

Chairman Riley
Vice-Chairman Girod
And Members of the Committee

My name is Steve Adler. I live in Portland. I own a long-term care insurance policy issued by Penn Treaty Insurance Company. And I am here today to testify in favor of Senate Bill 419.

I have been working with Senator Lew Frederick and his chief of staff Troy Duker since March 2018 to fashion Senate Bill 419 in order to right a wrong that has been inflicted on my wife and me and on nearly 400 other Oregonians who are long term care policyholders of Penn Treaty – a wrong inflicted by Penn Treaty, by the Oregon Life and Health Insurance Guaranty Association, and, to make matters worse, by the Oregon legislature.

Under current Oregon law enacted in 2011, the Guaranty Association must provide \$300,000 in long term care insurance benefits to policyholders of any member insurer first placed under an order of rehabilitation or liquidation after the law's effective date of May 27, 2011. At the time of enactment, Penn Treaty had been under an order of rehabilitation since 2009; consequently, the Guaranty Association's liability to Penn Treaty long term care insurance policyholders is the amount set forth under prior Oregon law – only \$100,000. Thus, my wife and I and hundreds of other Oregonians are negatively impacted to the extent of \$200,000 each – which translates to approximately a full two years of long term care. SB 419 seeks to correct that injustice -- the State of Oregon's failure to protect us and all other Oregonians similarly situated with regard to what we call the Penn Treaty long term care insurance debacle -- by making the effective date of the 2011 Law retroactive to January 1, 2009.

Since December of 2000, my wife and I each own a Penn Treaty long term care policy which, until the company's recent liquidation, had an unlimited lifetime maximum benefit. We have paid monthly premiums averaging in excess of \$380 per month for the past 220 months and, instead of the unlimited lifetime benefit for which we signed up, we are now each eligible for only one year or less of long term care benefits at today's costs (costs that are projected to significantly increase). It's really like having paid dearly for nearly no coverage at all -- akin to being taken in by a con artist in a Ponzi scheme, using our new premium money coming through the door to pay prior benefit payment obligations -- but sadly accorded legitimacy in the guise of taking advantage of protective rehabilitation & liquidation laws. I feel that my wife and I and all other Penn Treaty policyholders have been robbed -- by Penn Treaty and, to add insult to injury, by the State of Oregon.

In February of 2010, policyholders learned that Penn Treaty had petitioned the Pennsylvania Insurance Department in October of 2009 to place Penn Treaty into liquidation. The court denied the petition, but instead placed Penn Treaty into rehabilitation. That same month, I had a telephone conversation with Jim Kleen, the then administrator of the Guaranty Association. I was concerned as to why the Oregon Guaranty Association stated its liability limit for long term care insurance policies as only \$100,000 when most other states had higher liability limits (e.g., Washington -- \$500,000). He told me that, although Penn Treaty's financial difficulties were well known to Oregon lawmakers before Penn Treaty was placed in rehabilitation in 2009, the Oregon legislature missed the boat, didn't get its act together, and failed to meet a required deadline for enactment into law in the 2009 legislative session of a bill having a \$300,000 long term care benefit limit -- a bill that would have included the Penn Treaty policyholders.

More recently, in March of last year, the Oregon Division of Financial Regulation advised Senator Frederick that the Division knew there are

about 392 policyholders in Oregon affected by the liquidation of Penn Treaty. *According to the Division, the key question for those 392 is how to retroactively apply higher limits.* The Division pointed out that the 2011 Law, as originally introduced, raised the limit from \$100,000 to \$200,000, *without limitation on retroactive application.* At some point, though, an amendment was offered that raised the benefit limit to \$300,000, but left the limit prior to the 2011 Act at \$100,000, thereby segregating long term care Penn Treaty policyholders as the only policyholders subject to a $\frac{2}{3}$ reduction in benefits at the time of passage of the bill.

The Guaranty Association has submitted to this committee a letter in opposition to SB 419, claiming all manner of administrative difficulties if it becomes law. I am not sympathetic. Laws passed by the Oregon legislature typically require considerable administrative adjustment. It is the job of administrators to comply. The Guaranty Association further claims this one-page bill -- that does nothing more than level the playing field and place Penn Treaty policyholders on an equal basis with all other policyholders of a failed long term care insurer -- violates the U.S. Constitution. I am not a constitutional scholar, but believe that claim is without merit. There is, however, a provision of the Constitution which is apropos in this instance -- the right to equal protection under the law.

The Guaranty Association's position must not stand. It is not only a matter of equal protection, but also a moral imperative. I believe the Guaranty Association, despite its statutory authority to assess, is callous enough to attempt to save money for its constituent insurance company members at the expense of hundreds of Penn Treaty policyholders who need and deserve maximum benefits as they grow older. And I don't use the term callous lightly. Nowhere in the Guaranty Association's letter blasting SB 419 did I see even a hint or

iota of a suggestion or alternative as to how to make things right for the Penn Treaty policyholders.

To add insult to injury, the Oregon legislature has failed to protect citizens of this state who are Penn Treaty policyholders from the material financial harm caused by the thoughtless effective date of the 2011 Law. We deserve better. We deserve appropriate redress. On behalf of my wife and me and of all other Oregonians who are Penn Treaty long term care policyholders, we hope and trust the State of Oregon will take action to protect us from these unwarranted financial losses, none of which arise from our own misdoing and all of which will have the greatest impact in our most vulnerable elderly years.

Thank you for allowing me to address you today. I hope and trust you will do the right thing and recommend Senate Bill 419 for enactment into law.

