



**In Support of Oregon Senate Bill 1568
February 11, 2016**

Position: PhRMA supports Oregon SB 1568, which prohibits discrimination based on age, expected length of life, present or predicted disability, degree of medical dependency or quality of life in health benefit plans and in determination of medical services covered by state-regulated health plans.

The Pharmaceutical Research and Manufacturers of America (PhRMA) represents the country's leading innovative biopharmaceutical research and biotechnology companies, which are devoted to discovering and developing medicines that enable patients to live longer, healthier, and more productive lives. Since 2000, PhRMA member companies have invested more than \$600 billion in the search for new treatments and cures, including an estimated \$51.2 billion in 2014 alone.

PhRMA strongly supports the provisions of federal law that prevent discrimination based on age, expected length of life, present or predicted disability, degree of medical dependency, or quality of life. SB 1568 ensures compliance with the provisions in the Affordable Care Act (ACA) which ensures that exchange plans do not discriminate in benefit design or in the implementation of benefit design based on an individual's age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, present or predicted disability, degree of medical dependency or quality of life. SB 1568 ensures that trained healthcare providers are making treatment decisions for their patients.

The dash -1 amendment to SB 1568 would delete Section 2 of the bill to alleviate concerns expressed by the Governor's office that this section might interfere with the HERC prioritization process. The amendment would also make it clear that passage of the bill would not prevent the use of reasonable medical management techniques by coordinated care organizations, health insurance carriers and other affected entities.

Before the passage of the Affordable Care Act (ACA), insurers could deny consumers health care coverage based on a pre-existing condition or could charge higher premiums based on a known health condition or past medical history. Although ACA prohibits health plans from discriminating against patients based on health status, the AIDS Institute and the National Health Law Program filed a complaint in May of 2014 with the federal Department of Health and Human Services Office for Civil Rights ("OCR")^{1,2} alleging that four health insurance companies operating in Florida's Health Insurance Exchange were violating certain discrimination protections for persons living with HIV/AIDS based on plans' coverage and cost sharing requirements for certain HIV/AIDS-related prescription drugs.³ The complaint alleged that while these insurers covered many HIV/AIDS

¹ OCR has the legal authority for enforcing certain protections against discrimination under the Affordable Care Act (ACA)

² The states maintain similar enforcement authorities under the ACA, and, in fact, are permitted to enact even more stringent consumer protections.

³ The four plans are Coventry Health Care, Inc., Cigna, Humana and Preferred Medical. See AIDS Institute and NHeLP Administrative

medicines, the plans' benefit design placed all of the HIV/AIDS drugs covered by their formularies at the highest cost-sharing tier while this benefit design practice was not instituted for other diseases. In response, all four plans agreed to change their 2015 plan formularies to include lower patient cost-sharing options for AIDS drugs.

Following the Florida civil rights complaint, the Florida Department of Insurance sent a memo in March of 2015 to insurers stating it will "ensure the plan's benefit design is not unfairly discriminatory."

Beginning this year, states may submit applications to waive what are arguably some of the most important provisions of ACA, the anti-discrimination protections for patients. If such a waiver were to be granted by the HHS, patients with chronic disease and vulnerable conditions may be exposed to discrimination and harm, such as difficulty in finding providers due to narrowed networks and having medications placed on high tier formularies requiring high cost-sharing for patients.

PhRMA believes that SB 1568 takes an important and essential step toward ensuring that quality care remains accessible to patients. To ensure that consumers are protected against discriminatory insurance design, PhRMA strongly urges Oregon legislators to support Senate Bill 1568.