



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

Before the
Senate Health Care, Human Services and Rural Health Policy Committee
Subcommittee on Health Care Reform

March 31, 2011

SENATE BILL 89

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 talk about Senate Bill 89 and the -1 amendments, which make the statutory changes necessary to conform Oregon law to the Affordable Care Act (ACA), the federal health reform law that took effect just over one year ago. In conforming Oregon law to the ACA, this state will enhance consumer protection for many Oregonians. Passage of Senate Bill 89 is in the best interests of consumers and businesses because it will ensure consistency in regulatory guidance, statutory standards, and terminology between the state and federal laws. In putting together this legislation, our approach was to ensure Oregon law did not conflict with the ACA and to make necessary changes without incorporating every provision of the federal law into the Oregon Insurance Code.

As you can see, the bill and the amendments are lengthy and fairly technical. As such, I will not talk about every change. So if you have questions about pieces of the legislation that I don't mention during my testimony, please feel free to ask questions.

We expect that additional amendments will be necessary as we move forward. These additional amendments will incorporate recent federal guidance and regulations and will fix some of the issues with the -1 amendments. For example, the current bill and -1 amendments do not include changes to the Insurance Code's student health plan provisions to ensure that coverage is consistent with recently released federal requirements. Additionally, modifications to the internal appeals requirements contained in the -1 amendments are necessary to make it easier for consumers to obtain external review.

I'll now touch on some of the more significant changes made to existing law by the bill and the -1 amendments. This legislation:

- Requires health benefit plans to include coverage of preventive services without cost sharing such as co-payments, co-insurance, and deductibles.
- Modifies the definition of "health benefit plan," the type of coverage to which the ACA applies, to make it consistent with the federal definition.
- Prohibits "nongrandfathered," or new individual plans from denying coverage to children based on health conditions.
- Prohibits insurers from imposing lifetime dollar limits on essential benefits. The -1 amendments add a prohibition on annual limits as well.
- Requires insurers to provide coverage to dependent children up to the age of 26.
- Modifies Oregon's definition of "emergency services" and our emergency services mandate to be consistent with the ACA to ensure that out-of-

network emergency services are covered at essentially the same rate as in-network emergency services.

- Adds protections for consumers who appeal decisions made by insurance companies by:
 - Expanding the grounds for which a consumer may request an independent, external review. Further amendments will clarify our intent that, consistent with the Affordable Care Act, the external review is appropriate for the determination of medical issues rather than contractual issues.
 - Ensuring that consumers who have been denied coverage continue to receive coverage pending the outcome of an appeal.
 - Giving consumers improved access to independent, external review by making it available after one level of internal appeals under individual coverage. Further amendments will suggest the same standard for group coverage.
 - Requiring insurers to be bound by the independent review organization's decision.
- Gives the Department of Consumer and Business Services the ability to enforce the ACA to ensure Oregon consumers receive the full benefit of the law. The federal government is looking to the states to enforce the law. However, in the event a state does not take on this responsibility, the federal government will step in and enforce the law. The -1 amendments more specifically define and tailor DCBS's grant of authority to enforce the provisions of the ACA.
- Includes provisions related to rescission, cancelation, and nonrenewal of health insurance coverage such as:

- Prohibiting insurers from rescinding, canceling, or nonrenewing health benefit plans (major medical plans) absent fraud or intentional misrepresentation of material fact. This will conform Oregon law to federal law.
- Extending the new rescission requirements to ensure that coverage is not rescinded for fraudulent acts or intentional misrepresentations committed by an insurance agent or other representative of an insurance company. Although this is not a requirement contained in the federal law, we believe this provision would provide additional protection to consumers.
- Requiring insurers rescinding coverage to notify the persons losing coverage at least 30 days in advance of the rescission. This will conform Oregon law to federal law.
- Extending the requirements of the federal law to require insurers to notify the Department of Consumer and Business Services of each rescission no later than 30 days thereafter. While this is not a requirement of the federal law, this reporting will allow the department to track rescissions in the market place and ensure compliance with these new requirements.
- Extending the new rescission requirements to all health insurance policies. In most cases, the Affordable Care Act limits the new rescission requirements to health benefit plans. Generally, health benefit plans are major medical plans that provide comprehensive coverage. Senate Bill 89 applies the new rescission requirements to all health insurance policies, including accident-only policies and policies that only cover a specific disease or condition. Although not required by the federal law, we believe extending these new rescission

requirements to all health insurance policies will provide additional protection to Oregon consumers.

The final aspect of SB 89 I'd like to mention relates to the Health Insurance Reform Advisory Committee, or HIRAC. As you know, in 2014 health benefit plans will need to meet minimum requirements, and coverage will be guaranteed issue. As a result, it is expected that the small employer basic health insurance plan will be replaced with a federally compliant bronze plan designed by DCBS in consultation with stakeholders and the Oregon Health Authority pursuant to SB 91 and that both portability coverage and the Oregon Standard Health Statement will be unnecessary and therefore eliminated. SB 89 proposes to eliminate HIRAC because, with the implementation of federal health reform, the statutory duties associated with this entity will no longer exist.

These are the more significant changes Senate Bill 89 and the -1 amendments would make to Oregon law. The department's Insurance Division has been working diligently to implement the ACA, and we believe passage of this legislation provides important protections for consumers and is necessary to avoid conflicts with federal law.

Because of the technical nature of the bill and the fact that the Secretary of Health and Human Services continues to issue guidance to further interpret and clarify the provisions of the Affordable Care Act, the department will continue to work with stakeholders, Legislative Counsel and the appropriate legislative committees to further refine and amend the bill as it moves through the process.

I appreciate the opportunity to speak with you and am happy to answer any questions you might have. Thank you.