



## 2016 Shareholder Proposal to Johnson & Johnson Report on Prescription Drug Disposal Policy

### Executive Summary

- Drug overdose now is the leading [cause](#) of accidental death in the U.S., surpassing auto accidents, with 47,055 lethal drug overdoses in 2014. Opioid addiction is [driving](#) the epidemic, with 18,893 overdose deaths related to prescription pain relievers, and 10,574 overdose deaths related to heroin.
- Johnson & Johnson products subject to abuse leading to addiction include ADHD drug Concerta, and opioids Fentanyl and Nucynta, marketed by its Janssen Pharmaceutical subsidiary.
- Many consumers hold onto unneeded drugs because they lack convenient collection and disposal options, which can have tragic consequences. President Barack Obama has [stated](#) that most young people who begin misusing prescription drugs get them from the family medicine cabinet.
- Only 1% of U.S. pharmacies offer a drug take back kiosk or program. Lack of free, convenient programs for safe disposal of unneeded or expired consumer prescription drugs and accessories contributes to water pollution, illicit drug use, drug addiction, and threats to sanitation workers.
- Companies that put medications on the market and profit from them should be primarily responsible for financing take back systems.
- As You Sow has filed shareholder resolutions in 2016 with [AbbVie, Johnson & Johnson](#) and [Merck & Co.](#), asking the companies to develop policy options for working with industry peers to take primary responsibility for developing community-based prescription drug disposal programs.
- Industry peers have acted. Eli Lilly & Co. has awarded grants to drug stores in Indiana to develop take back systems. Walgreens has agreed to fund 500 kiosks in 39 states.
- ***There is no evidence J&J has a policy addressing its responsibility for safe disposal of unused or expired prescription drugs.***

### Resolution Summary

The proposal asks the company to issue a report reviewing the company's existing policies for safe disposition by users of prescription drugs to prevent water pollution, and setting forth policy options for a proactive response, including determining whether the company should endorse partial or full industry responsibility for take back programs by providing funding or resources for such programs. **[Note: The proposal does not seek a legislative solution]**



## Company Liability

The company manufactures products subject to abuse that could lead to addiction including Concerta, used to treat attention deficit disorder (ADHD); and the opioids Fentanyl and Nucynta, marketed by its Janssen Pharmaceutical subsidiary. Concerta and Fentanyl have been [cited](#) as among the most abused prescription drugs.

A lawsuit filed by the city of Chicago alleges that J&J is partly responsible for the U.S. opioid epidemic. In November 2015, the company's Janssen subsidiary and four other drug makers were [sued](#) for allegedly overstating drug benefits while downplaying risks and using deceptive marketing in an effort to increase profits.

The company lacks a policy on the extent to which, individually as a company, or collectively with industry peers, it should be responsible for collection and financing of a national system of safe, convenient drug disposal options. Seven West Coast counties and one state have passed laws requiring pharmaceutical companies to pay for drug disposal (details below).

## Issue Background

**Drug Abuse:** In September 2015, addressing the drug abuse crisis, President Obama stated that “most young people who begin misusing prescription drugs don’t buy them in some dark alley – they get them from the medicine cabinet.” Many of these are drugs no longer used or needed by the person they were prescribed for.

Most U.S. communities lack free, convenient, on-going collection programs that could help alleviate these critical problems. Only 1% of U.S. pharmacies offer a drug take back kiosk or program. The Drug Enforcement Administration has partnered with state and local law enforcement agencies to hold periodic National Take-Back Days for medicines, collecting and disposing of more than 5.5 million pounds of medications in just ten events. But far more convenient and ongoing collection services are [needed](#).

Development of drug disposal programs is one of four pillars of the President’s [National Drug Control Strategy](#), which states “Medication disposal programs allow individuals to dispose of unneeded or expired medications in a safe, timely, and environmentally responsible manner and can help prevent potential diversion and abuse.” Medical accessories like syringes and needles also need safe disposal options. Three billion needles are used in U.S. homes annually to deliver medication; improper disposal puts sanitation workers at risk.

**Water Quality:** Lack of disposal programs also impacts water quality. Many residents flush drugs down the toilet to water treatment plants not equipped to process medicines. The U.S. Environmental Protection Agency [advises](#) not to flush prescription drugs, but return them to a disposal location. A 2008 Associated Press [investigation](#) found antibiotics, anti-convulsants, mood stabilizers and sex hormones in the drinking water supplies serving 41 million Americans. Synthetic estrogens in oral contraceptives flushed into waterways have been linked to impaired reproduction and [sex changes](#) in aquatic species. In February 2016, researchers disclosed [evidence](#) of 81 drugs and personal-care products in the water and tissue of chinook in Puget Sound “with levels detected among the highest in the nation.”



The pharmaceutical industry, which puts these drugs on the market, has no established policy of taking responsibility for disposal of unused or expired drugs. The concept of producer responsibility delegates end-of-life accountability to companies that have placed them on the market. Electronics and paint manufacturers, for instance, are required to pay for collection and recycling of their products at end-of-life under numerous U.S. state producer responsibility [laws](#). Under paint EPR laws, [PaintCare](#), an industry-run non-profit organization, is responsible for the major costs of managing leftover paint, including transportation, recycling, and processing. Proponents believe drug manufacturers who place drugs on the market should be responsible for financing systems that provides for free and convenient take back nationwide.

The province of Ontario, Canada enacted a regulation in 2012 assigning responsibility for end-of-life management of pharmaceutical waste to manufacturers. Many European countries have industry-funded drug take back programs.

### **Recent Activity**

Seven West Coast counties have passed ordinances requiring pharmaceutical companies to pay for drug disposal programs and on March 14, 2016, Massachusetts became the first state to [mandate](#) a system requiring drug companies to safely dispose of unwanted medications. It could be more cost efficient for the drug industry to develop its own national disposal plan than to be forced to pay for possibly less efficient systems mandated by laws and ordinances enacted out of frustration that the industry failed to act to develop its own system. Instead, the drug industry is using its trade association to [fight](#) ordinances without proposing a constructive alternative to them.

Industry peers have has taken action. Eli Lilly recently provided a [grant](#) to a program that will provide 100 disposal boxes at pharmacies in Indiana. Other peers have acted. In February 2016, Walgreens, the largest U.S. pharmacy chain, [announced](#) it will install drug disposal kiosks in 500 drugstores in 39 states and Washington, D.C. as part of a broader effort to counter drug abuse. The company noted “prescription drug abuse continues to be a public health and safety risk.”

This voluntary action by Walgreens gives additional credence to our view that more local drug disposal options are urgently needed. It’s a welcome start, but 500 locations comprise less than 1% of U.S. pharmacies. Drug makers need to develop policies that will result in far more local disposal options.

### **Response to company statement in opposition**

The company statement says “While we agree that prescription drug abuse, pharmaceuticals in the environment, and sanitation worker safety are very serious concerns impacting the global community, we do not believe they are significantly connected to the issue of unused medicines and self-injected healthcare products and lancets (or “sharps”) collection.”

The company’s denial of a significant connection between drug abuse and lack of collection options for unused medicines is counter to the findings of Walgreens, which [cited](#) lack of take back options as a key contributor to the drug abuse crisis last month in announcing it would fund 500 take back kiosks at its stores. It is also counter to the findings of the Obama Administration’s drug abuse prevention program. “Providing safe and convenient disposal options for prescription drugs and expanding access to the lifesaving overdose-reversal drug



naloxone are critical parts of our national strategy to stop the prescription drug and heroin overdose epidemic, along with effective enforcement, prevention and treatment,” [stated](#) Michael Botticelli, Director of White House National Drug Control Policy.

The company statement also says “there is scientific evidence that the creation of take-back programs for unused medicines and sharps will actually create more environmental impact than if disposed of in household trash.” This is a serious charge but no actual evidence is cited. If the company has credible evidence of environmental harm, it should be made available to shareholders in lieu of an unsubstantiated allegation.

The statement argues that has invested in education programs; two of the four programs cited, provide no clear link to the topic of the proposal.

Finally, the statement says “existing waste management methods are readily available, convenient to patients and consumers, and are adequate to handle unused medicines and sharps safely, and creation of unused medicines and sharps take-back programs will add cost to healthcare products with no measurable social or environmental impacts.” This statement defies existing information and common sense. Less than 2% of U.S. pharmacies provide drug disposal kiosks; that does not constitute an “adequate” system. Demanding more scientific data on measurable impact before acting in the middle of a national drug overdose epidemic suggests the company is tone deaf to the plight of victims and their relatives searching for answers. Common sense dictates that more local and convenient disposal options increase the chances that responsible adults will promptly discard unused drugs, keeping them from getting into the hands of those who might abuse them. Common sense also dictates that fewer pharmaceuticals dumped into waterways will reduce the likelihood of drug concentrations at levels that could harm aquatic life or humans via drinking water consumption.

## Conclusion

Shareholders and the company would benefit from the report requested by the proposal.

- The company markets opiod drugs which can have a high risk of abuse leading to addiction. The company’s lack of a policy on the extent to which it should be responsible for collection and financing of a national system of safe, convenient drug disposal options puts it at risk in the midst of a horrific drug abuse crisis which took the lives of 47,000 Americans in 2014.
- Its statement of opposition denying a link between lack of safe disposal options and drug abuse has been refuted by both the White House National Drug Control Strategy and Walgreens, the largest U.S. pharmacy chain, both of which acknowledge such a link.
- Shareholders deserve evidence—lacking to date—that thoughtful consideration has been given to this issue, through development of a policy explaining the extent to which the company, and the drug industry, should be actively participating in financing safe collection of unused drugs.
- In the absence of company and industry leadership, both entities are losing their ability to shape a cost effective national approach as regional and state governments impose mandated solutions (noted above).