September 18, 2017

Marilyn Tavenner
President and CEO
America’s Health Insurance Plans
601 Pennsylvania Avenue, NW
Washington, DC 20004

Re: Prescription Opioid Epidemic

Dear Ms. Tavenner,

The undersigned State Attorneys General are sending you this letter to urge America’s Health Insurance Plans (AHIP) to take proactive steps to encourage your members to review their payment and coverage policies and revise them, as necessary and appropriate, to encourage healthcare providers to prioritize non-opioid pain management options over opioid prescriptions for the treatment of chronic, non-cancer pain. We have witnessed firsthand the devastation that the opioid epidemic has wrought on our States in terms of lives lost and the costs it has imposed on our healthcare system and the broader economy. As the chief legal officers of our States, we are committed to using all tools at our disposal to combat this epidemic and to protect patients suffering from chronic pain or addiction, who are among the most vulnerable consumers in our society.

The opioid epidemic is the preeminent public health crisis of our time. Statistics from the Surgeon General of the United States indicate that as many as 2 million Americans are currently addicted to or otherwise dependent upon prescription opioids.1 Millions more are at risk of developing a dependency—in 2014, as many as 10 million people reported using opioids for nonmedical reasons.2 The economic toll of the epidemic is tremendous, costing the U.S. economy an estimated $78.5 billion annually.3 State and local governments alone spend nearly 8 billion dollars a year on criminal justice costs related to

---

2 See Surgeon General, supra fn. 1 (citing National Survey on Drug Use and Health, Substance Abuse and Mental Health Services Administration, 2014).
opioid abuse. The human cost is even more staggering: Opioid overdoses kill 91 Americans every single day. More than half of those deaths involve prescription opioids.

The unnecessary over-prescription of opioid painkillers is a significant factor contributing to the problem. Although the amount of pain reported by Americans has remained steady since 1999, prescriptions for opioid painkillers have nearly quadrupled over the same timeframe. This four-fold increase in prescriptions has contributed to a commensurate increase in the number of opioid overdose deaths. The dramatic increase in supply has also made it relatively easy to obtain prescription opioids without having to resort to the black market: Over 50% of people who misuse opioids report that they obtained them for free from a friend or relative, while another 22% misused drugs that they obtained directly from a doctor. While illegal opioids like heroin remain a serious problem that also must be addressed, the role played by prescription opioids cannot be ignored. While there is no panacea, any comprehensive effort to address and end the opioid epidemic must tackle the ever-increasing number of prescriptions for opioid painkillers.

Reducing the frequency with which opioids are prescribed will not leave patients without effective pain management options. While there are certainly situations where opioids represent the appropriate pain remedy, there are many other circumstances in which opioids are prescribed despite evidence suggesting they are ineffective and even dangerous. For example, the American Academy of Neurology has explained that while the use of opioid painkillers can provide “significant short-term pain relief,” there is “no substantial evidence for maintenance of pain relief or improved function over long periods of time.” Another recent study concluded that the use of opioids to treat chronic, non-cancer related pain lasting longer than three months is “ineffective and can be life-threatening.” When patients seek treatment for any of the myriad conditions that cause chronic pain, doctors should be encouraged to explore and prescribe effective non-opioid alternatives, ranging from non-opioid medications (such as NSAIDs) to physical therapy, acupuncture, massage, and chiropractic care.

---

Insurance companies can play an important role in reducing opioid prescriptions and making it easier for patients to access other forms of pain management treatment. Indeed, simply asking providers to consider providing alternative treatments is impractical in the absence of a supporting incentive structure. All else being equal, providers will often favor those treatment options that are most likely to be compensated, either by the government, an insurance provider, or a patient paying out-of-pocket. Insurance companies thus are in a position to make a very positive impact in the way that providers treat patients with chronic pain.

Adopting an incentive structure that rewards the use of non-opioid pain management techniques for chronic, non-cancer pain will have many benefits. Given the correlation between increased supply and opioid abuse, the societal benefits speak for themselves. Beyond that, incentivizing opioid alternatives promotes evidence-based techniques that are more effective at mitigating this type of pain, and, over the long-run, more cost-efficient. Thus, adopting such policies benefit patients, society, and insurers alike.

The undersigned Attorneys General serve an important role in combating the opioid epidemic. As the chief legal officers of our States, we are charged with protecting consumers, including patients suffering from chronic pain and opioid addiction. Among other things, we are committed to protecting patients from unfair or deceptive business practices and ensuring that insurers provide consumers with transparent information about their products and services.

We are thus committed to utilizing all the powers available to our individual offices to ameliorate the problems caused by the over-prescription of opioids and to promote policies and practices that result in reasonable, sustainable, and patient-focused pain management therapies. In the near future, working in conjunction with other institutional stakeholders (such as State Insurance Commissioners), we hope to initiate a dialogue concerning your members’ incentive structures in an effort to identify those practices that are conducive to these efforts and those that are not. We hope that this process will highlight problematic policies and spur increased use of non-opioid pain management techniques. The status quo, in which there may be financial incentives to prescribe opioids for pain which they are ill-suited to treat, is unacceptable. We ask that you quickly initiate additional efforts so that you can play an important role in stopping further deaths.

We look forward to having this discussion with you.

Sincerely,

Leslie Rutledge
Arkansas Attorney General

Pamela Jo Bondi
Florida Attorney General

---

Derek Schmidt  
Kansas Attorney General

Andy Beshear  
Kentucky Attorney General

Jim Hood  
Mississippi Attorney General

Hector Balderas  
New Mexico Attorney General

Sean Reyes  
Utah Attorney General

Mark R. Herring  
Virginia Attorney General

Patrick Morrisey  
West Virginia Attorney General

Mark Brnovich  
Arizona Attorney General

Xavier Becerra  
California Attorney General

George Jepsen  
Connecticut Attorney General

Karl A. Racine  
District of Columbia Attorney General

Christopher M. Carr  
Georgia Attorney General

Douglas S. Chin  
Hawaii Attorney General

Lisa Madigan  
Illinois Attorney General

Curtis T. Hill Jr.  
Indiana Attorney General

Janet T. Mills  
Maine Attorney General

Maura Healey  
Massachusetts Attorney General

Bill Schuette  
Michigan Attorney General
Josh Hawley
Missouri Attorney General

Tim Fox
Montana Attorney General

Douglas Peterson
Nebraska Attorney General

Adam Paul Laxalt
Nevada Attorney General

Gordon MacDonald
New Hampshire Attorney General

Christopher S. Porrino
New Jersey Attorney General

Eric T. Schneiderman
New York Attorney General

Josh Stein
North Carolina Attorney General

Wayne Stenehjem
North Dakota Attorney General

Ellen F. Rosenblum
Oregon Attorney General

Josh Shapiro
Pennsylvania Attorney General

Wanda Vázquez Garced
Puerto Rico Attorney General

Peter Kilmartin
Rhode Island Attorney General

Alan Wilson
South Carolina Attorney General

Marty Jackley
South Dakota Attorney General

T.J. Donovan
Vermont Attorney General

Brad Schimel
Wisconsin Attorney General