

September 24, 2019

Thomas Van Gilder, MD
Chief Medical and Analytics Officer
Walmart, Inc.
702 SW 8th Street
Bentonville, AR 72716

Dear Dr. Gilder:

On behalf of the American Medical Association (AMA) and our physician and medical student members, I want to thank you for reaching out about the concerns of the AMA House of Delegates and physicians across the nation about Walmart's corporate prescription opioid restriction policy. This was described in your September 6, 2019 letter as your "refusal to fill" policy. As we have heard from our members, Walmart's corporate policy to limit opioid prescriptions to seven days or 50 morphine milligram equivalents (MME) has caused harm to patients with acute, palliative, cancer-related, chronic pain and other medical conditions requiring amounts or doses greater than your corporate policy. Our Board of Trustees Report 22-A-19 reported the facts, which have been amply reported by many other groups concerned about patients' access to clinically appropriate opioid therapy.

Your "refusal to fill" policy also has disrupted legitimate medical practices that receive form letters telling them their prescribing rights under state law will be superseded by a Walmart-created algorithm that deems a physician unfit to prescribe. We are not aware of any state law or regulation that gives a corporate entity the authority to take action against a licensed health care professional. If a state legislature has enacted an opioid prescribing restriction or other law, then the health care professionals in that state are required to follow the law as a matter of professional licensure. We are not aware of any medical or pharmacy board abrogating its licensing oversight in favor of a national corporate entity using an unknown algorithm, and we therefore urge you to rescind your policy. Simply put, this policy is interfering in the practice of medicine and pharmacy.

Furthermore, we are concerned by your letter's apparent confusion over Section 1306.04 of the Controlled Substances Act (CSA) that places the corresponding responsibility to dispense medications on the pharmacist licensed by the state in which he/she practices rather than the pharmacist's corporate employer. Several years ago, as we previously communicated, the AMA engaged in a collaborative process convened by the National Association of Boards of Pharmacy. This collaborative included many corporate pharmacy chains (e.g., Walgreens, CVS), the U.S. Drug Enforcement Administration (DEA), as well as medical societies and other health care professional organizations.

This collaborative process, as discussed by BOT 22-A-19, resulted in improved communication and collaboration between pharmacists and physicians, including having physician and pharmacy organizations encourage greater interprofessional communication. When issues do arise, the AMA and multiple pharmacy organizations have discussed them to resolve the issues on a case-by-case basis. This approach is in striking contrast to an anonymous Walmart email in-box that may result in days, weeks or

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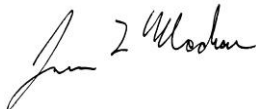
even greater delays. Combined with the overly restrictive and inappropriate “refusal to fill” corporate policy, your resolution process demonstrates the type of impersonal, one-size-fits-all response that has resulted in mistrust and negative attitudes towards Walmart by many physicians and patients.

We appreciate the invitation for a meeting. As a more productive first step, however, we suggest that you provide the AMA with the detailed data sources and analytical tools that are being used to create the algorithms and decision points behind your “refusal to fill” policy. By making those sources and information public and transparent, the AMA and others will be able to carefully review them and better inform a potential future discussion.

We also respectfully urge, as briefly described above, that you rescind your “refusal to fill” policy. This is especially critical given its reliance on the voluntary Centers for Disease Control (CDC) opioid prescribing guideline. We remind you that the CDC advised recently that “some policies and practices purportedly derived from the guideline have in fact been inconsistent with, and often go beyond, its recommendations.” The Walmart “refusal to fill” policy is a prime example. We have every confidence in physicians and their pharmacist colleagues carrying out their legal responsibilities under state law and the CSA. Health care professionals are well-equipped to protect their patients without an inappropriate “refusal to fill” policy based on arbitrary thresholds intruding on the physician-pharmacist-patient triad.

Thank you again for your correspondence. If you would like to discuss these matters in more detail, please contact Daniel Blaney-Koen, JD, Senior Legislative Attorney, AMA Advocacy Resource Center, at daniel.blaney-koen@ama-assn.org or (312) 464-4954.

Sincerely,

A handwritten signature in cursive script, appearing to read "James L. Madara".

James L. Madara, MD

cc: Arkansas Medical Society
Scott Ferguson, MD