

# Arbor Strategies, LLC

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March 4, 2019

## Hand Delivered

Honorable Chuck Riley, Senator  
Chair, Senate Business and General Government Committee  
900 Court St. NE, S-303  
Salem, Oregon 97301

Dear Chairman Riley:

I am writing on behalf of a coalition<sup>1</sup> of health insurers representing some of the country's largest major medical insurers and health maintenance organizations. The coalition members have serious concerns with Senate Bill 419 and we urge the members of the Senate Business and General Government Committee ("Committee") to vote against the measure.

Senate Bill 419 seeks to retroactively increase, from \$100,00.00 to \$300,000.00, the individual coverage limits provided under the Oregon Life and Health Insurance Guaranty Association ("Association") for past long-term care insurer insolvencies. The retroactive nature of this proposed increase raises both legal and financial issues as well as general concerns as to the fairness of this action. As it outlined in a letter to the Chairman dated February 14, 2019, the Association also shares our concerns. While we understand fully the desire to raise the limits on guaranty association coverage for long-term care insolvencies it is damaging to the entire system, in Oregon and nationwide, to attempt to do so retroactively.

From a legal perspective there are constitutional questions as to whether a retroactive increase in an assessment is even enforceable. From a more practical perspective, the Association has entered into legal agreements, intended to allow the Association to protect Oregon policyholder to the best of its ability, by which it is bound. Senate Bill 419 would attempt, we believe ultimately unsuccessfully, to undo those legally binding agreements, and would damage our, and the Association's ability to provide protection to Oregon policyholders now and long into the future.

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<sup>1</sup> Aetna, Anthem, Cigna, HCSC and United, who together provide health insurance coverage to more than 227 million members world-wide, are the members of this Coalition.

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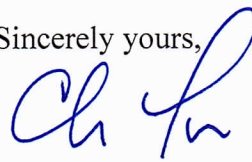
Page | 2

As part of the Penn Treaty settlement nationwide, some Oregon policyholders modified or cashed out their policies. These legal arrangements cannot be undone or even mitigated; passing this legislation would irrevocably harm these citizens for no reason. These issues are just the tip of the legal iceberg. The myriad of legal issues that would need to be addressed in order to unwind the legal frameworks established for these major long-term care insolvencies are extraordinarily complex, both legally and practically. We support and agree with all points set out in the Association's February 14<sup>th</sup> letter to this Committee outlining the legal issues raised by this proposed legislation.

Senate Bill 419, if enacted, would also create a financial nightmare. Claims have already been paid, policies modified and insurers assessed. Insurers, including the members of our coalition, have prepared financial statements and made projections based on these claim obligations and assessments. The public, regulators and other financial institutions have relied upon these statements and projections. If Senate Bill 419 were to pass, and assessments increased retroactively, the financially underpinnings of the administration of these insolvencies would have to be totally undone.

We believe that the legal and financial concerns set forth above are sufficient reasons to oppose Senate Bill 419. In addition, however, we believe that basic arguments of fairness would also suggest that Senate Bill 419 should be opposed. All of the parties involved, including the insurers and the Association, acted in good faith when addressing the issues and concerns that occurred during the past long-term care insurance insolvencies. Claims were paid and insurers were assessed under the rules established by statute and in place at the time of the solvencies. To attempt to change those rules retroactively at this point in time is unfair to the coalition members, the Association, and most importantly, to Oregon policyholders.

Sincerely yours,



Chris Petersen  
For Arbor Strategies, LLC