

RICHARD BLUMENTHAL  
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COMMITTEES:

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HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

JUDICIARY

VETERANS' AFFAIRS

United States Senate

WASHINGTON, DC 20510

706 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510

(202) 224-2823  
FAX: (202) 224-9673

90 STATE HOUSE SQUARE, TENTH FLOOR  
HARTFORD, CT 06103

(860) 258-6940  
FAX: (860) 258-6958

915 LAFAYETTE BOULEVARD, SUITE 304  
BRIDGEPORT, CT 06604

(203) 330-0598  
FAX: (203) 330-0608

<http://blumenthal.senate.gov>

March 6, 2023

Rodney McMullen  
Chairman and Chief Executive Officer  
The Kroger Company  
1014 Vine St.  
Cincinnati, OH 45202

Dear Mr. McMullen,

I write with great urgency following reports that one of our nation's largest pharmacy chains, Walgreens, has capitulated to Republican attorneys general in 21 states in announcing it will not dispense mifepristone – a safe and common abortion medication – in those states.<sup>1</sup> This blanket decision is an abdication of Walgreens' responsibility as a health care provider. It has decided, in effect, to put profits over people. It is succumbing to bullying and intimidation by hard right ideologues, saying, "you win, women lose."

As Kroger has received similar letters, I write today demanding immediate assurances that Kroger will not back down – legally or morally – in providing your patients with access to mifepristone, a drug that is legal in every state<sup>2</sup> and is prescribed for use independent of abortion.<sup>3</sup>

On January 3, 2023, the U.S. Food and Drug Administration announced new regulations that allow retail pharmacies to seek certification to dispense mifepristone both in stores and through the mail.<sup>4</sup> This critical step makes abortion care more accessible at a time when it is under threat like never before. I was pleased to see some leading U.S. pharmacies, such as CVS and Walgreens, immediately announce their intention to seek certification.<sup>5</sup> This move will greatly expand access to the most common form of abortion care for millions of people throughout the country.

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<sup>1</sup> See <https://www.nytimes.com/2023/03/03/health/walgreens-abortion-pills.html>

<sup>2</sup> See, e.g., [https://www.accessdata.fda.gov/drugsatfda\\_docs/nda/2000/20687\\_mifepristone.cfm](https://www.accessdata.fda.gov/drugsatfda_docs/nda/2000/20687_mifepristone.cfm) (FDA approving mifepristone over 20 years ago).

<sup>3</sup> See <https://pubmed.ncbi.nlm.nih.gov/12484667/> (discussing mifepristone's "additional applications to health care, including the treatment of gynecologic conditions, cancer, and Cushing's disease"); <https://www.nejm.org/doi/full/10.1056/NEJMoa1715726> (finding that mifepristone, in combination with misoprostol, offers the most effective medication regimen for managing an early miscarriage).

<sup>4</sup> <https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/information-about-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation>

<sup>5</sup> <https://www.nytimes.com/2023/01/05/health/abortion-pills-cvs-walgreens.html>

Despite this clear step in the right direction, I was concerned to see AGs from 21 states<sup>6</sup> – including some states where abortion care remains legal<sup>7</sup> – bully and intimidate pharmacies into denying their patients the right to access the medication they need and are entitled to receive. In at least one instance, it has clearly worked: late last week, Walgreens capitulated and left the reproductive rights of its customers in the wakes of its cowardly decision.

To be clear, during this moment of crisis for access to reproductive rights, health care providers such as your company should be using every tool at its disposal to assure everyone access to care no matter where they live.

Sincerely,

A handwritten signature in blue ink that reads "Richard Blumenthal". The signature is written in a cursive style and is centered on the page.

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<sup>6</sup> [https://ago.mo.gov/docs/default-source/press-releases/2023-02-01-fda-rule---walgreens-letter-danielle-gray.pdf?sfvrsn=ff1e6652\\_2](https://ago.mo.gov/docs/default-source/press-releases/2023-02-01-fda-rule---walgreens-letter-danielle-gray.pdf?sfvrsn=ff1e6652_2); <https://ag.ks.gov/media-center/news-releases/2023/02/20/walgreens-announces-it-will-not-send-abortion-pills-into-kansas-after-receiving-letter-from-ag-kobach>

<sup>7</sup> For example, abortion care remains legal under state law in Alaska, Kansas, Iowa, and Montana. *See* <https://reproductiverights.org/maps/abortion-laws-by-state/>.