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March 14, 2011

Written Testimony of Rob Bovett before the Nevada Senate Health and Human Services Committee

Chair Copening, Vice Chair Wiener, and Senators Leslie, Kihuen, Hardy, Kieckhefer, and Brower,

First, thank you for the opportunity to provide testimony and information regarding the Oregon experience effectively controlling pseudoephedrine (PSE), the key ingredient necessary to make the powerful variety of meth that addicts seek.

Second, I am not here in an attempt to tell you or the State of Nevada what you ought to do about pseudoephedrine. That is, of course, entirely up to you and your fellow legislators and citizens. I am here merely to tell you about the Oregon experience. Here is my brief 10-point summary:

1. In 1976, the Food & Drug Administration let a genie of the bottle by permitting PSE to be sold over-the-counter. Ever since then, Congress and state lawmakers have put band-aids on the problem of retail PSE diverted to make meth. Those band-aids have provided temporary relief, at best.

2. In 2005, the Oregon legislature returned PSE to a prescription drug, effective July 1, 2006.

3. In 2007, Mexico, the source of most of the meth on our streets, followed Oregon's lead and, in 2009, went one step further by banning PSE entirely. The effect has been weaker meth coming out of Mexico – and more pressure to cook meth in America using diverted retail PSE.

4. Diversion of retail PSE to make meth typically comes in three forms of what is commonly known as “smurfing:” (a) Exceedence smurfing; (b) group smurfing; and (c) false ID smurfing.

5. Electronic tracking has the ability to stop or identify exceedence smurfing, where an individual goes from pharmacy to pharmacy using the same ID. However, electronic tracking does not have the ability to stop, and is completely evaded by: (a) Group smurfing, where no single individual exceeds the retail sales limit; and (b) false ID smurfing, where an individual uses multiple false ID's to smurf more than the legal limit.

6. Electronic tracking also helps to facilitate group smurfing, and a PSE black market, by ensuring that no individual smurfer exceeds the retail sales limit. Here in the West, “super smurfing” fuels the meth “super labs” in Central California run by large drug trafficking organizations.

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7. Super smurfing can also fuel addiction within a community, by enabling addicts to buy a box of PSE for \$5 and exchange the PSE directly for drugs, or sell the PSE at a massive markup on the black market and then buy drugs with the profits.

8. In contrast, returning PSE to a prescription drug eliminates all forms of smurfing. Oregon has eliminated smurfing. Further, with almost five years of actual experience, there has not been a single case of diverted prescription PSE to make meth in Oregon. Fears of PSE doctor shopping have simply not occurred, because PSE is not susceptible to doctor shopping in the same way as pain medicines.

9. Electronic tracking therefore further delays an effective solution to the diversion of retail PSE, thus ensuring the pharmaceutical industry continues to receive profits from PSE diverted to make meth - all at the expense of lives, families, public safety and, most tragically, drug endangered children.

10. Oregon simply put the genie back in the bottle by returning PSE to a prescription drug – a pure **prevention** solution to the problem.

There are those that would have you believe a “parade of horrors” might occur if you return pseudoephedrine to a prescription drug. Don’t believe it. It is a *false* parade of horrors, and we have years of experience and evidence to prove it.

I have enclosed an Oregon Fact Sheet and a recent Op Ed I wrote that I hope you will find helpful. Many other relevant documents are also posted at <http://www.oregondec.org/pse.htm>.

Thank you again for allowing me to speak with you today. Please don’t hesitate to contact me if I can be of any assistance.



Sincerely,

Rob Bovett
Legal Counsel, Oregon Narcotics Enforcement Association
President, Oregon Alliance for Drug Endangered Children

enc: Oregon fact sheet
“How to Kill the Meth Monster” *New York Times* Op Ed

Methamphetamine - Oregon Fact Sheet

- In 2005, Oregon shifted away from drug polices based on fear and reaction, and moved toward drug polices based on science in the areas of Prevention, Enforcement, and Treatment.
<http://www.oregondec.org/OMTF-ClosingMemo.pdf>
- Included within Prevention is effective control of the key meth precursor, pseudo/ephedrine (PSE). Effective July 1, 2006, Oregon returned PSE to a prescription drug, as it was prior to 1976.
<http://www.leg.state.or.us/05reg/measpdf/hb2400.dir/hb2485.en.pdf>
- Mexico followed Oregon's lead, and then banned PSE entirely. The result is that meth from Mexico is pure, cheap, and plentiful, but weak. The potency of meth from Mexico is down substantially.
<http://www.oregondec.org/MPP-UpdatedInfo.pdf>
- Oregon has experienced the following:
 - 100% reduction (elimination) of PSE smurfing, and 96% reduction in meth lab incidents.
<http://www.oregondec.org/OregonMethLabTrends.pdf>
<http://www.oregondec.org/OregonMethLabStats.pdf>
 - 32% reduction in meth arrests.
<http://www.oregon.gov/CJC/SAC.html>
 - 33% reduction in meth treatment admissions.
<http://www.oregon.gov/DHS/mentalhealth/data/main.shtml>
<http://www.oregondec.org/OrTxAdmits-2004-2009.pdf>
 - 35% reduction in meth-related emergency room visits.
<http://www.rdmag.com/News/Feeds/2010/06/policy-ohsu-emergency-department-reports-fewer-meth-relat/>
http://www.oregonlive.com/health/index.ssf/2010/06/decongestant_ban_cut_ohsus_met.html
- Oregon crime rates:
 - 78% of property crimes are committed by addicts stealing to pay for their addiction.
http://www.doj.state.or.us/about/pdf/annual_report_2009.pdf
 - In 2008, Oregon experienced the largest decrease in crime rates in our nation.
http://www.oregonlive.com/news/index.ssf/2009/09/oregon_leads_the_nation_in_vio.html
<http://www.oregondec.org/Oregonian.pdf>
 - By 2009, Oregon crime rates were at a 50-year low.
http://www.leg.state.or.us/press_releases/sdo_052410_III.html
<http://www.dailyemerald.com/news/director-attributes-low-crime-rates-to-meth-laws-1.1488619>
<http://www.oregondec.org/2011-02-CJPRI-report.pdf>

Updated March 1, 2011

For more information, visit <http://www.oregondec.org/pse.htm>

The New York Times

OP ED

How to Kill the Meth Monster

November 16, 2010
By ROB BOVETT

Newport, Ore.

THE latest bad news from the world of methamphetamine is that makers of the drug have perfected a one-pot recipe that enables them to manufacture their highly addictive product while on the move, often in their car. The materials they need — a two-liter soda bottle, a few cold pills and some household chemicals — are easily obtained and easily discarded, often in a trash bag dumped along the highway.

There is, however, a simple way to end this mobile industry — and, indeed, most methamphetamine production. We've tried it in Oregon, and have seen how well it works. Just keep a key ingredient, pseudoephedrine, out of the hands of meth producers.



Pseudoephedrine is a nasal decongestant found in some cold and allergy medicines. In 1976, the Food and Drug Administration allowed it to be sold over the counter, inadvertently letting the genie out of the bottle. Afterward, the meth epidemic spread across the nation, leaving destroyed lives and families in its wake.

Sales of products containing pseudoephedrine in the United States now amount to nearly \$600 million a year. Yet, according to the pharmaceutical industry, only 15 million Americans use the drug to treat their stuffed-up noses, and these people typically buy no more than a package or two (\$10 to \$20 worth) a year.

Over the years, Congress and state legislatures have passed laws meant to prevent the diversion of pseudoephedrine to meth production. But such efforts have amounted to only temporary Band-Aids.

In 2006, Congress required pseudoephedrine products to be moved behind the counter, set daily and monthly limits on the amount that can be sold to any one customer and required retailers to keep a log of sales. But meth users quickly learned to evade these controls by making purchases in several different stores — a practice known as “smurfing.”

In an effort to avoid having more stringent controls placed on the drug, the pharmaceutical industry is lobbying Congress to require electronic tracking of pseudoephedrine sales, as some states already do. This makes it harder for an individual smurfer to collect large quantities of the drug. But meth users get around the tracking system by banding together in cooperatives, with each member buying pseudoephedrine products in amounts small enough to evade detection. These group smurfers then contribute their portion to the pot in exchange for cash or a share of the cooked-up meth. Or, in the West, they feed the “super labs” run by drug trafficking organizations in Central California.

In Kentucky, an electronic tracking law that went into effect in 2008 has had no effect on the number of meth labs there, and only 10 percent of them are found by electronic tracking. The number of police incidents involving meth labs has actually increased by more than 40 percent.

The only effective solution is to put the genie back in the bottle by returning pseudoephedrine to prescription-drug status. That’s what Oregon did more than four years ago, enabling the state to eliminate smurfing and nearly eradicate meth labs. This is part of the reason that Oregon recently experienced the steepest decline in crime rates in the 50 states.

Earlier this year, Mississippi also passed a law requiring a prescription to get pseudoephedrine. Since July, the number of meth labs in that state has fallen by 65 percent.

In 2009, Mexico, which had been the source of most of the methamphetamine on the streets of the United States, went further, banning pseudoephedrine entirely. The potency of meth from Mexico has since plummeted. This is great news. But now the ball is back in our court.

These pseudoephedrine prescription requirements apply to only 15 pharmaceutical products and their generic equivalents — medicines like Sudafed 12 Hour, Aleve D and Advil Cold and Sinus. Most cold and allergy medicines on store shelves are not affected, because they contain no pseudoephedrine.

Senator Ron Wyden of Oregon has proposed legislation to require prescriptions for products with pseudoephedrine nationwide, and Congress should enact it without delay. American families, too many already devastated by the meth epidemic, deserve no less.

Rob Bovett, the district attorney for Lincoln County, Ore., was the primary author of Oregon’s anti-methamphetamine laws.