



The Pharmacist Activist

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“This is the day the Lord has made; let us be glad and rejoice in it.” Psalm 118:24

Editorial

Tennessee Calls CVS's Bluff!

CVS has acquired such extensive wealth/resources and influence over the years that it has confidence that it can respond to and suppress almost every challenge with which it is faced, including allegations of monopolistic and illegal operations. There are very few situations which CVS executives consider enough of a threat to warrant their prompt and strong response/defense. One of these situations is sustained negative publicity about major errors and other experiences that could significantly reduce profits and stock value. However, information about these experiences can be quickly suppressed and resulting litigation is settled out-of-court with confidentiality provisions regarding the terms of the settlement. One exception to their ability to escape negative publicity has been its settlement, along with those of others, in the amounts of billions of dollars in the government's opioid deaths litigation.

Another situation in which CVS corporate leaders will aggressively respond is when they anticipate that legislation and actions of state (e.g., Boards of Pharmacy) and federal (e.g., Federal Trade Commission) regulatory agencies will challenge CVS's corporate structure, business model, and profits. The monopolistic and anticompetitive policies and practices of CVS Caremark and other large pharmacy benefit managers (PBMs; Express Scripts, Optum) that are part of huge corporate health conglomerates are now well recognized, and there is bipartisan legislative support to achieve PBM reform. Many of the previous reform initiatives have been of limited success and/or have been delayed by court or other challenges. In some other situations, when loopholes in existing legislation are resolved, the PBMs discover and exploit others in a whack-a-mole strategy that characterizes their charade.

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Arkansas and Tennessee - The game-changers!

The huge health conglomerates have integrated their operations vertically, horizontally, and in any other manner that is profitable for them. However, with respect to the provision of medications and pharmacy services, it is their PBMs (e.g., Caremark) that have the dominant control that has had a crushing anticompetitive effect. Their policies and actions are the most important reasons for which thousands of independent and chain pharmacies that are not affiliated with PBMs have not survived financially and have been forced to close. The resulting pharmacy deserts create increased health risks and hardships for millions of patients and their communities.

In 2025, Arkansas developed and approved legislation that uses a very different strategy to achieve PBM reform. The legislation prevents companies that own PBMs from operating retail pharmacies. Although several other states have initiated similar steps, they have not received sufficient support, and Arkansas is the first state to approve such legislation. From the time that the Arkansas proposal was first drafted, it seized the attention of CVS executives who recognized the impact the legislation would have on its anticompetitive corporate structure/business model. The legislation would require CVS to make a choice of owning either its PBM Caremark, or owning its pharmacies in Arkansas. CVS launched an avalanche of lobbying, mailings, and some questionably legal communications that attempted to position itself as the “victim” of the legislation and threatened to close its CVS stores in Arkansas. If there was any prior question with respect to the importance that CVS attaches to its ownership of Caremark, its response to the Arkansas legislation makes it clear that it values its profits and benefits from Caremark to a much greater extent than it values its pharmacies in Arkansas and the customers they serve. This, of course, is of no surprise to pharmacists, particularly those who are

struggling to or have not survived the egregious and abysmal policies and compensation from Caremark. However, the CVS response clearly demonstrates that if it is forced to make a choice, it will close or sell its pharmacies and abandon its customers, rather than close or sell Caremark. **This is CVS’s choice!**

In spite of CVS’s extensive and costly efforts to block the bill, it was approved by the Arkansas House and Senate and approved by the Governor. CVS Caremark, Express Scripts, Optum, and the Pharmaceutical Care Management Association (PCMA) quickly filed a lawsuit in the appeals court, and a judge issued an order to halt it from being enacted. Arkansas has appealed this decision.

Tennessee pharmacists and legislators were developing legislation that has similarities to that developed in Arkansas and that would also prohibit companies from owning pharmacies and PBMs. It was approved by overwhelming votes in both the Tennessee House and Senate, and Governor Lee signed the Freedom, Access and Integrity in Registered Pharmacy (FAIR Rx) Act into law on May 22. CVS strongly fought the bill throughout the legislative process and flooded the mails and media with deceptive information. It said that it would close all 134 of its pharmacy locations in Tennessee if the bill was approved and enacted.

Amy Thibault is the executive director of corporate communications at CVS, and has been its spokesperson to the media regarding the legislation in Arkansas and Tennessee. During the consideration of the Tennessee bill, Ms. Thibault stated: “The only thing this legislation does is force the closure of 134 CVS pharmacies. It’s bad for Tennessee, for the more than 1.5 million patients we serve and for the more than 2,000 colleagues who will lose good paying jobs.” When the Tennessee House and Senate approved the bill and it was awaiting the review of Governor Lee, Ms. Thibault stated: “It’s up to

[Governor Lee] to ensure 1.5 million plus Tennesseans can continue to be cared for by their trusted CVS pharmacist, 25 MinuteClinic retail medical clinics continue to provide acute and primary care for patients, and 2,000 plus Tennesseans can keep their jobs.”

But wait! A decision to close its stores in Tennessee would be MADE BY CVS AND ONLY CVS. It is CVS which has the choice whether to close its stores or sell/divest Caremark. When faced with this choice, CVS has stated what its position will be and that it will close its stores. It will do everything possible to retain Caremark because it is this PBM through which the health conglomerate has its monopolistic, highly-profitable financial stranglehold on the medication distribution and use system. Caremark is so important to the CVS business model that it does not even identify closing/selling it as a possibility in criticizing and responding to the new law. Rather, its only focus is to threaten to close its stores and to attempt to fault the Governor, pharmacists, legislators, Board of Pharmacy, and others for the dire consequences it predicts. However, CVS will NOT close its stores in Tennessee. It is a BLUFF, and Tennessee has demonstrated its courage and determination to call its bluff.

Very soon after Governor Lee signed the FAIR RX Act into law, CVS challenged the law in federal court. The court had not yet responded at the time this issue of *The Pharmacist Activist* went to press. If the court denies CVS's challenge, it can be anticipated that CVS will continue its appeals and take other measures to delay or prevent enactment of the law.

Notwithstanding settlements of litigation totaling billions of dollars for errors, fraud, violations, opioid overdose death allegations, etc. over several decades, CVS has been able to escape serious barriers to its continuous expansion of its monopolistic and anticompetitive corporate structure, policies,

and practices. Even a pharmacy-favorable Supreme Court of the United States ruling 5 years ago has not been a sufficient deterrent to prevent the large PBMs from expanding their anticompetitive and highly-profitable programs. These pharmacy challenges of the PBMs must be continued and strengthened. However, the laws passed in Arkansas and Tennessee are based on a strategy that is a “game-changer” by addressing the monopolistic corporate structure and business model of CVS and other large PBMs. This strategy must be pursued by other states and at the federal level. Two years ago, a federal bill to require companies that own health insurers or PBMs to divest their pharmacy businesses was introduced but did not receive sufficient legislative support. This bill was reintroduced in Congress on May 13.

There is unprecedented recognition by the public and legislators of the corruption, fraud, and deception of the large PBMs. This awareness must be aligned with the strategy of Arkansas and Tennessee to quickly build synergistic support and momentum. We must not be deterred by what should be anticipated to be unprecedented opposition and deceptive tactics by CVS Caremark, Express Scripts, Optum, and PCMA. PCMA has just announced the launch of its new campaign on the value of PBMs that features their claims of lowering drug prices and protecting patients. These claims should be quickly refuted. The public is very concerned about the *high* cost of drugs, and we are all aware of experiences in which patients are placed at higher risk of inconvenience and harm as a result of PBM practices. How does PCMA claim that PBMs *protect* patients?

The conflict-of-interest and anti-competitiveness of the corporate structures and business models of CVS Caremark and the other large PBMs must be exposed and reformed. Thousands of independent and even some large chain pharmacies (e.g., Rite Aid) have closed, in large part because of the conflicts

of interest and anti-competitiveness of CVS Caremark. Yet the company has the arrogance to allege that certain pharmacists and/or legislators have a conflict of interest because of their support of the Tennessee law, and publicly criticizes them by name. CVS Caremark is not satisfied that 62 pharmacies closed in Tennessee in 2024 (and more since then); they choose to attack and demean individuals who have been able to protect (so far) their practices and businesses from closing.

To my knowledge, there are no pharmacists in the group of corporate decision-makers at CVS. Indeed, spokeswoman Amy Thibault is the only CVS employee whom I have seen identified by name. Who are the anonymous decision-makers whom she is representing? Although they are not involved in corporate decision-making, there are pharmacists in mid- and upper-level management at CVS. Should they be identified as being part of the CVS Caremark operations that are betraying their chosen profession and are more responsible than any other single or combination of factors for the destruction of community pharmacy and the reduction of the availability, scope, and quality of pharmacy services for millions of patients? These pharmacists should be encouraged to be whistleblowers, as some of their lower-ranking pharmacist colleagues have been.

A new potentially game-changing strategy has achieved initial, but strongly-challenged, success. There is far greater awareness and bipartisan legislative support for PBM reform. Arkansas and Tennessee pharmacists and/or legislators, and the NCPA, deserve great credit and appreciation for

placing our profession in the best position yet to effectively challenge the anticompetitive policies and practices that have been so destructive for the pharmacy and public health needs of patients and communities, and the survival of community pharmacy. But they can't do it alone! The entire profession of pharmacy must provide the commitment, resolve, and resources to build on the initial momentum. We enjoy the respect and credibility of the public, and our positions are virtuous and honorable in protecting and advancing the health and safety of patients and communities, rather than being profit-motivated.

Pharmacy's efforts must not be limited to PBM "reform." CVS and other large PBMs must be held accountable for the destructive consequences of their anticompetitive corporate structures policies. There should be continued pursuit of class-action lawsuits requesting punitive damages. Reparations for lost income of surviving pharmacies should be sought, as well as for pharmacies that have closed for financial reasons attributable to anticompetitive PBM programs. State and federal laws should be pursued that require that the majority ownership of a community pharmacy be held by a pharmacist(s), as is the situation in North Dakota.

A question to consider – If CVS was able to obtain or identify a system in which it could legally dispense prescription medications without using pharmacists, would it do it? You, I, and the leaders of our profession know the answer. Will we let that happen?

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