregonlegislature.gov\)](https://www.oregonlegislature.gov)) appears to be the primary argument against it. I will focus on why I believe that, if anything, keeping the prescription-only status of pseudoephedrine will be a source of more diversion, not less; and why Mr. Bovett may wish to reconsider his position.

I believe it is easier for criminals to obtain a large amount of pseudoephedrine in a short amount of time under the current prescription-only access system in Oregon, compared to any "smurfing" operations that are alluded to in Mr. Bovett's presentation slides. I can think of a scenario where one criminal would call in fake prescriptions using the identity of a real health care provider (and probably wouldn't need to even get his DEA number) for multiple imaginary patients to multiple pharmacies. A second criminal would be the "friend" of the fake patients and pick up the pseudoephedrine for them. In this scenario, two people could rake in multiple prescriptions worth of pills (and don't forget, prescriptions do not have the federal dispense limits of over-the-counter sales); much more than if they had a small army of "smurfers." By allowing behind-the-counter sales of pseudoephedrine in Oregon, prescriptions of the drug will be rare and pharmacists will be willing to treat them with more scrutiny. I think it would be a while before a pharmacist would suspect a well-run pseudoephedrine prescription scam.

Some may argue, "What if we create a protocol that essentially allows pharmacists to prescribe pseudoephedrine via a protocol?"; just as Mr. Bovett says the Association of Oregon Counties would support?

There are two big disadvantages of a protocol like this over passing HB 2648. The first is convenience. Under HB 2648 and laws in our neighboring states, it only takes a minute or two and one pharmacy worker to sell the drug. Under Mr. Bovett's supposed protocol, you must run it as a prescription that will take *at least* 5 minutes (especially if you have to check the PDMP) and require a pharmacist's involvement (usually the rate limiting step in filling most prescriptions that may further delay the fill if he is caught up with other duties).

The second, and more important, disadvantage to the protocol is the limitations of the PDMP; you *cannot* see pseudoephedrine usage in other states. Yes, if I manually enter a patient into the PDMP, there is a section for me to click other states so I can cross-reference their PDMP databases. However, the first problem is we can't cross-reference most states (we can't even check all our neighbors, California is missing). More importantly, since they sell pseudoephedrine behind-the-counter and it is

not a controlled substance, it won't show up in their PDMP databases. So, if Mr. Bovett's worse fears come true and "smurfing" becomes a problem again, we will encourage it on our state borders. Someone will fill their allotment of pseudoephedrine in Oregon where we can only check the state PDMP; then they will hop over state lines where they will fill the same allotment, where it is checked against the NPLEx, and never get caught. However, if we pass HB 2648, anyone trying to do that will be immediately caught because we will all use the same database that crosses state lines. The only way around that would be to convince all other states to either adopt the same laws as us, or at least get them to report NPLEx data to their state PDMP *and* give us access to it.

In summary, if you want to keep the prescription-only status, I believe you make it easier to divert pseudoephedrine, not less. If you can come up with a way to have pharmacist prescribed pseudoephedrine (where it stays prescription-only compared to a future where you have passed HB 2648), it will still be more inconvenient for the patient as well as allow criminals who wish to "smurf" to get twice as much drug because criminals can jump state lines and the databases will not catch them (unless you can get all of our neighboring states to change their laws and give us access to their state PDMP databases).

Please do not continue to burden the visitors and citizens of Oregon with prescription-only pseudoephedrine. Please pass HB 2648.

Sincerely,

Michael Foster Holman, Pharm.D.

Salem, Oregon