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January 16, 2025

Tim Wentworth, CEO
Kevin Hanlon, Health Care Supervisor Area 32
Walgreens Boots Alliance
108 Wilmot Rd., MS #1858
Deerfield, IL 60015

Re: Harassing Questioning and Near-Refusal to Fill Customer's Prescription

Dear Mr. Wentworth and Mr. Hanlon;

We write to you on behalf of Kristin Tweedale and her partner Jeffrey Kramer regarding harassing and invasive treatment they received when trying to fill a prescription to treat Ms. Tweedale's miscarriage at the Walgreens pharmacy at 3425 East Saginaw Street in Lansing, Michigan. We strongly urge you to investigate this incident and promptly take action to ensure that this never happens again. All Walgreens pharmacists should receive comprehensive training on their obligation to treat patients fairly and ensure they receive the medications their doctors prescribe. Additionally, we call on Walgreens to clarify and strengthen its conscientious objection policy to protect patient privacy and prevent embarrassment. No patient should ever be subjected to inappropriate questioning or have their privacy compromised when a pharmacist raises a personal objection to dispensing crucial medication.

BACKGROUND

On September 9, 2024, Ms. Tweedale's physician, an OB-GYN, called in a prescription to the Walgreens pharmacy referenced above for misoprostol to treat Ms. Tweedale's recent miscarriage. Misoprostol is an FDA-approved medication commonly used to treat ulcers, start labor, and treat miscarriages. Ms. Tweedale and Mr. Kramer were crushed after receiving the news that their pregnancy was not viable. They were relieved, however, that they lived in Michigan where they could get medication to treat the miscarriage respectfully and safely at home. Mr. Kramer expected a routine prescription pick-up, but that was far from what he experienced.

Most concerning was the line of harassing and unprofessional questions the pharmacist began asking Mr. Kramer to quell her own personal concerns about abortion for all other customers in line to hear. The pharmacist asked Mr. Kramer, "This is sensitive medication; is this going to be used on a viable pregnancy?" She had "personal beliefs" which prevented her from dispensing the

medication to Mr. Kramer. She told Mr. Kramer: “I just want to tell you how I feel about this,” and “I just want you to understand how I feel.” Mr. Kramer was baffled, as his partner was experiencing a miscarriage and her OB-GYN called in the prescription to the pharmacy; why was he being subjected to invasive and personal questions? The pharmacist repeatedly demanded the answer to her question and would not relent.

Mr. Kramer ultimately received the miscarriage medication but only after engaging in a debate with the pharmacist and bravely standing his ground, something that many other people in the situation would not want to do. After several minutes of interrogation that was loud enough for the line of customers and staff behind the counter to hear, the pharmacist eventually checked the ICD code attached to Ms. Tweedale’s prescription which indicated the medication’s intended use. She finally gave Mr. Kramer the medication but even then, kept expressing her “personal beliefs” and initially refused to give him her pharmacist number to lodge a complaint.

The pharmacist did not call another pharmacist over to dispense the medication, despite there being multiple pharmacists behind the counter. She did not transfer it to another pharmacy. Instead, she berated Mr. Kramer and interrogated him about her personal beliefs and his partner’s medical information in front of many other customers.

A few days later on September 13, 2024, Mr. Kramer spoke to the pharmacy manager. The manager did not apologize for the pharmacist’s inappropriate behavior; instead, she defended the pharmacist’s actions. She said that asking patients whether the misoprostol will be used on a viable pregnancy is required “by law” and that Walgreens must keep pregnancy information on file. Afterward, the manager scolded Mr. Kramer, saying he should have complied with the pharmacist’s questioning.

This is not the first time Walgreens has been implicated in a dispute over its employee’s conscientious objection to dispensing medication related to pregnancy. Since 2018, Walgreens has been accused of allowing its pharmacists to refuse to fill prescriptions if they believe the medication will be used to circumvent state laws or if they have a moral objection to filling the prescription. *See* Kat Chow, Walgreens Pharmacist Refuses to Provide Drug for Ariz. Woman With Unviable Pregnancy, National Public Radio (June 25, 2018), available at <https://www.npr.org/2018/06/25/623307762/walgreens-pharmacist-denies-drug-for-woman-with-unviable-pregnancy>; Amanda Perez Pintado, Walgreens, CVS pharmacists are withholding medications for people post-Roe. What you need to know, USA Today (October 14, 2022), available at <https://www.usatoday.com/story/money/2022/10/13/walgreens-cvs-withholding-medications-post-roe/10476400002/>. Walgreens posted on X in June 2018 that “Our policy allows pharmacists to step away from filling a prescription for which they have a moral objection. At the same time, they are also required to refer the prescription to another pharmacist or manager on duty to meet the patient’s needs in a timely manner.” Walgreens, X (June 24, 2018), available at

<https://x.com/Walgreens/status/1011065293563727874>. A spokesperson for Walgreens Boot Alliance stated in a media interview that Walgreens allows pharmacists to use their discretion “when determining the legality of a prescription based on state law.” Pintado, *supra*. At the time of this incident, in September 2024, Michigan not only had no abortion ban, but also codified the right to reproductive freedom in the state constitution.

I. Walgreens’ Vague Policy on Conscientious Objections May Result in Refusals to Dispense Medication, in Violation of Federal Law.

The Department of Health and Human Services (HHS) has issued guidance stating that “[w]hile pharmacies regularly dispense medications, make determinations regarding the suitability of a prescribed medication for a patient, and advise patients about medications and how to take them, pharmacies that receive federal financial assistance may not discriminate against pharmacy customers on the bases prohibited by Section 1557.” *Guidance to Nation’s Retail Pharmacies: Obligations under Federal Civil Rights Laws to Ensure Nondiscriminatory Access to Health Care at Pharmacies*, U.S. Department of Health and Human Services, <https://www.hhs.gov/civil-rights/for-individuals/special-topics/reproductive-healthcare/pharmacies-guidance/index.html> (Sept. 29, 2023). HHS provides examples of what constitutes sex discrimination under Section 1557, one of which is an example where:

An individual experiences an early pregnancy loss (first-trimester miscarriage) and their health care provider prescribes medication to assist with the passing of the miscarriage. If a pharmacy refuses to fill the individual’s prescription—which is prescribed to manage a miscarriage or complications from pregnancy loss, because this medication can also be used to terminate a pregnancy—the pharmacy may be discriminating on the basis of sex.

Id. This scenario is nearly identical to the one Mr. Kramer and Ms. Tweedale experienced. Ms. Tweedale was experiencing a miscarriage which her physician proscribed medication to treat. The Walgreens pharmacist however, refused to fill the prescription because presumptively she was personally opposed to dispensing medication that would be used to terminate a pregnancy. Although Mr. Kramer ultimately received the miscarriage medication, he only did so because he was persistent. Had he not, Ms. Tweedale could have easily been denied vital medication to treat her miscarriage. If the Walgreens’ policy is not clarified and staff are not trained appropriately, pharmacists who continue to express their “personal” objections to dispensing medication may continue to violate § 1557.

II. Walgreens May Have Violated Michigan's Public Accommodations Law.

Section 2302 of the Elliott-Larsen Civil Rights Act (ELCRA), MCL 37.2302, prohibits persons, except where permitted by law, from denying an individual the full and equal enjoyment of the “goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or public service because of religion, race, color, national origin, age, sex, or marital status.” MCL 37.2302. A “place of public accommodation” includes a business or health facility whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public. MCL 37.2301(a). Walgreens is a business open to the public and pharmacists at Walgreens provide the public a service by filling and dispensing prescriptions without selectivity. *See Haynes v. Neshewat*, 477 Mich. 29, 37, 729 N.W.2d 488, 493 (2007) (finding that a hospital that offers a full range of health services to the public is a place of public accommodation); *Rogers v. Int'l Assn. of Lions Clubs*, 636 F. Supp. 1476 (E.D. Mich., 1986) (Lions Club was a place of public accommodation because its purpose was to provide public and humanitarian services to the community and had minimal selectivity in choosing its members from the public). *See also* 41 U.S.C. § 12182(a) (listing pharmacies as places of public accommodation for Title III ADA purposes).

Walgreens' objection and delay in providing medication relating to pregnancy may violate ELCRA's prohibition on sex discrimination. Mr. Kramer and Ms. Tweedale were discriminated against based on a protected characteristic: sex. Pregnancy-based classifications are sex-based because they are justified by reference to physical differences between men and women. *Cf Mich. Dep't of Civil Rights ex rel Jones v. Mich. Dep't of Civil Serv.*, 101 Mich. App. 295, 304; 302 N.W.2d 12 (1980). The pharmacists' invasive questioning pertained to Ms. Tweedale's pregnancy and the pharmacists' personal beliefs about terminating a pregnancy. If Mr. Kramer was seeking the same medication to treat his ulcers, the pharmacist would likely not have any objections to dispensing the medication. However, because the pharmacist only refused to dispense the medication for miscarriage or abortion, pregnancy-related conditions, her actions fall within the preview of MCL 37.2302. The discrimination Ms. Tweedale faced resulted in the denial of her “full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations” of the pharmacy. Mr. Kramer was inappropriately questioned in front of many other customers to satisfy the personal beliefs of the Walgreens' pharmacist. No other customer received that same treatment to Mr. Kramer's knowledge. He almost did not receive the medication and was only able to procure the misoprostol because he was persistent. Other customers may have

understandably been deterred from obtaining their medication by the pharmacist's line of questioning and subsequent rendition of her own beliefs.

III. Walgreens' Pharmacists May Have Violated the Pharmacists' Code of Ethics.

The Code of Ethics for Pharmacists states:

A pharmacist places concern for the well-being of the patient at the center of professional practice. In doing so, a pharmacist considers needs stated by the patient as well as those defined by health science. A pharmacist is dedicated to protecting the dignity of the patient. With a caring attitude and a compassionate spirit, a pharmacist focuses on serving the patient privately and confidentially.

Code of Ethics for Pharmacists, American Pharmacists Association, (Oct. 27, 1994), <https://www.pharmacist.com/Code-of-Ethics>.

The Walgreens' pharmacist did not center concern for the well-being of Ms. Tweedale. Instead, she humiliated Ms. Tweedale's partner and openly asked whether the medication would be used to induce an abortion, without any sensitivity to her privacy or health condition. By shifting the attention from Mr. Kramer and Ms. Tweedale to herself, the pharmacist did not show concern for the well-being of the patient or act in a compassionate and caring way. The pharmacist also failed to protect the dignity of the patient when she engaged in a loud debate with Mr. Kramer in front of other customers in line. She did not serve the patient privately and confidentially but instead demanded that Mr. Kramer disclose his partner's private medical information in a public manner.

IV. Walgreens' Conscientious Objection Practice Does Not Adequately Protect Patients.

A conscientious objection policy should, at minimum, detail a process for employees to request an accommodation for their conscientious objection and how that process will protect patients' privacy and allow them to receive their medication promptly. The customer should never have to know or be confronted with the pharmacists' or staff's conscientious objection. Rather, a pharmacist should hand off the transaction to another staff member to dispense the medication without delay. Walgreens may in fact have a conscientious objection policy¹, but it is clear from

¹ Walgreens Boot Alliance, [Walgreens Mifepristone Resource Hub](https://www.walgreensbootsalliance.com/walgreens-mifepristone-resource-hub), (Jun. 13, 2024), available at <<https://www.walgreensbootsalliance.com/walgreens-mifepristone-resource-hub>> (last accessed October 7, 2024); see also Melissa Goldin, [Posts about Walgreens contraceptive policy lack](#)

past incidents and the experience of Mr. Kramer that either the policy is not being followed or that it is not robust enough to adequately guide employees' behavior and protect patient health. The pharmacist did not exercise her conscientious objection by stepping away and handing the prescription to another pharmacist, enabling Mr. Kramer to get the medication promptly. Rather, she openly and loudly questioned Mr. Kramer on the medication's use and her personal objection to that use, and potentially discriminated against Mrs. Tweedale in violation of federal and state laws and regulations. This incident is not isolated and should prompt Walgreens to immediate action to ameliorate the incident described above and to prevent future harm.

CONCLUSION

Based on what occurred here and in the other incidents referred to above, it is evident that Ms. Tweedale and Mr. Kramer are owed an apology for the way they were treated in September. Further, Walgreens needs to overhaul its policy and train and monitor its staff to ensure that patients receive their prescribed medications without harassment or unprofessional treatment by pharmacists. Staff members who have a conscientious objection to completing a transaction or dispensing medication should work with Walgreens to formulate a detailed plan that guarantees that the staff member's personal objection would not be communicated to the customer and that the staff member would hand off the transaction to someone else to complete the transaction without delay. Walgreens should also take steps to adequately train all staff at the Walgreens pharmacy where this incident occurred in accordance with both Walgreens' existing policy and new policies as they are developed, and their obligations under state and federal law. No one should have to endure humiliation and inconvenience to receive time-sensitive vital medication.

We welcome the ability to discuss this matter with you further, and ask that you respond by January 31, 2025.

Sincerely,



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context, AP News (Jul. 25, 2022), available at <<https://apnews.com/article/fact-check-walgreens-contraceptive-sales-890843841279>> (last accessed October 7, 2024).

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