

January 27, 2023

Doug McMillon  
President and CEO  
Walmart Inc.  
702 S.W. 8th Street  
Bentonville, AK 72716

Dear Mr. McMillon,

We, the undersigned, write to you today concerning the Food and Drug Administration's (FDA) recent rule change on January 3, 2023, that authorizes retail pharmacies, like those belonging to Walmart Inc., to sell chemical abortion drugs with a prescription. We write to urge you not to seek certification as an abortion provider and to keep Walmart pharmacies as pharmacies.

Converting your pharmacies into abortion facilities would present many potential legal concerns for your company. Federal law (18 U.S.C. 1461) prohibits the mailing of any substance, drug, or medicine intended for producing an abortion.<sup>1</sup> This statute covers not only the senders of such drugs but also other individuals involved in the transmission or receipt of these drugs through the mail. Currently, there are 13 states that restrict abortion to, at most, instances in which the mother's life or health is endangered or the pregnancy is a result of rape or incest.<sup>2</sup> Seven more states are in court, seeking to enforce similar laws. If chemical abortion drugs were to be prescribed in your pharmacies, there is almost no way to ensure that these drugs are not transported across state lines and used in violation of state law. Even in those states that allow legal abortion, some intend to protect children after they have a detectable heartbeat, and the FDA still maintains that these drugs can only be taken up to 70 days gestation. Thus, if a woman delays in picking up her prescription, pharmacies could be liable for selling abortion drugs to women whose unborn children's hearts are beating and who are beyond the FDA's gestational timeframe, which is based on the significant increase in complications. Given the novelty of the regulatory and legal environment that we face in a post-*Roe v. Wade* America, it is uncertain if, by selling these drugs, you would be dragging your corporation into a legal thicket with potential criminal legal consequences.

Abortion drugs cause excruciatingly painful abortions that—in addition to killing an unborn child—are four times as likely as surgical abortions to result in medical complications and trauma for the mother. In fact, after a chemical abortion, there is a 53 percent greater risk of an ER visit for abortion complications than after a surgical abortion.<sup>3</sup> Despite this evidence showing the dangers of the abortion pill, the FDA has continually weakened what health and safety protocols are necessary before the chemical abortion regimen can be prescribed. As more and more health professionals continue to choose ideology over health and safety, it is becoming harder to assume that proper screenings to date the pregnancy to see if it is 10 weeks or fewer, or to ensure that the pregnancy is not ectopic, are completed. Additionally, if prescribing doctors do not test the patient's blood type and provide RhoGAM immunoprophylaxis if indicated, women may suffer serious complications in future pregnancies, and their future children may suffer serious life-long consequences or even death.

Retail pharmacies may not be directly required to ensure that all proper health and safety protocols still required by the FDA are met by the prescribers, but a lack of medical oversight by the prescribers may still lead to foreseeable consequences for the woman taking the chemical abortion pills. If women are severely injured or even killed by taking the chemical abortion regimen fulfilled by your pharmacies, these tragic situations could lead to both public image and legal ramifications for your pharmacy. Likewise, retail pharmacies are ill-prepared to ensure that a second party picking up a chemical abortion prescription is not a sex trafficker, pimp, or abuser forcing a woman to undergo a traumatizing abortion without her knowledge or consent. If women unknowingly are given the chemical abortion regimen fulfilled by your pharmacy, once again, your corporation would face public outcry.

Most importantly, pharmacies are meant to be a place of healing, providing medications that sustain and strengthen life at all stages. Chemical abortion drugs are not just another pill. Selling these drugs would transform these centers of healing into abortion facilities that kill children in their mothers' wombs. Both employees and customers will be forced to recognize that any business done with a pharmacy that sells abortion drugs is, in fact, business

done with an abortion facility. Such a move directly threatens the conscience rights of all pharmacy employees, most particularly the pharmacists who will be placed on the front lines of committing abortions, but certainly other employees as well. Companies choosing to take such action should realize that this decision will certainly open the door for the kind of activism and public education commonly seen outside other abortion businesses like Planned Parenthood.

We are grateful that Walmart Inc. has not declared that it will seek a certification that would essentially make the corporation an abortion facility—forcing every employee and customer to wrestle with its radical association with the abortion industry. We urge you to hold fast to this position. Walmart Inc. should not sell chemical abortion drugs.

Sincerely,

Tony Perkins  
President  
Family Research Council

Marjorie Dannenfelser  
President  
Susan B. Anthony Pro-life America

Jeanne F. Mancini  
President  
March For Life

Carol Tobias  
President  
National Right to Life Committee

Roger Severino  
Vice President of Domestic Policy  
The Heritage Foundation

Ryan Anderson  
President  
Ethics and Public Policy Foundation

Brian Burch  
President  
CatholicVote

Tim Wildmon  
President  
American Family Association

Kristan Hawkins  
President  
Students for Life Action/  
Students for Life of America

Penny Y. Nance  
President and CEO  
Concerned Women for America

Craig DeRoche  
President and CEO  
Family Policy Alliance

Catherine Glenn Foster  
President and CEO  
Americans United for Life

Lila Rose  
President and Founder  
Live Action

Timothy R. Head  
Executive Director  
Faith & Freedom Coalition

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<sup>1</sup> Cornell Law School. (n.d.). 18 U.S. Code § 1461 - mailing obscene or crime-inciting matter. Legal Information Institute. Retrieved January 6, 2023, from <https://www.law.cornell.edu/uscode/text/18/1461>.

<sup>2</sup> Pro-life state policy maps. Family Research Council. (n.d.). Retrieved January 6, 2023, from <https://www.frc.org/prolifemaps>.

<sup>3</sup> Studnicki J, Harrison DJ, Longbons T, et al. A Longitudinal Cohort Study of Emergency Room Utilization Following Mifepristone Chemical and Surgical Abortions, 1999–2015. *Health Services Research and Managerial Epidemiology*. 2021; 8. doi:10.1177/23333928211053965.