State Attorneys General

A Communication from the Chief Legal Officers of the Following States and Territories:

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March 14, 2014

Doug McMillon, President and Chief Executive Officer
Wal-Mart Stores, Inc.
702 SW 8th Street
Bentonville, AR 72716-8611

Re: Sale of Tobacco Products

Dear Mr. McMillon,

The undersigned Attorneys General write to urge Wal-Mart Stores, Inc. (Walmart) to follow the example set by CVS Caremark Corporation and to cease selling tobacco products in your retail stores that have pharmacies throughout the United States.

State Attorneys General have long fought to protect their citizens, particularly youth, from the dangers of tobacco products. For example, in the 1990's, State Attorneys General sued the major cigarette companies for the harm their products caused. To resolve these lawsuits, in 1998 State Attorneys General entered into the Master Settlement Agreement (MSA) (as well as earlier settlements in four states) with the major tobacco companies, and a number of other tobacco companies are now also parties to the MSA. A principal goal of the MSA is to reduce underage tobacco use by discouraging such use and by preventing youth access to tobacco products. To help achieve that goal, the States devote considerable resources to the prevention of sales of cigarettes and other tobacco products to minors. With the protection of our States' citizens in mind, the undersigned Attorneys General write to urge you to cease selling all tobacco products.

Since 1964, over 20 million Americans have died prematurely as a result of smoking.[1] While most of these deaths were of adults with a history of smoking, 2.5 million deaths were of

[1] U.S. Department of Health and Human Services, *The Health Consequences of Smoking – 50 Years of Progress: A Report of the Surgeon General.* Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease

nonsmokers who died of heart or lung disease caused by exposure to secondhand smoke.[2] Tobacco-related disease is the leading preventable cause of death in the U.S., causing at least 480,000 premature deaths each year,[3] which is more than AIDS, alcohol, illegal drug use, car accidents, and firearm-related deaths combined.[4] Smoking causes heart disease, diabetes, and arthritis, increases the risk of stroke, is the leading cause of lung cancer, and also causes colorectal cancer, liver cancer, and cancers of the oral cavity, pharynx, esophagus, stomach, pancreas, larynx, cervix, bladder, and kidney.[5] Health care costs and productivity losses attributable to smoking cost the nation at least $289 billion each year.[6]

There is a contradiction in having these dangerous and devastating tobacco products on the shelves of a retail chain that services health care needs. The availability of such products in a retail store that also serves as a pharmacy normalizes tobacco use; furthermore, selling tobacco products in the same store as smoking-cessation products is likely to increase impulse tobacco purchases among those trying to quit and undermines their efforts. In a recent year, nearly 70% of smokers said they wanted to quit; however, only approximately 4% were able to do so.[7]

The normalization and easy availability of tobacco products represent a significant threat to youth, who are particularly susceptible to social and environmental encouragements to use tobacco. Moreover, the sale of tobacco products in retail chains weakens the effect of media campaigns whose objective is to de-normalize the use of tobacco products. The Surgeon General's 2014 Report cited these hard-hitting media campaigns, such as the CDC's "Tips from Former Smokers" campaign and Legacy's truth® campaign, as a key factor in preventing smoking initiation and promoting quitting.[8] The CDC campaign prompted 1.6 million smokers to try to quit and helped more than 100,000 succeed.[9]

Preventing the initiation of young smokers is critical to reducing overall health damage and public health costs. Almost 90% of adult smokers start smoking by 18 years of age and 98% start by the age of 26.[10] Keeping youth from trying and starting to smoke thus makes it highly likely that they will remain smoke-free for the rest of their lives. At the current rate of youth smoking, 5.6 million Americans younger than 18 years of age who are alive today are projected to die prematurely from smoking-related disease.[11]

Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014 ("Surgeon General's 2014 Report"), at 7.

[2] Surgeon General's 2014 Report at 676-78.

[3] *Id*. at 11, 659.

[4] Mokdad, A.H., Marks J.S., Stroup D.F., Gerberding J.L., *Actual Causes of Death in the United States.* JAMA: Journal of the American Medical Association 2004; 291(10):1238-45.

[5] Surgeon General's 2014 Report at 667-70, 688, 870.

[6] *Id*. at 12.

[7] http://www.cancer.org/cancer/news/expertvoices/post/2012/11/14/mind-the-(smoking)-gap-those-who-want-to-quit-and-those-who-actually-do.aspx

[8] Surgeon General's 2014 Report at 812-14.

[9] *Id*. at i.

[10] *Id*. at 12.

[11] *Id*.

Walmart has demonstrated leadership in the area of tobacco control by entering into an Assurance of Voluntary Compliance with the Attorneys General in October 2003, and we appreciate your cooperation in working to reduce sales to youth. But now we ask you to take the next step and to stop all sales of tobacco products in your retail stores that have pharmacies. Doing so would effectively bring us full circle, back from the time when a tobacco manufacturer could advertise that "More doctors smoke CAMELS than any other cigarette" to a time when cigarettes simply cannot be purchased from a business that sells products prescribed by doctors.

In 2010, the American Pharmacists Association urged pharmacies to discontinue sales of tobacco products.[12] In addition, the American Medical Association passed a resolution opposing the sale of tobacco products in pharmacies, and the American Heart Association, the American Cancer Society and American Lung Association have all called for banning tobacco sales in pharmacies.[13] Moreover, apart from CVS's recent action, other major retailers such as Target and Wegmans have already decided to stop selling tobacco products, as have other independent pharmacy retailers and small chains. We ask that Walmart join those retailers in recognizing that eliminating the sale of tobacco products by retailers who service health care needs and reducing the availability of tobacco products represent important steps in reducing the harm caused by tobacco products in the United States and promoting public health.

For the reasons described above, we urge Walmart to cease selling tobacco products in its retail stores that have pharmacies throughout the United States.

We look forward to hearing from you.

Eric Schneiderman
New York Attorney General

Michael DeWine
Ohio Attorney General

Michael Geraghty
Alaska Attorney General

Tom Horne
Arizona Attorney General

George Jepsen
Connecticut Attorney General

Joseph R. "Beau" Biden III
Delaware Attorney General

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[12] American Pharmacists Association. Report of the 2010 APhA House of Delegates: discontinuation of the sale of tobacco products in pharmacies and facilities that include pharmacies. J Am Pharm Assoc. 2010; 50(4):417. http://japha.org

[13] Katz, M.H. *Banning tobacco sales in pharmacies: the right prescription*. JAMA: Journal of the American Medical Association 2008; 300(12):1451-1452.

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