



**Department of Consumer and Business Services**

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Before the  
**House Committee on Health Care**

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**SENATE BILL 89**

Testimony of  
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Insurance Division  
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For the record my name is Anthony Behrens. I am the Senior Policy Analyst of the Insurance Division of the Department of Consumer and Business Services. I am here today to talk about Senate Bill 89-A, which makes 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-A 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.

I'll now touch on some of the more significant changes made to existing law by SB 89-A. This legislation:

- Requires new 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,” – essentially major medical coverage – the type of coverage to which the ACA applies, to make it consistent with the federal definition.
- Prohibits new individual plans from denying coverage to children based on preexisting health conditions.
- Prohibits insurers from imposing lifetime limits on essential benefits and phases out annual dollar limits on essential benefits in group and new individual plans
- 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.
  - 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 sooner than is currently required.
  - Requiring insurers to be bound by an 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.
- Includes provisions related to rescission, cancelation, and nonrenewal of health insurance coverage such as:
  - Prohibiting insurers from rescinding, canceling, or nonrenewing health benefit 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 rescissions. 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-A 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-A 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-A 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-A 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 continues to work with stakeholders, Legislative Counsel and the appropriate legislative committees to further refine and amend the bill. What we anticipate to be a final set of amendments should be available shortly.

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