The Honorable Pat Spearman
Chair, Senate Committee on Health and Human Services
Nevada Legislature
Room 2149, Legislative Building
Carson City, NV 89701

March 28, 2017

RE: **Novo Nordisk Inc. Statement in Opposition to SB 265**

Dear Committee Chair Spearman:

Novo Nordisk Inc. (NNI) appreciates the opportunity to comment on SB 265, which attempts to address concerns expressed about the cost of treatment for diabetes through broad regulation of pharmaceutical manufacturers and non-profit patient advocacy organizations.

Novo Nordisk is a global health care company with more than 90 years of innovation and leadership in diabetes, obesity, hemophilia, and growth hormone disorders. Novo Nordisk is headquartered in Denmark, but also has a US home office in New Jersey and 5,000 U.S. employees. Though the NNI US home office is located in New Jersey, Novo Nordisk is one of several companies with west coast distribution activities housed in Reno. The facility ships and distributes all company manufactured product to purchasers and wholesalers across the western US. We also conduct a portion of our clinical research in Nevada, where we currently have 8 investigational sites engaged in diabetes trials.

While we understand the sponsors' concern about the affordability of medicines to manage diabetes, we are writing to express our opposition to SB 265. This proposal would impose significant new, complex and punitive requirements on drug manufacturers when manufacturers already provide competitive discounts to payers and represent only a single component of the enormously complex US drug pricing and distribution system. This complexity, which the proposed legislation fails to address, has resulted in confusion around what patients pay for medicines.

News reports on drug prices have left the public and policymakers with the misimpression that pharmaceutical companies realize all the profits from Wholesale Acquisition Cost (WAC) or "list price" increases. In other words, a list price increase by XX percent leads to an automatic XX percent profit for the drug maker. This is misleading and ignores the complex realities of the US healthcare system. As a manufacturer, while we do set the "list price,", the entities that actually pay for medicines, or "payers," negotiate with us for discounts from that list price, creating a competitive environment that reduces "net prices" (price after discount or rebate) that we receive. It is impossible to ignore the complex realities of the US healthcare system, and any meaningful effort to address cost concerns must include the entire distribution chain – pharmacy benefit managers (PBMs), insurance companies, wholesale distributors and the pharmacy community -- to help find sustainable solutions that will truly benefit patients.

Additionally, under mandates in federal law, for products dispensed to Medicaid patients, the states and the federal government share the manufacturers' "best price" discounts, derived from the competitive pricing in the commercial marketplace. In addition, Medicaid is held harmless against price increases that exceed the Consumer Price Index.

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Specific provisions of the legislation intended to advance the goals of lower costs for patients instead promise unintended negative consequences, little or no patient benefit or are simply inequitable.

- In practice, proposed punitive reimbursement provisions of this legislation, based upon the difference between WAC and the "foreign price cap," completely ignore the competitive discounting that occurs within the US free-market system and would exact from manufacturers arbitrary additional discounts for the benefit of insurers and other payers. This would represent an unusual government intrusion into the relationships between private parties—a scenario in which the government is arbitrarily favoring some parties, while disfavoring others, which distorts the competitive private market dynamic.Disclosures required of manufacturers under this legislation would provide no meaningful information that could lead to reduced out of pocket costs for patients; disclosure of certain information could prove detrimental to a manufacturer's recognized legal rights and interests, with inadequate remedies for harm caused by unauthorized disclosure by others with custody of the information provided by a manufacturer.
- The proposed manufacturer-run claims and reimbursement process would be virtually impossible to implement, as data necessary to establish the validity of claims, or to adjudicate them, are not within manufacturer control and may be proprietary to payers or others in the distribution system. The provisions that involve interaction with patients have HIPAA implications which are beyond the scope of state legislative and regulatory authority.
- Estimates of the impact of the legislation on the state budget suggest that implementation would result in a net loss of revenue.
- The imposition of financial disclosure requirements on non-profit organizations that derive some support from pharmaceutical manufacturers is intrusive and burdensome; these organizations have the authority to adopt and enforce policies and rules that assure their independence and should be permitted to continue to do so.
- Advance notice of price increases to select audiences presents risk under applicable anti-trust laws and regulations, and could have a perverse anti-competitive effect in the marketplace;
- Pharmaceutical company sales and promotional activities are exhaustively regulated by the FDA; the imposition of additional training and licensing requirements at the state level are unnecessary.

In light of the various aspects of this legislation that present significant legal and practical questions, together with the narrow focus on a single component of the complex US pricing and distribution system and the negative fiscal impact estimates noted in the Committee's fiscal analysis of the bill, Novo Nordisk Inc. respectfully requests members of the Senate Health and Human Services Committee to vote "no" on SB 265 and further consideration of this proposal.

Sincerely,

Tricia Brooks
Vice President Public Affairs
Legal & Corporate Affairs

Cc: Members of the Senate Committee on Health and Human Services