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# Sneed Law Firm, LLC

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## Memorandum

To: The Honorable Vicki Schmidt, Chair  
Senate Public Health and Welfare Committee

From: William W. Sneed, Retained Counsel  
America's Health Insurance Plans

Date: February 20, 2017

RE: SB 165 (written only)

Madam Chair, Members of the Committee: My name is Bill Sneed and I am Retained Counsel for America's Health Insurance Plans ("AHIP"). AHIP is the national trade association representing the health insurance industry. AHIP members provide health and supplemental benefits to more than 200 million Americans through employer-sponsored coverage, the individual and small group insurance markets, and public programs such as Medicare and Medicaid. Members offer a broad range of health insurance products in the commerce marketplace and have also demonstrated a strong commitment to participation in public programs throughout the country. Please accept this memorandum as my client's opposition to SB 165.

Prescription drugs are an important part of medical treatment. Under the Affordable Care Act (ACA), every health insurance policy must include a comprehensive "essential health benefits" package covering ten categories of services, including prescription drug coverage. Health plans are committed to ensuring that patients have access to medications that are safe, effective, and affordable. This includes being committed to the prevention of opioid abuse and misuse.

Opioids and other controlled substance drugs may be part of the pain management treatment prescribed by a physician. Given the rising prescription drug abuse epidemic in the country, abuse-deterrent drug formulations are being looked at as a way to manage pain, while trying to eliminate the expected routes of abuse, such as crushing or dissolving the

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substance. Although abuse-deterrent formulations (ADF) of opioids or “abuse-deterrent opioids” may help combat abuse in some cases, they are not a “one size fits all” solution. Requiring coverage of ADFs, given a number of factors, is inappropriate.

**Abuse deterrent formulations do not necessarily stop abuse and can have the unintended consequence of increasing heroin use.**

(1) ADF opioids can still be abused even though they cannot be easily crushed, dissolved, chewed, or cut. Abuse deterrent formulations may not prevent abuse or overdose of the ADF drug itself. Patients who are drug abusers will find a way to abuse a drug.

(2) A study published in the *New England Journal of Medicine* concluded that drug abusers significantly lowered their use of OxyContin after the ADF was introduced, but increased their use of other opioids, including heroin. That study found that, “abuse-deterrent formulations may not be the ‘magic bullets’ that many hoped they would be in solving the growing problem of opioid abuse.”<sup>1</sup>

(3) The federal government agrees that introduction of the ADF of OxyContin may have led some abusers to switch to heroin. The Substance Abuse and Mental Health Services Administration (SAMHSA) found that since the introduction of the ADF version of OxyContin, rates of heroin use have been increasing significantly.<sup>2</sup>

(4) The FDA has not made any determination that an ADF opioid is any safer to a patient than an equivalent non-abuse resistant drug.

**Pharmacy benefit Tools already help combat opioid misuse.**

Health plans and PBMs have implemented oversight measures to identify cases of opioid misuse or probable abuse. Sophisticated prescription management tools can pick up patterns that indicate misuse, including refilling prescriptions early, exceeding medication dosage limits, or visiting multiple physicians or pharmacies.

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<sup>1</sup> Cicero, T.J. And Surratt, J.L., “Effect of Abuse-Deterrent Formulation of OxyContin,” *New England Journal of Medicine*, July 12, 2012

<sup>2</sup> Substance Abuse and Mental Health Services Administration, “Associations of Nonmedical Pain Reliever Use and Initiation of Heroin Use in The United States,” August 2013.

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**Restricting use of formulary management tools raises costs to patients.**

(1) Health insurers and PBMs have the expertise to design pharmacy benefit coverage that fits the needs of their patients. They rely on teams of medical professionals, clinicians, and academics to guide their decisions on formulary design, based on the latest scientific information and practice standards, including guidelines on the use of opioids to manage acute and chronic pain.

(2) Step therapy encourages physicians and patients to undertake a more evidence-based, measured approach to treatment that is tailored to the individual by gauging a patient's response to less harmful medications before graduating to the more potent and high-risk drugs.

(3) For potentially addictive and abused drugs, health plans implement step therapy protocols in their pharmacy management as a way to maximize treatment and disease management while reducing the risks associated with overmedication, prescription drug abuse and addiction.

(4) Requiring that ADF medications be placed in the lowest or preferred cost sharing tiers and prohibiting the use of step therapy harms innovation and choice but does nothing to stop the abuse of these drugs. It could actually have an unintended consequence of acting as a disincentive to using generic alternatives, which would increase costs of prescription drugs as a whole. Tennessee determined that a bill forbidding generic substitution for tamper-resistant opioids would raise health insurance premiums and increase federal, state, and local costs, at a price tag of \$11M in Tennessee alone.<sup>3</sup>

**States should implement robust prescription drug monitoring programs.**

(1) There is consensus among nearly all stakeholders regarding the need for each state to fully develop and operate a robust, interoperable and efficiently-deployed Prescription Drug Monitoring Programs (PDMP) as a tool in combating opioid abuse.

(2) PDMPs are statewide electronic databases designed to monitor the prescribing and dispensing of controlled substances – or scheduled drugs, as determined by federal regulation.

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<sup>3</sup> Tennessee General Assembly Fiscal Review Committee, "Fiscal Note: SB 993-HB 1818," April 1, 2011.

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(3) PDMPs have been shown to assist physicians in identifying patterns of prescribing and abuse so that prevention, intervention and treatment can occur.

(4) There is sufficient validating evidence demonstrating that a reduction in incidences of doctor shopping correlates to a reduction in abuse.

Based on the above, we respectfully request that the Committee not take action on SB 165.

Thank you.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "WWS", is written over the typed name.

William W. Sneed