



**Department of Consumer and Business Services**

350 Winter Street NE, Room 200

P.O. Box 14480

Salem, Oregon 97309-0405

(503) 947-7872

[www.cbs.state.or.us](http://www.cbs.state.or.us)

Before the  
**House Committee on Health Care**

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**SB 1003**

Testimony of  
Teresa Miller, Administrator  
Insurance Division  
Department of Consumer and Business Services

For the record, my name is Teresa Miller. I am the Administrator of the Insurance Division of the Department of Consumer and Business Services. I am here today to discuss SB 1003, which modifies the 95 percent retention rate requirement for association health plans.

Before getting into the details of the association health plan statute and the 95 percent retention rate requirement, I'd like to give you a little background on the purposes behind insurance rate regulation.

The basic premise of insurance is to pool risk, and one issue underlying rate regulation is which risks should be pooled together. Should everybody pay a price for insurance that represents as closely as possible their own risk, so that those with high risks - older people, sicker people, those with chronic health conditions - pay more? Or should broader populations be pooled together, so that those who are

less at risk - the younger and healthier - help pay the costs for those who have higher risk?

In the area of group health insurance, we generally look for ways to group people together into large enough pools so that health care costs are spread broadly. Overall, the goal is to make insurance available and affordable as widely as possible, and to have a pricing structure that makes insurance as affordable as possible for those who need it most.

To accomplish this goal, Oregon's rate regulation for small group health insurance (2-50 employees) requires an insurer to pool all of its small group business together for the purpose of setting rates - in essence, treating all of its small group employers as one big pool. This means a small employer's rates will not change because one of its employees gets sick or has high health care costs. Additionally, rates for small employers are only allowed to vary based on age, participation in wellness programs, employer contributions, customer loyalty, tobacco use, and expected claims (limited to a 5 percent increase or decrease). Rate variations based on these factors are limited to a 3 to 1 "rate band," meaning the highest rate can be no more than 3 times the lowest rate.

Association health plans provide coverage to members of an association who are often small employers. These plans are offered by insurers through Associated Oregon Industries, Associated General Contractors, and the Restaurant Association, for example. In 2007, the legislature passed HB 3321, which was intended to resolve issues about how the small group rules apply to association health plans. The concern is to ensure that these association plans don't engage in "cherry-picking" - in other words, providing less-expensive coverage only to the healthiest groups, leaving the less-healthy groups to buy coverage in the general market, which makes the general market less healthy and leads to increased rates over time.

The bill exempts association health plans from the small group laws if they meet criteria aimed at preventing cherry-picking.

- The association itself must meet certain standards, and must have been formed for a purpose other than obtaining insurance.
- The association health plan can't exclude any small group employers that meet membership requirements. Membership requirements cannot be based on the actual or expected health status of individual or prospective enrollees.
- The premiums for new small group members - for the initial year of membership - have to be within the 3 to 1 rate band across the groups of small employers under the plan.
- For renewals, premiums are not limited to the 3 to 1 rate bands, and can be based on claims experience, but the association plan overall must maintain at least a 95% retention rate (the association health plan may not lose more than five percent of its members, with certain exceptions).

There have been concerns expressed recently that the 95% retention rate is too high. Possibly due to the current economic climate, there are a few associations that have struggled to meet the retention requirement and a couple that have even failed to meet it. To address these concerns, we worked with representatives of the insurance industry as well as associations to develop SB 1003, which will allow insurers to seek a waiver from the retention rate requirement. If the bill passes, the department will establish standards to review waiver requests that will ensure the protections in current law aimed at preventing "cherry-picking" are not undermined.

I appreciate the opportunity to speak with you today about this legislation. I would be happy to answer any questions you may have.