NFIB
The Voice of Small Business®

OHIO

October 14, 2015

Representative Anne Gonzales
Chair, Ohio House Health & Aging Committee
77 South High Street, 13th Floor
Columbus, OH 43215

Dear Representative Gonzales:

I am writing on behalf of our nearly 25,000 members to discuss concerns we have regarding House Bill 248 (HB 248). This legislation prohibits health plans from denying coverage for opioid drugs with abuse-deterrent technology solely based on cost. By way of background, the typical NFIB/Ohio member employs 25 or fewer and has less than $2 million in gross receipts. Our members come from all industries and areas of the state. Since 1986, affordability of healthcare has ranked, amongst our members, as the number one problem facing small-business owners.[1] We recognize the intent of the bill and the growing opioid addiction epidemic facing not only Ohio, but the nation. Our opposition is based upon several factors related to all state-imposed health insurance mandates, as explained below.

Affordability

Thirty three percent of small businesses employing 25 or fewer and thirty five percent of those that employ 50 of fewer offer health insurance to their employees.[2] Sixty five percent of those that do not offer coverage indicated cost as the major reason. Since 2004, the average annual premium cost for family coverage in small firms increased sixty nine percent. These costs cannot simply be passed on to customers.[3] Small businesses continually face difficult decisions in regards to offering of benefits, greater employee contributions, and changing to a plan(s) with higher out-of-pocket expenses, etc. Given the upcoming changes in small-group qualified health plans under the Affordable Care Act, and anticipated spikes in premiums associated with[4], why would the state of Ohio want to pile on to the segment of the business community that creates two of every three new jobs? Even the United States Congress and President Obama recognized the challenges faced by saddling additional employers with new mandates. Just last week, The Protecting Affordable Coverage for Employers Act (PACE) was signed by President Obama after passing both houses of Congress with bipartisan support. The PACE Act eliminates mandated expansion of the small group market to 100 lives, potentially saving 160,000 employers double-digit premium increases upon policy renewal.

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[1] https://www.nfib.com/Portals/0/PDF/AllUsers/research/studies/small-business-problems-priorities-2012-nfib.pdf

[2] Agency for Healthcare Research and Quality, Center for Financing, Access and Cost Trends. 2013 Medical Expenditure Panel Survey-Insurance Component.

[3] Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2014.

[4] https://ratereview.healthcare.gov/#urrresults?U2FsdGVkX1%2FgK3bDFofCcIf8HLJJYyji8hRA80rxwK2%2FyjByCtINKVsN1WYWNjNh

Equity

Like all state-imposed health insurance mandates, the impact on the insured marketplace is limited. State health insurance mandates are only applicable to the fully-insured and individual markets. Those self-insured plans, which tend to be larger companies, including the state of Ohio's employee plans, are not impacted by these mandates per the federal Employee Retirement Income Security Act (ERISA). According to the Milliman Report commissioned by the Ohio Department of Insurance, the fully-insured and individual markets make up less than 30% of all eligible, non-elderly, individuals. [5] This data raises concerns regarding equity. Although HB 248 does apply the provisions to Medicaid, which is supported by all taxpayers, the bill is noticeably silent with respect to the state of Ohio's health plans. Further, if the legislators decide to pass a state-imposed health insurance mandate, due to the belief that to not mandate coverage is a significant threat to public health, they (all taxpayers) should be willing to incur the costs associated with it and provide coverage for all Ohioans, including the state of Ohio plans.

Loss of Flexibility

For most small employers, the option to self-insure is simply not viable. This means if they offer health insurance, they purchase their fully-insured plan(s)/product(s) from a health insurance company. These plans are required to provide all state-mandated benefits in statute. Currently, Ohio has 31 mandates already on the books.[6] Ohio does however remain below the average, as most states have 40 or more. Rest assured, there is a cost associated with each mandate. There is no such thing as a free mandate! While self-insured plans, including state of Ohio employee plans, may tailor plans that fit the needs of their employees, small-businesses do not enjoy this luxury. When the General Assembly enacts new mandates, it further reduces flexibility, by forcing coverages that employers and their employees do not want or need.

Where does it end?

As indicated above, Ohio has just over 30 mandates in place. However, some states have nearly 70 mandates on the books. The very real potential for many additional new mandates exists. How does the General Assembly champion one mandate leaving others to wonder why their cause is deemed not as worthy? The slow drip of mandates only adds to the burden of those small employers trying to maintain or offer benefits to employees while controlling costs.

Gaps in coverage

The enactment of a state-imposed health insurance mandate may give the impression that coverage is provided for all, however this is anything but the case. As indicated above, less than 30 percent of the marketplace is impacted by health insurance mandates. If you include public assistance plans, that figure does increase to approximately 50 percent[7], however these public assistance plans are paid for by all taxpayers. The end result is significant gaps in coverage. When a public health crisis arises, and the General Assembly believes it must be addressed, simply passing a mandate does not provide the stated solution.

Finally, when limits are forced on products or groups of products irrespective of the cost associated with obtaining the products, in this case opioid abuse-deterrent drugs, cost recovery will most likely be recouped elsewhere. In this case, likely through increased premiums.

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[5] http://insurance.ohio.gov/Consumer/Documents/Milliman_Report.pdf

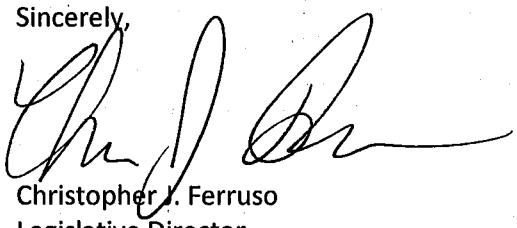
[6] http://www.cahi.org/cahi_contents/resources/pdf/Mandatesinthestates2012Execsumm.pdf

[7] http://insurance.ohio.gov/Consumer/Documents/Milliman_Report.pdf

NFIB/Ohio is opposed to House Bill 248 for the aforementioned reasons. It is our hope that the committee will work to find a solution that does not ask the fully-insured small and large group and individual plans to shoulder the burden of this mandate.

Thank you for your consideration.

Sincerely,



Christopher J. Ferruso
Legislative Director

cc: Members of the Ohio House Health & Aging Committee
Representative Cliff Rosenberger, Speaker of the Ohio House
Steven Alexander, Majority Caucus Staff