Sneed Law Firm, LLC

Memorandum

To: The Honorable Jeff Longbine, Chair
Senate Insurance Committee
From: William W. Sneed, Legislative Counsel
America's Health Insurance Plans

Date: February 4, 2021

RE: SB 48

Mr. Chair, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for America's Health Insurance Plans ("AHIP"). Please accept this memorandum as my client's opposition to SB 48

AHIP is the national association whose members provide coverage for health care and related services. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities, and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access, and well-being for consumers. Our members are committed to providing consumers with affordable products that offer a broad range of robust provider networks of quality, cost-efficient providers.

Health insurance plans have a strong track record of providing access to high-quality, evidence-based care to millions of Americans. Over the past decade, health insurance plans have demonstrated their commitment to providing high-quality care by offering innovative programs that incorporate many medical advancements as they emerge with clear medical evidence of effective treatments for many conditions. In addition, health insurance plans are responding to increasing demand by consumers and employers for flexible and affordable benefit options that are tailored to consumers' needs.

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State benefit mandates can hinder health insurance plans' ability to respond in this environment by requiring coverage of specified treatments, services, or conditions. However well intentioned, these mandates can ultimately harm consumers by imposing static clinical procedures and by raising the cost of health insurance.

- **Benefit mandates reduce consumer choice and access to coverage.**
  - Research indicates that the primary reason 40 million Americans are uninsured is the high cost of health care and health care coverage. According to the National Health Interview Survey, conducted by the Centers for Disease Control and Prevention in 2004, 53.3% of uninsured Americans do not have health coverage as a direct result of cost.
  - In addition, according to a 2008 study, mandates have a direct impact on premium costs and increase the cost of basic health coverage from 20% to 50% depending on the specific state and/or specific mandated benefit.1 States should, before enacting any mandate, consider the cumulative effect they may have on limiting access to affordable coverage.
  - Health insurance plans must have the flexibility to design affordable benefit packages to meet their insured customer's needs. Mandates can limit the broad array of innovative and efficient products health insurance plans have available to employers and individuals, including affordable, mandate free policies.
  - Mandates often times misallocate resources by requiring consumers, or their employers, to spend available funds on benefits that they would otherwise not purchase. Benefit mandates can actually make it harder for consumers to obtain the benefits they do want.
  - Benefit mandates can also interfere with the availability of certain health insurance products, particularly if those mandates require first dollar coverage for particular procedures or illnesses. For example, health savings accounts (HSAs) may not provide first dollar coverage or coverage for procedures that are below the mandated deductibles for those plans unless those procedures are preventive in nature.

- **Benefit mandates may require adherence to procedures and practices that may not be optimally appropriate or effective and often have a direct, negative impact on quality.**
  - When a state passes a coverage mandate, often times, the mandate remains static and does not reflect changes in the practice of medicine, new medical technology or other medical advances, or knowledge that may make the mandate obsolete or even harmful to patients. Decisions which are not based on the best available evidence can expose patients to increased health risks and/or may reduce their quality of life.
    - For example, while bariatric surgeries have become increasingly common in today's society, the scientific literature reports wide variations and insufficient quality data on health outcomes on such procedures raising significant patient safety concerns. A 2005 study published in the Journal of American Medical Association found that the

cumulative readmission rate of patients for the three years prior to having gastric bypass surgery was 20%, compared to the readmission rate for the cumulative three year period post gastric bypass surgery which was 40%. A 2004 New England Journal of Medicine article suggests that profit margins for those performing bariatric surgeries may be driving the growth in volume of such procedures, potentially placing patients at risk, as less skilled practitioners and clinics seek to capitalize on the trend.

- In addition, during the 1990s several states enacted requirements for coverage of autologous bone marrow transplants (ABMT) for certain types of breast cancer. It was later discovered that such treatments were ineffective. After several clinical trials, the National Cancer Institute (NCI) concluded: "In all of the NCI-sponsored randomized trials, and in most of the international ones, high-dose chemotherapy with transplantation has not proven superior to treatment with more standard doses of chemotherapy. Therefore [such therapy] is not recommended for the treatment of breast cancer outside of clinical trials."

- **Benefit mandates can interfere with the use of medical management tools that ensure the provision of high-quality care.**
  - Health insurance plans understand the sensitive nature of any condition a patient may have. As a result, they work to ensure that patients receive the most appropriate and efficient treatments for their conditions, applying techniques such as utilization review and management and medical necessity criteria to ensure that the care a patient receives is actually in the best interest of the patient. Benefit mandate proposals must incorporate language that supports the continued use of medical management tools to allow for the appropriate management of benefits to improve the overall quality of care being delivered.

- **States should evaluate the true costs and benefits of proposed mandates to ensure there can be an accurate assessment of the impact of the proposal.**
  - Twenty-three states currently have independent advisory commissions that proactively evaluate the medical, social, and financial impacts of coverage mandates to ensure that any mandate enacted will result in improved care and value.

- Potential Language Issue

o Finally, the proposed changes would affect all health insurance policies. Many policies are limited or disease specific. Generally, when the Legislature does make such a mandate they exclude this policies. This can be done by using the term health benefit plan as defined in KSA 40-4602.

We contend that after you have heard our concerns, you will agree to not take action on SB 48. Thank you for your time and I will be available for questions at the appropriate time.

Respectfully submitted,

William W Sneed