

United States Senate

WASHINGTON, DC 20510

March 7, 2023

Rosalind Brewer
Chief Executive Officer
Walgreens Boots Alliance
200 Wilmot Road
Deerfield, IL 60015

Dear Ms. Brewer,

We are writing today to seek clarity on Walgreens's policies regarding the dispensing of medication abortion in states where it remains legal.

After decades of activism by anti-abortion extremists, the Supreme Court overturned *Roe v. Wade* and reversed nearly five decades of settled law. Since the devastating decision in *Dobbs v. Jackson Women's Health Organization*, access to abortion care has been increasingly under attack by anti-abortion politicians and activists. As of March 2023, at least 17 states have eliminated all or some access to abortion,¹ with additional states expected to implement new bans this year.² These measures endanger millions of Americans and limit access to other essential health care services, such as care for miscarriages, ectopic pregnancies, and other complications, in addition to banning or limiting abortion care.³ Medication abortion in particular, which accounts for over half of all abortions in the U.S.,⁴ is under attack, including from a baseless lawsuit in Texas that threatens access to the drug nationwide.⁵

Given this ongoing attack on access to abortion care, we had grave concerns about reports that Walgreens had decided not to dispense medication abortion in states where it remains legal, viewing it as yet another limit on access to crucial care.

Such action would have been a disservice to your patients, and inconsistent with Walgreens's purpose, "to champion the health and well-being of every community in America"⁶

¹ The New York Times, "Tracking the States Where Abortion is Now Banned," October 7, 2022, <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html>.

² CNN, "Activists preparing for 'an absolutely crazy year' in first full statehouse sessions since Supreme Court overturned Roe," Jessica Schneider and Devan Cole, January 20, 2023, <https://www.cnn.com/2023/01/20/politics/abortion-state-laws-2023-roe-dobbs/index.html>.

³ See, e.g., Post-Roe Abortion Bans Threaten Women's Lives, Prepared by Senators Elizabeth Warren, Tammy Duckworth, Mazie Hirono, and Tina Smith, October 2022, <https://www.warren.senate.gov/imo/media/doc/Abortion%20Care%20Oversight%20Report1.pdf>.

⁴ Guttmacher Institute, "Medication Abortion Now Accounts for More Than Half of All US Abortions," Rachel Jones, Elizabeth Nash, Lauren Cross, Jesse Philbin, Marielle Kirstein, February 24, 2022, <https://www.guttmacher.org/article/2022/02/medication-abortion-now-accounts-more-half-all-us-abortions>.

⁵ NPR, "A Trump-appointed Texas judge could force a major abortion pill off the market," Sarah McCammon, February 1, 2023, <https://www.npr.org/2023/02/01/1153593174/mifepristone-abortion-pill-federal-texas-lawsuit-restrict-access-nationwide>.

⁶ Walgreens, "About Walgreens," in "Walgreens Statement on Mifepristone," March 6, 2023, <https://news.walgreens.com/press-center/walgreens-statement-on-mifepristone.htm>.

and with the “Oath of a Pharmacist” that is sworn to by your company’s and all other pharmacists, which requires that pharmacists treat “the welfare of humanity and relief of suffering [as] primary concerns” and act to “assure optimal outcomes for all patients.”⁷

Mifepristone is a safe and effective medication that Americans have relied on for more than two decades.⁸ In January 2023, the FDA permanently removed the medically unnecessary in-person dispensing requirement for mifepristone, and authorized certified pharmacies to dispense the medication.⁹ We were encouraged by Walgreens’s announcement that it intended to apply to become a certified pharmacy, allowing the chain to dispense medication abortion.¹⁰ At the time, a spokesman for Walgreens stated, “We intend to become a certified pharmacy under the program. We are working through the registration, necessary training of our pharmacists, as well as evaluating our pharmacy network in terms of where we normally dispense products that have extra F.D.A. requirements and will dispense these consistent with federal and state laws.”¹¹

Unfortunately, several weeks after that announcement, a number of extremist, right-wing Attorneys General sent a letter to Walgreens attempting to intimidate your company into walking back this commitment.¹² Their letter was filled with inaccuracies and baseless claims despite extensive evidence demonstrating the safety and efficacy of medication abortion, including when taken at home. Nearly two dozen Democratic Attorneys General sent you a separate letter, clearly dispelling the myths and threats that were used to pressure your company.¹³

We were extraordinarily concerned by reports last week indicating that your company appeared to be pandering to this extremism, and would be refusing to fill prescriptions for a safe and effective medication in states that include Kansas, Alaska, Montana, and Iowa – where medication abortion remains legal.¹⁴ A spokesman for Walgreens stated that “This is a very

⁷ American Pharmacists Association, “Oath Of A Pharmacist,” <https://www.pharmacist.com/About/Oath-of-a-Pharmacist>.

⁸ Guttmacher Institute, “Medication Abortion,” February 2021, <https://www.guttmacher.org/evidence-you-can-use/medication-abortion>.

⁹ U.S. Food & Drug Administration, “Information about Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation,” January 24, 2023, <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/information-about-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation>.

¹⁰ NY Times, “CVS and Walgreens Plan to Offer Abortion Pills Where Abortion Is Legal,” Pam Belluck, January 5, 2023, <https://www.nytimes.com/2023/01/05/health/abortion-pills-cvs-walgreens.html>.

¹¹ *Id.*

¹² Letter from Attorneys General Andrew Bailey, Steve Marshall, Treg Taylor, Tim Griffin, Ashley Moody, Chris Carr, Todd Rokita, Brenna Bird, Daniel Cameron, Jeff Landry, Lynn Fitch, Austin Knudsen, Drew Wrigley, Daave Yost, Gentner F. Drummond, Alan Wilson, Marty Jackley, Ken Paxton, Sean D. Reyes, and Patrick Morrisey to Walgreens Boots Alliance, Inc., February 1, 2023, https://ago.mo.gov/docs/default-source/press-releases/2023-02-01-fda-rule---walgreens-letter-danielle-gray.pdf?sfvrsn=ff1e6652_2.

¹³ Letter from Rob Bonta, Ellen F. Rosenblum, Bob Ferguson, Kris Mayes, Philip J. Weiser, William Tong, Kathleen Jennings, Brian L. Schwalb, Anne E. Lopez, Kwame Raoul, Aaron M. Frey, Anthony G. Brown, Andrea Joy Campbell, Dana Nessel, Keith Ellison, Aaron D. Ford, Matthew J. Platkin, Raul Torrez, Letitia James, Josh Stein, Michelle A. Henry, Peter Neronha, and Charity R. Clark to Walgreens Boots Alliance, Inc., and CVS Health, February 16, 2023, <https://www.doj.state.or.us/wp-content/uploads/2023/02/Multistate-Pharmacy-Letter-2023-02-16.pdf>.

¹⁴ Politico, “Walgreens won’t distribute abortion pills in states where GOP AGs object,” March 2, 2023, <https://www.politico.com/news/2023/03/02/walgreens-abortion-pills-00085325>.

complex and in flux area of the law, and we are taking that into account as we seek certification.”¹⁵ This was not an adequate explanation for the reported action by Walgreens. The law is clear that medication abortion is legal in Kansas, Iowa, Montana, and Alaska – all states where it appeared that Walgreens, in response to saber-rattling from anti-abortion extremists – would not be providing it. The refusal to dispense a medication that is legal and safe to patients in need would be a betrayal of your customers, and your commitment “to champion the health and well-being of every community in America”¹⁶.

This is why we were pleased that your latest statement, released on March 6, 2023, appeared to reverse Walgreens’s decision to unjustly deny patients access to mifepristone. According to this statement:

We want to be very clear about what our position has always been: Walgreens plans to dispense Mifepristone in any jurisdiction where it is legally permissible to do so. Once we are certified by the FDA, we will dispense this medication consistent with federal and state laws. Providing legally approved medications to patients is what pharmacies do, and is rooted in our commitment to the communities in which we operate.¹⁷

Each day, women’s lives are threatened because they are denied access to essential health care, and we are hopeful that Walgreens’s latest statement on this matter means the company will not engage in such a denial. To clarify your current policies and your “commitment to the communities in which [you] operate,”¹⁸ we ask that you provide answers to the following questions no later than March 14, 2023:

1. Does Walgreens intend to commit to completing the certification process to dispense mifepristone?
2. Will you commit to ensuring individuals can access medication abortion at your retail pharmacies?
 - a. Does that apply to Kansas, Iowa, Montana, and Alaska, and also states where legislation banning medication abortion has been enjoined by the courts, such as Indiana, Ohio, North Dakota, South Carolina, and Utah?¹⁹
3. Did Walgreens change its policy between March 3, 2023, when your spokesperson released a statement that appeared to confirm that Walgreens would not be dispensing mifepristone in certain states where it was legal, and March 6,

¹⁵ NY Times, “Walgreens Says It Won’t Offer the Abortion Pill Mifepristone in 21 States,” Pam Belluck, March 3, 2023, <https://www.nytimes.com/2023/03/03/health/walgreens-abortion-pills.html>.

¹⁶ Walgreens, “About Walgreens,” in “Walgreens Statement on Mifepristone,” March 6, 2023, <https://news.walgreens.com/press-center/walgreens-statement-on-mifepristone.htm>.

¹⁷ Walgreens, “Walgreens Statement on Mifepristone,” March 6, 2023, <https://news.walgreens.com/press-center/walgreens-statement-on-mifepristone.htm>.

¹⁸ *Id.*

¹⁹ Forbes, “Walgreens Won’t Sell Abortion Pills In These States – Even Though Abortion Is Legal There,” Alison Durkee, March 3, 2023, <https://www.forbes.com/sites/alisondurkee/2023/03/03/walgreens-wont-sell-abortion-pills-in-these-states-even-though-abortion-is-legal-there/?sh=3882962276d7>.

2023, when Walgreens released a statement indicating it would “dispense Mifepristone in any jurisdiction where it is legally permissible to do so?”²⁰

4. Did you consult with medical advisors prior to formulating your initial mifepristone policy, or between March 3, and March 6, 2023? If so, what advice did you receive?
5. Did you consult with the company’s Board of Directors prior formulating your initial mifepristone policy, or between March 3, and March 6, 2023? If so, what guidance did the Board provide on this matter?
6. Did the Board vote to approve the initial policy, or to modify it? And if so, what was the rationale for doing so?
7. How will Walgreens make decisions about dispensing mifepristone going forward? What factors will Walgreens consider in making those decisions, and with whom will Walgreens consult?

Thank you for your attention to this important matter.

Sincerely,



Elizabeth Warren
United States Senator



Mazie K. Hirono
United States Senator



Tina Smith
United States Senator



Richard Blumenthal
United States Senator

²⁰ Walgreens, “Walgreens Statement on Mifepristone,” March 6, 2023, <https://news.walgreens.com/press-center/walgreens-statement-on-mifepristone.htm>.



Robert Menendez
United States Senator



Cory A. Booker
United States Senator