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Before the
House Consumer Protection Committee

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House Bill 2432 and House Bill 2433

Testimony of
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For the record, my name is Teresa Miller. I am the Acting Administrator of the Insurance Division at the Department of Consumer and Business Services. I am here today to testify in support of two of the bills the Committee has before it: House Bill 2432, which substantially increases the transparency of the individual, portability, and small group health insurance rate review process and significantly enhances the public's ability to provide meaningful input into this process; and House Bill 2433, which strengthens the Department's health insurance rate review standards and requires insurers to separately report and justify increases in administrative expenses as part of each health insurance rate filing.

The Oregon Health Fund Board has proposed many fundamental changes to Oregon's healthcare system with the goals of containing costs, expanding coverage to Oregon's uninsured population, improving quality, and bettering the health of all Oregonians. As a complement to these broader reforms, the Department supports House Bill 2432 as a vehicle for taking the next step in increasing the transparency of the health insurance rate review process and enhancing the public's ability to provide input into the process.

The Insurance Division of the Department of Consumer and Business Services must review health insurance rates for individual, small group, and portability coverage before these rates can take effect. In 2007, the Legislative Assembly took the first step toward greater public involvement in the rate review process when it passed House Bill 3103. House Bill 3103 makes rate filing information publicly available upon the Department's receipt of a rate filing. While under current law, the public may review the information, there is no formal process for the public to comment on the filing or for the Department to consider such comments prior to making a decision on the filing. Consumers may request a formal adjudicative hearing, but only after the Department takes action on a rate request.

House Bill 2432 is really about giving the consumer a voice in the rate review process. It's about allowing consumers and consumer advocates an opportunity to be heard before a decision is made. House Bill 2432 accomplishes these things without untimely delays in the process and without sacrificing a consumer's ultimate legal rights.

House Bill 2432 would require the Department to open a 30-day public comment period prior to making a decision on a requested individual, portability, or small group health insurance rate change. The Department could decide to hold a public hearing based on concerns regarding the impact of the rate filing on Oregon consumers or other concerns raised during the public comment period. The Department would be required to hold a public hearing if it received comments addressing the Department's rate review standards from ten affected policy holders, from an association representing at least ten affected policy holders, or from the insurer that submitted the filing. Not only does House Bill 2432 significantly expand the public's ability to provide input on individual, portability, and small group health insurance rate changes, it does so while at the same time,

preserving an individual's right to have the Department's ultimate decision reviewed by an Administrative Law Judge in an administrative proceeding.

There has been some concern expressed by stakeholders that House Bill 2432 will result in significant delay in decisions on individual, portability, and small group health insurance rate filings. The Department does not share this concern for several reasons. First, House Bill 2432 does not prevent the Department from continuing to review and process the rate filing during the public comment period. Second, if no hearing is held, the Department should have no difficulty in making a decision on the rate filing within days after the closure of the public comment period. Under current law, the Department has 30 days to make a decision on an individual, small group, or portability health insurance rate filing and with notice to the insurer, the Department is allowed another 30 days. Third, House Bill 2432's hearing standards are set high enough that the public hearing process will likely be triggered only on significant or controversial rate filings. This should keep the number of hearings and thus the number of delayed rate filings at a reasonable level.

By passing House Bill 2432, the Legislative Assembly will give the public the opportunity to participate and influence the rate review process, provide the Department with the benefit of public input in the decision making process, increase the Department's accountability to the public, and infuse even greater transparency into the individual, small group, and portability rate review process.

Like House Bill 2432, House Bill 2433 is a complement to the broader reforms proposed by the Oregon Health Fund Board. House Bill 2433 would strengthen the existing process for regulating health insurance rates and, as recommended by the Oregon Health Fund Board, require insurers to justify increases in administrative expenses above a specified rate.

Under current law, the Insurance Division of the Department of Consumer and Business Services must determine whether health insurance benefits provided under a health insurance policy are reasonable in relation to the premiums charged by the insurer— a standard that focuses on the specific type of insurance (e.g., small group health insurance) – to determine whether a rate filing should be approved. Under this current standard, the Department focuses only on the insurer’s line of business involved in a particular rate filing rather than more broadly on the insurer’s entire business.

In 2007, the Department proposed legislation that would have strengthened health insurance rate review standards, allowing the Department greater consideration of an insurer’s overall business when evaluating rate filings. At that time, there was significantly less interest in the department’s health insurance rate review process. Under the current conditions, however, with economic uncertainty, skyrocketing healthcare costs, and double-digit health insurance rate increases, this issue has taken on significantly more interest, and arguably, substantially more importance.

While generally each line of an insurer’s business should be self-sustaining, the Department’s rate review standards should clearly allow for consideration of an insurer’s overall business. House Bill 2433 would require the Department to ensure that the proposed rates are reasonable and not excessive, inadequate, or unfairly discriminatory. To assist in making this determination, House Bill 2433 sets out key factors routinely considered as part of the rate review process, including factors such as medical loss ratios (percent of premium spent on medical claims), medical trend (rate of increase in claims consisting of medical inflation and utilization), administrative costs, variation in proposed rates over the population affected and demonstrated efforts to implement cost controls. Additionally, House Bill 2433 explicitly authorizes the Department to consider

factors such as investment income, insurer profits and surplus levels when reviewing a rate filing.

Strengthening the Department's rate review standards would ensure the Department has the clear authority it needs to protect consumers from excessive rate increases.

Finally, House Bill 2433 requires insurers to separately report and justify increases in administrative expenses as part of each rate filing. Under the current rate filing process, insurers report administrative costs as a percent of total premium. The Department approves a single rate change that arguably allows an insurer's administrative expenses to grow at the same rate as medical costs. However, as the Oregon Health Fund Board pointed out in its final report, the cost drivers associated with an insurer's administrative expenses should be more aligned with the general rate of inflation than they are with medical inflation. Therefore, it makes sense for administrative expenses to be reviewed separately from the rest of the filing, and for a different standard to be applied to increases in these expenses.

House Bill 2433 provides that increases in administrative expenses exceeding the general rate of inflation will be denied absent sufficient justification by the insurer that the increases are necessary and appropriate. This will not only provide for additional transparency around the various components of an insurer's administrative expenses, it will provide for appropriate additional scrutiny of increases in these expenses. This proposal is also included in House Bill 2130 and Senate Bill 454, which incorporate some of the Oregon Health Fund Board's other recommendations as well.

House Bills 2432 and 2433 are the Department's proposals to strengthen our rate review standards, increase the transparency of our rate review process, and provide an opportunity for meaningful public input into the process. Having said

that, Mr. Chair, regardless of the vehicle or approach the committee decides to take on these issues, we stand ready to assist in those efforts.

I appreciate the opportunity to discuss these proposals with the Committee and am happy to answer any questions you might have.