

From the Desk of  
Representative  
Jennifer Williamson



## We urge your opposition to HB 2303A

### HB 2303A Weakens Privacy Protections for Oregon

Oregon has a long history of protecting Oregonians' privacy. Our state Prescription Drug Monitoring Program (PDMP) is a great example of this. We have worked with stakeholders for years now to balance the functions of the PDMP with the privacy rights of Oregonians.

**HB 2303A will cause Oregonians' private health information to be placed in a privately-operated, nationwide database which does not include numerous carefully-crafted privacy protections applicable to the PDMP (listed on the reverse side of this page).**

### HB 2303A Raises Concerns for Law Enforcement

NPLEx can't stop group smurfing, which feeds local toxic meth labs. Group smurfing is where numerous people each purchase pseudoephedrine for later resale on the local black market. That's how meth cooks got around our logging and tracking system prior to 2006, and still today get around NPLEx in state after state.

**This puts law enforcement and drug endangered children at great risk of injury, too many of whom sustained permanent injuries prior to this state moving pseudoephedrine back to a prescription drug, as it was prior to 1976.** We should never return to the time when Oregon law enforcement officers regularly had to put on chemical suits and self-contained breathing apparatus to intervene in local toxic meth labs within the reach of drug endangered children.

### A Better Solution: Allow Pharmacists to Prescribe Pseudoephedrine

- All a consumer would need to do is go to a pharmacy and speak to a pharmacist before obtaining their pseudoephedrine. There would be a limitation on the amount of pseudoephedrine and individual can obtain.
- Speaking to a pharmacist prior to prescription would have the added health benefit of a pharmacist's consultation on potential contraindication and health risks, and people with prescription drug coverage could receive access to a reduced price. For example, pseudoephedrine is contraindicated for those with high blood pressure.
- Requiring individuals to obtain a prescription from a pharmacist will create a barrier to "smurfing" by individuals who wish to manufacture methamphetamine.
- All of the privacy protections included in the PDMP would continue to apply to pseudoephedrine prescriptions, maintaining our high standards for the privacy of Oregonians.

⑫ 4/11/19

**HB 2303A does not contain any of the following carefully-crafted privacy protections that are currently applicable to data in the PDMP:**

- **Law enforcement must obtain a warrant or court order based on probable cause** to obtain information in the PDMP, and the data obtained must be limited to the individual who is the subject of the warrant or court order. This is a much higher bar than a subpoena, which does not require probable cause or judicial review. Note that even the apparent subpoena requirement in HB 2303 is undermined by other provisions in the bill that allow unfettered law enforcement access across state lines and potential preemption by federal law.
- **Access by other third parties is extremely limited**, data in the PDMP is protected health information (subject to additional laws related to protection, retention, and disclosure), and data is not subject to disclosure (exempt from public records requests)
- **Our current statutes ensure data security** and confidentiality of data in the PDMP by requiring agency rules that protect against the possibility of data breaches. These security rules have been adopted after significant consultation with stakeholders and privacy experts.
- **Cross-state sharing of data in the PDMP is extremely limited**, in order to ensure that the security and privacy of our data is not undermined by being merged with other state databases with insufficient privacy protections.
- **Disclosure of aggregated and de-identified data from the PDMP is also extremely limited** under our current statutes. This data is expressly restricted from being used for commercial purposes.
- **Unauthorized disclosure of data from the PDMP is subject to enforcement actions** by the Attorney General, along with civil penalties. Data breaches must be reported to the Attorney General.
- **Patients have a right to access their personal data** in the PDMP and correct errors.
- **Patients are allowed to request information about each instance a third party was granted authorized access** to their data, which is information that must be maintained by the PDMP.