

# SENATE BILL REPORT

## SB 5039

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As of January 20, 2011

**Title:** An act relating to insurance coverage of tobacco cessation treatment in the preventative benefit required under the federal law.

**Brief Description:** Concerning insurance coverage of tobacco cessation treatment in the preventative benefit required under the federal law.

**Sponsors:** Senators Murray, Keiser, Hatfield, Pridemore, Conway and Chase.

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 1/20/11.

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Staff:** Mich'l Needham (786-7442)

**Background:** The federal Patient Protection and Affordable Care Act (PPACA), passed in 2010, requires new individual and group insurance plans to fully cover the costs of preventive services recommended by the U.S. Preventive Services Task Force, as of September 23, 2010. The preventive services must not be subject to deductibles, copayments, or other cost-sharing.

The U.S. Preventive Services Task Force has recommended 45 preventive services in the top A or B rating, including a number of preventive screenings such as blood pressure screening, breast cancer screening, depression screening, diabetes screening, obesity screening, etc. The taskforce has recommended tobacco use counseling and interventions, suggesting clinicians ask about tobacco use and provide tobacco cessation interventions.

**Summary of Bill:** All licensed individual and group insurance plans renewed on or after January 1, 2012, must cover a minimum of two courses of tobacco cessation treatment in a 12-month period. Services must include counseling and over-the-counter medication and prescription drugs approved by the federal Food and Drug Administration (FDA).

A course of treatment is defined to mean: (1) at least four sessions of counseling with each session lasting at least ten minutes; or (2) the duration of treatment approved by the FDA for each prescription or over-the-counter medication.

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Health carriers may not impose prior authorization or stepped-care requirements, nor require enrollees to enter counseling to receive tobacco cessation medication after the first course of treatment.

The act expires on the date the Office of Insurance Commissioner determines that the state will assume additional costs pursuant to the federal PPACA. The commissioner must provide notice of the determination and expiration of the act as appropriate.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: The best way to control the costs associated with tobacco related illnesses is through prevention. Prevention saves lives and saves money. Current insurance coverage leaves holes for many in accessing good pharmacy products and counseling services for as long as they may need them, or at an affordable rate. Most people need multiple quit attempts, paired with counseling and pharmacy products for the best success. There are multiple approaches that can help people and this provides access to the arsenal of weapons. Some have concerns that this is a mandate, but many mandates like this are for good public safety reasons like seatbelts and fire sprinklers. Oregon has already passed similar legislation.

CON: We have a long history of supporting smoking cessation programs, and we will continue to do so. But we do not like the approach of a mandate to provide the benefit in a defined way. It will add costs to premiums at a time when we already face double digit trends. Changes to benefits are premature since the federal government is working on developing the new essential benefits that will be the baseline in the individual and small group products in the exchange. Insurance carriers would like to retain the flexibility to continue with their current programs, including use of a formulary and prior authorization. Oregon passed similar legislation and our estimate is that it will be approximately \$1 per member per month. The approach with this mandate only applies to regulated insurance carriers and does not reach the self-insured plan offered by the state (UMP), other self-insured plans, or Taft-Hartley trusts. It unfairly hits small employers.

**Persons Testifying:** PRO: Senator Murray, prime sponsor; Russ Spencer, Pfizer Inc., Heidi Henson, Meghan Sullivan, citizens.

CON: Mel Sorenson, Washington Association of Health Underwriters, Americas Health Insurance Plans; Chris Bandoli, Regence Blue Shield; Joe King, Group Health Cooperative; Patrick Connor, National Federation of Independent Business.