

**Statement in Opposition to Oregon SB 122**  
**February 12, 2013**

**Position: PhRMA opposes SB 122, which would authorize the Director of Consumer and Business Services to adopt rules prohibiting or limiting coverage by health benefit plans of items, services or medical technologies in accordance with the Health Evidence Review Commission guidance.**

The Pharmaceutical Research and Manufacturers of America (PhRMA) opposes any application of coverage guidance produced by the Health Evidence Review Commission (HERC) to the private health insurance market, including to health plans sold through Cover Oregon.

SB 122 would authorize the Director of Consumer and Business Services to remove or significantly limit one of the primary mechanisms through which health plans differentiate themselves: the generosity of the plans' benefit packages. Giving the Director this authority is inconsistent with both the underlying basis of Oregon's health insurance market and the principles upon which the Patient Protection and Affordable Care Act (PPACA) was built.

The application of the HERC guidance is fundamentally at odds with the market-based commercial health insurance system in Oregon, a system embraced in the reforms of PPACA. The private health insurance market depends upon consumers being able to select health plans that match their health needs. Allowing health plan issuers to compete by offering different benefit packages is critical to ensuring that a variety of plans are available on the market to meet consumers' needs and preferences.

The health exchanges created by PPACA are designed to operate in a market-based system, not one in which the government limits or prohibits coverage of certain benefits. The success of the exchanges depends heavily on health plans being able to differentiate themselves to consumers.

SB122 authorizes the Director of the Department of Consumer and Business Services to adopt rules making the HERC treatment guidelines applicable to enrollees in plans sold through Cover Oregon. This is expressly prohibited by PPACA's anti-discrimination provisions. Under Federal law, plans in the individual and small group markets must provide essential health benefits (EHB). EHB cannot be based on a benefit design or implementation of a benefit design that discriminates on the basis of an individual's age, expected length of life, an individual's present or predicted disability, degree of medical dependency, or quality of life or other health conditions.

Many elements of the HERC treatment guidelines and Prioritized List expressly limit care based on life expectancy, and the basic premise of the Prioritized List is that providing care for patients with certain diseases is a low priority. This is not consistent with PPACA, which provides that essential health benefits cannot be denied "to individuals against their wishes on the basis of the individuals' age or expected length of life or of the individuals' present or predicted disability, degree of medical dependency, or quality of life."<sup>1</sup>

For these reasons, PhRMA opposes SB 122, and any effort to import coverage guidance produced by the Health Evidence Review Commission into the private health insurance market.

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<sup>1</sup> Patient Protection and Affordable Care Act. Pub. L. No.111-148, § 1302 (2010).