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CVS Health Controlling Dispensing of Opioids Through Caremark Part I

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CVS Health Announces that through Their Pharmacy Benefit Management, Dispensing of Opioids Would be Limited to a 7-Day Supply An Annotated Summary of the Discussion to Date

On September 21, 2017, CVS Health announced that beginning in January and February of 2018, CVS Health's Care Mark, one of the nation's four largest Pharmacy Benefit Management (Plans (PBM)) would begin dispensing only a 7-day supply of opioids without consultation with the prescribing physician. This will impact patients who receive their medications by mail and those who obtain medications by going to a pharmacy other than CVS Health. Not only will cost increase but this move measure is the opposite of what is know to improve patient adherence with their medicine, i.e., dispensing of 90-days of medications.

No doubt opioids and other potentially habituating medications are in a different class, but, as will be argued here, if opioids are being properly prescribed and properly used, they should be as easy to obtain as any other medication. The way to eliminate inappropriate use of opioids is not to obstruct patient access to these medications once they are prescribed; it is to stop the inappropriate and excessive prescribing of opioids.

This is a review of a ten-part discussion of these issues which results in my conclusion that CVS Health's Caremark plan is inappropriate, possibly illegal and an ineffective way of dealing with the opioid crisis in this country.

<https://cvshealth.com/newsroom/press-releases/cvs-health-fighting-national-opioid-abuse-epidemic-with-enterprise-initiatives>

Pm September 23, 2017, Southeast Texas Medical Associates, LLP (SETMA, LLP) sent a letter to Mr. Larry Merlo, CEO, CVS Health Caremark, briefly detailing SETMA's long standing efforts to eliminate inappropriate prescribing of opioids and making the following statement repeatedly: "Finally, if any medication, including opioids, is prescribed legally and appropriately, one should be as easy to obtain as another. The way to deal with opioid abuse is not by making legitimately prescribed opioids more difficult to obtain, but by auditing the

prescribing of potentially habituating medications and by eliminating inappropriate prescribing.”

[CVS Plans to Change Prescriptions without Physician Approval - An Open Letter to CVS' CEO](#)

On September 28, 2017, the letter to CVS's CEO was published as an open-letter in SETMA's weekly health column in the Beaumont Examiner. In addition to having distributed the letter to over 500 healthcare leaders and consumers, this continued SETMA's effort to expand this discussion.

[Letter to 105 Pharmacies in our 5-county Area about CVS and Opioids](#)

On September 27, 2017, SETMA, LLP mailed a copy of the letter to CVS's CEO along with a cover letter to 105 pharmacies in our five-county area. This letter stated: "I and SETMA has the highest regard for our pharmacist colleagues and we value their input to patient care. This is not a discussion about "turf," but about how to effectively unite our efforts to solve this problem."

[CVS Health Response to Troy Brennan Letter and Health Affairs Blog](#)

On September 28, 2017, SETMA's CEO received a response to the letter to CVS Caremark CEO from CVS Health's Executive Vice President and Chief Medical Officer, Troyen A. Brennan, M.D., M.P.H. In a 19-page response linked above, SETMA's CEO responded to Dr. Brennan. In a nine-part annotated document, SETMA reviewed our "preliminary conclusions" to this discussion, CVS Health's pledge not to get involved in primary care which promise they did not keep, a review of PBMs and CVS Health's past transgressions, a detailed review of Dr. Brennan's response to Dr. Holly, an analysis of Dr. Brennan's blog in Health Affairs, the CDC Primary Care Guidelines for Opioid Prescribing and a review of the Checklist for that Guideline.

SETMA's conclusions about CVS Health's Caremark's plans which were labeled as "preliminary" are now affirmed as final; they are:

"My overall conclusion is that CVS' effort to contribute to the abusive use of opioids is laudatory.

"However, while it may be considered that CVS' initiatives are healthy disruptive innovations in healthcare, there are serious questions about their violation of regulatory oversight involving their Pharmacy Benefits Management (PBM) Company and their pharmacists in overstepping their professional boundaries in patient care? Historically, the ideal of pharmacists/healthcare provider collaboration was a team dialogue. CVS appears to want to eliminate the team and have the pharmacy benefits manager, pharmacy, pharmacists and CVS retail stores, with captive employed Nurse Practitioners, take over healthcare. The deficiency of the care which is being provided by CVS retail stores is obvious to everyone except CVS.

"CVS is using their commercial enterprises to compete in a potentially monopolistic way with the primary care healthcare providers upon whom their commercial enterprises are dependent. It is possible that an organized effort on the part of physicians can direct their pharmaceutical business to other pharmacies which are not involved in competition with primary care providers.

“This reaction can extend to primary care physicians who are involved in managed care organizations who use CVS Caremark to demand that another PBM company be used. The very nature of illegal monopolies is that the size, influence and power of the perpetrator of the monopoly is insensitive to market demands. CVS’ size and profitability has them in that position presently but their leverage. At the very least every healthcare provider who is participating in a management care organization which contracts with a Pharmacy Benefits Manager should demand to know what utilization management tools are in place with the PBM which allows the physicians prescriptions and/or orders to be ignored without notification of or consultation with the healthcare provider.

“The image of a retail pharmacy chain, through their extensive commercial enterprise and their powerful PBM, “taking over” healthcare is alarming to me. As a healthcare provider who is involved in primary care, in patient-centered medical home, and in managed care which contracts with CVS’ Caremark, I argued for years that the Affordable Care Act did not intrude between the provider and the patient. What I did not recognize was that an intrusion had taken place and is expanding and it is through the collaboration between HMOs and PBM and the retail, commercial stores which are owned by a PBM.

“At the least the following should happen:

1. Every healthcare provider and particularly every primary healthcare provider should demand to know the policy of PBMs for changing a physician’s orders or prescription.
2. CVS Caremark must disclose its relationship with CVS’ extensive primary care network, particularly as to whether CVS NPs will be employed in the counseling of patients who come to the pharmacy but which are referred to the NP for education, counseling or changing of the primary physicians’ orders.
3. All health plans should “opt out” of CVS Caremark’s utilization management program which allows them to change physician orders or prescriptions without consultation with the physician.
4. The recommendations made in the 8th installment of SETMA’s 2017 series on opioid abuse should be implemented. These can be read at: [The Opioid Epidemic: Part VIII - What is the Solution.](#)”