

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927

Minority (202) 225-3641

May 31, 2018

Mr. John H. Hammergren
Chairman, President, and CEO
McKesson Corporation
One Post Street
San Francisco, CA, 94104

Dear Mr. Hammergren:

Thank you for appearing before the Subcommittee on Oversight and Investigations on May 8, 2018, to testify at the hearing entitled "Combating the Opioid Epidemic: Examining Concerns About Distribution and Diversion."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Thursday, June 14, 2018. Your responses should be mailed to Ali Fulling, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to Ali.Fulling@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Gregg Harper
Chairman
Subcommittee on Oversight and Investigations

cc: The Honorable Diana DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Attachment

Attachment—Additional Questions for the Record

The Honorable Gregg Harper

1. Does your company request dispensing data from both prospective and existing pharmacy customers as part of its due diligence efforts to mitigate controlled substance diversion? If so, at what frequency does your company request this information and how is the dispensing data utilized? If no, why not?
2. In its contracts with pharmacy customers, is your company able to require that a pharmacy produce dispensing data upon request? If so, does your company include such a requirement in the contracts it enters into with its pharmacy customers? If your company doesn't include such a requirement in its contracts, why not?
3. As part of your company's due diligence efforts related to prospective and existing customers, does your company review and maintain a list of the number of pharmacies that are located in the prospective/existing customer's service region? If so, how long has that been your company's practice and how does your company determine what a pharmacy's potential service region is?
4. Does your company request dispensing data from both prospective and existing pharmacy customers as part of its due diligence efforts to mitigate controlled substance diversion? If so, at what frequency does your company request this information and how is the dispensing data utilized? If no, why not?
5. In its contracts with pharmacy customers, is your company able to require that a pharmacy produce dispensing data upon request? If so, does your company include such a requirement in the contracts it enters into with its pharmacy customers? If your company doesn't include such a requirement in its contracts, why not?
6. As part of your company's due diligence efforts related to prospective and existing customers, does your company review and maintain a list of the number of pharmacies that are located in the prospective/existing customer's service region? If so, how long has that been your company's practice and how does your company determine what a pharmacy's potential service region is?

The Honorable Michael C. Burgess

1. While your companies seem to have put forth effort to improve your system of flagging possible drug diversion, there remains work to be done. In February, the Drug Enforcement Administration announced that it would begin sharing select data it collects on controlled substance prescriptions with drug distributors. Have your companies been able to access that data, and if so, has it been useful?
2. What is the largest hurdle you face as your companies scale up your diversion prevention activities? Is data-sharing, or lack thereof, the primary challenge?

3. Throughout each of your written testimonies, you mentioned your efforts to report suspicious orders to the DEA, and in cases that exceed the volume threshold, you stop the orders entirely. Where is the line drawn between drug manufacturers and the DEA in responding to suspicious orders? Does the DEA take enforcement action after you report the suspicious order?
4. Distributors and other pieces of the drug supply chain have a responsibility to help prevent diversion. What can Congress do legislatively to strengthen oversight of that supply chain?

The Honorable David B. McKinley

1. As a Wholesale Distributor of prescription opiates, do you agree that you owe a duty under federal law to monitor, detect, investigate, refuse and report suspicious orders? 21 U.S.C. § 823, 21 CFR 1301.74
2. Do you agree that the foreseeable harm of a breach of this duty is the diversion of prescription opiates for nonmedical purposes?
3. In other words, if you ship a suspicious order, it is likely that prescription opiates will be diverted into the illicit market. Agree?
4. Do you concur that filling suspicious orders is a direct and proximate cause of prescription opiate abuse, addiction, morbidity and mortality?
5. Do you agree the United States is in the midst of a prescription opiate epidemic?
6. Do you concur that filling suspicious orders is a direct and proximate cause of the prescription opiate epidemic plaguing our country?
7. Do you believe the prescription opiate epidemic is an immediate hazard to public health and safety?
8. Do you believe the prescription opiate epidemic is a public nuisance?
9. Are you aware of your company's efforts to detect, address, and report suspiciously large orders in West Virginia?
10. Are you aware that for years your company never followed West Virginia's law by reporting all suspicious orders to the West Virginia Board of Pharmacy?
11. Did your company have a policy that orders had to be less than 50% controlled substances to be filled?

The Honorable Frank Pallone, Jr.

1. Prior to August 2013, McKesson was not regularly reporting suspicious order reports to DEA as required. When DEA Administrator Robert Patterson testified before the Committee in March, he stated that when distributors fail to report suspicious orders to DEA, it is much harder for DEA to do its job. Do you agree that timely reporting of suspicious orders plays a key role in preventing diversion?
2. You testified that McKesson's order monitoring systems "determine a suspicious order based primarily on quantities compared to average pharmacies, pharmacies that are similar." However, McKesson shipped Sav-Rite pharmacy in Kermit, WV, population 400, 4.8 million hydrocodone pills in 2006 and 2007. According to data cited by DEA, that was approximately 8 times the amount of hydrocodone that an average rural pharmacy in West Virginia would have expected to receive. What failed in McKesson's suspicious order monitoring system to allow such large quantities of opioids to ship to this pharmacy?
3. Considering the opioid crisis in West Virginia, what more could McKesson have done to monitor the opioid shipments it was sending to these communities?
4. When McKesson acquires a smaller wholesale distribution company, what type of due diligence does McKesson perform on the pharmacy customers previously served by the acquired distribution company? Is it McKesson's practice to perform a new customer intake examination of each pharmacy that has elected to use McKesson as its new wholesaler? If so, for how long has this been McKesson's policy? Does McKesson inspect the due diligence files maintained by the acquired wholesaler for each transferred pharmacy customer? If so, for how long has this been McKesson's policy?

The Honorable Jan Schakowsky

1. How much does McKesson net annually for its distribution of Evzio?
2. McKesson also distributes Narcan. What does McKesson earn net per unit for Narcan?
3. How much does McKesson net annually for its distribution of Narcan?
4. As early as 2007, a CDC memorandum showed that West Virginia drug overdose deaths increased by 550 percent between 1999 and 2004. Despite these reports, McKesson was providing millions of opioid pills to a single pharmacy in Kermit, West Virginia. Did McKesson understand there was a serious diversion problem facing the state, and how could McKesson have improved its handling of controlled substances?
5. Does your company buy the drugs from the manufacturers, take title and move pallets to and from your warehouse? Or are you like brokers, working on consignment, arranging sales to pharmacies and then taking a percentage of the sale price?

6. In setting prices to pharmacies, is your markup more like a flat rate (for example, selling \$5 more than the price at which you bought), or is your markup more like a percentage (for example, selling for 5% higher than the price at which you bought)?
7. Is it possible that even if your company pays a higher price to get those drugs in stock, you end up making more money on those sales where your acquisition prices are higher? And would the same be true for your consignment/broker sales?