

United States Senate

WASHINGTON, DC 20510

July 28, 2022

Roz Brewer
Chief Executive Officer
Walgreens Boots Alliance, Inc.
200 Wilmont Road
Deerfield, Illinois 60015

Dear Ms. Brewer:

We write regarding our concerns about recent reports that a nationwide Walgreens policy allows employees to refuse to dispense contraceptives to customers based on their religious or moral beliefs. In these instances, customers were reportedly subjected to public embarrassment or faced significant delay in accessing medication prescribed by a health care provider. We respectfully request that you revisit your policy to ensure that your customers' privacy is respected and that they will have clearer notice with respect to whether they will have full access to contraceptives at your stores.

Reportedly, one customer encountered significant obstacles in refilling her birth control prescription, a medication she had taken for six years. Despite the fact that her health care provider had already given her the prescription, a Walgreens pharmacist required your customer to speak to her provider again. Your customer was allegedly only able to access her medication after her provider reconfirmed that refills were available, and only after she sought her medication from a different pharmacist.¹ According to Walgreens' policy, if pharmacists refuse to fill a prescription "for which they have a moral objection," they are "required to refer the prescription to another pharmacist or manager on duty to meet the patient's needs in a timely manner."² Yet, in this instance, your customer reportedly could not access her medication for four days, delaying needed care.³

In addition, another pair of customers went to a Walgreens store earlier this month to buy condoms and other items. The cashier reportedly refused to ring up the condoms, explaining, "[Walgreens] can sell that to you...But I will not, because of my faith." Although one of your customers countered that her choice to buy condoms was "none of your business," the cashier repeated his claim that his "faith demands" that he not sell condoms. The cashier then allegedly waved his manager over to "ring [the cashier] completely out of the register, to avoid any digital contact with a condom...and walked away with a smirk."⁴ A spokesperson explained that

¹ Sara Edwards, *'Because of My Faith': Walgreens Employees Allegedly Denying Birth Control, Condom Sales*, USA Today (July 22, 2022), <https://www.usatoday.com/story/money/retail/2022/07/21/walgreens-pharmacy-birth-control-condoms/10110827002/>.

² Walgreens (@Walgreens), Twitter (Jun 24, 2018, 9:55 PM), <https://twitter.com/Walgreens/status/1011065293563727874>.

³ Sara Edwards, *'Because of My Faith': Walgreens Employees Allegedly Denying Birth Control, Condom Sales*, USA Today (July 22, 2022), <https://www.usatoday.com/story/money/retail/2022/07/21/walgreens-pharmacy-birth-control-condoms/10110827002/>.

⁴ Jennifer Brooks, *The Battle for Reproductive Rights Moves to the Front Register*, Star Tribune (July 9, 2022),

Walgreens’ policies “are designed to ensure we meet the needs of our patients and customers while respecting the religious and moral beliefs of our team members.”⁵ However, in the process of respecting the beliefs of your employees, as one of your customers explained, the cashier who refused to sell condoms “proceeded to embarrass me in front of other customers for my reproductive choices.”⁶ Further, your policy seemingly does not expressly respect the religious and moral beliefs of your customers who wish to buy legal drugs and contraceptives.

The Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization* has unleashed a health care crisis in the United States. Now that *Roe v. Wade* has been overturned and Americans no longer have a constitutional right to reproductive health choices, many states across the country have banned or severely limited access. Some states have gone even further to interfere with the provider-patient relationship, moving to limit access to various forms of contraception. Such limitations are compounded by Walgreens’ policy, which can come at the expense of your customers’ right to privacy, as the employee who refuses to complete a transaction involving contraceptives must communicate her objection to a fellow employee. Furthermore, despite your policy’s requirement that a customer’s needs be met in a “timely manner” even if a pharmacist has a moral objection, your policy reportedly has delayed timely access to medication.

Notably, on July 13, 2022, the U.S. Department of Health and Human Services (HHS) issued guidance to approximately 60,000 U.S. retail pharmacies, reminding them of their obligations under federal civil rights laws. Given that pharmacies like Walgreens are recipients of federal financial assistance—including through Medicare and Medicaid payments—they are prohibited under law from discriminating on the basis of race, color, national origin, sex, age, and disability in their programs and activities. The guidance notes that the HHS Office of Civil Rights is responsible for protecting the rights of women and pregnant people in their ability to access care that is free from discrimination, including the ability to access reproductive health care from a pharmacy, such as prescription medication.⁷

In an effort to increase transparency for customers seeking to buy contraceptives and other forms of birth control at Walgreens, we respectfully request that you:

- Require your stores to post signs that clearly indicate if a store employs pharmacists and/or cashiers who refuse to dispense contraceptives and other forms of birth control, as well as the company’s policies;
- Notify Walgreens customers through your app and website of your policies regarding dispensing and selling of contraception; and

<https://www.startribune.com/the-battle-for-reproductive-rights-moves-to-the-front-register/600188979/?refresh=true>.

⁵ Rob Wile, *A Walgreens Employee Refused to Sell Condoms to A Couple on Religious Grounds*, NBC News (July 21, 2022), <https://www.nbcnews.com/business/business-news/walgreens-employee-refused-sell-condoms-couple-faith-rcna39165>.

⁶ *Id.* See also Nate Pentz (@natepentz), Twitter (July 3, 2022, 9:32 PM), <https://twitter.com/natepentz/status/1543769677339426817>.

⁷ *Guidance to Nation’s Retail Pharmacies: Obligations under Federal Civil Rights Laws to Ensure Access to Comprehensive Reproductive Health Care Services*, U.S. Department of Health and Human Services Office for Civil Rights (July 13, 2022), <https://www.hhs.gov/sites/default/files/pharmacies-guidance.pdf>.

- Provide further training and education to Walgreens staff to ensure they follow these policies while also respecting the privacy and beliefs of your customers.

Further, these informational materials should be accessible for people who are limited English proficient (LEP) in locations where it is applicable and for people with disabilities nationwide. Customers should have the choice to go elsewhere to buy these products free of judgment, and discrimination, by your employees. If customers choose to seek contraceptives at Walgreens, employees with religious or moral objections should be required to respect the privacy of customers by privately communicating their objections to a fellow employee.

We ask for a meeting to discuss these issues and better understand what steps you will be taking to ensure that Walgreens respects its customers' constitutional right to access contraceptives.

Thank you for your time and consideration. We look forward to your prompt response.

Sincerely,



Richard J. Durbin
United States Senator



Tammy Duckworth
United States Senator