

# SENATE BILL REPORT

## SB 5039

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As Reported by Senate Committee On:  
Health & Long-Term Care, February 7, 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, 1/27/11, 2/07/11 [DPS, DNP, w/oRec].

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

**Majority Report:** That Substitute Senate Bill No. 5039 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Kline, Murray, Pflug and Pridemore.

**Minority Report:** Do not pass.

Signed by Senator Carrell.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Becker, Ranking Minority Member; Parlette.

**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

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taskforce has recommended tobacco use counseling and interventions, suggesting clinicians ask about tobacco use and provide tobacco cessation interventions.

**Summary of Bill (Recommended Substitute):** 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), available in the plan's formulary or preferred drug list.

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.

The act expires on December 31, 2013, or the date the state determines that there are additional costs to the state pursuant to the federal PPACA. The commissioner must provide notice of the determination and expiration of the act as appropriate.

**EFFECT OF CHANGES MADE BY HEALTH & LONG-TERM CARE COMMITTEE (Recommended Substitute):** Health plans may use their formulary or preferred drug list for prescription drugs, and plans may use prior authorization requirements. The Office of the Insurance Commissioner's role in monitoring the additional expense for the mandate in relation to the essential health benefits is removed. An expiration date is inserted for December 31, 2013, or when the state determines the mandate does result in additional expense to the state above the essential health benefits that are required January 1, 2014.

**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 on Original Bill:** 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.