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SMALL BUSINESS AND ENTREPRENEURSHIP  
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## United States Senate

October 14, 2013

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Mr. Greg Wasson  
Chief Executive Officer  
Walgreen Co.  
200 Wilmot Rd.  
Deerfield, IL 60015

Dear Mr. Wasson:

I am writing to inquire about Walgreens' new "Well Experience" pharmacy model and share my concern regarding its potential impact on patient privacy, data security, and patient safety. The data security and privacy rights afforded to patients under the Health Insurance Portability and Accountability Act (HIPAA) protect the dignity of individuals, the integrity of our health care system as a whole, and enable patients to trust pharmacies and pharmacists. As Walgreens introduces innovations to advance the role of pharmacy in health care delivery, patient privacy, the security of prescription data and prescriptions, and drug security must remain top priorities.

According to a recent report released by Change to Win<sup>1</sup>, the new Well Experience pharmacy workflow is a significant departure from that of the traditional pharmacy. Under this new model, which has been installed at Walgreens stores in more than 20 states, pharmacists in Well Experience pharmacies work at publicly accessible desks located in front of the pharmacy counter. The pharmacist is physically separated from technicians tasked with filling prescriptions and reviews prescription information remotely in a public space, via images on a computer screen.

I understand and support the goal of making pharmacists more accessible to patients for counseling and other services. However, I remain concerned that placing the pharmacist's workstation in a public area may result in violations of patients' health privacy rights.

Under HIPAA, health care providers, including Walgreens, are obligated to establish administrative, physical, and technical safeguards to secure protected health information and required to perform risk assessments about the adequacy and effectiveness of data security protections. According to the above cited report, there is evidence that patient privacy and prescription data security may be compromised in Well Experience pharmacies, as pharmacists have frequently left patient information and prescription medications unattended in public areas. Additionally, moving pharmacists physically away from technicians, and tasking these

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<sup>1</sup> Behind the Desk: Risks to Public Health, Patient Privacy and Drug Security under Walgreens' New Pharmacy Model, <http://walgreenstrategywatch.org/walgreens-new-pharmacy-model/>.

technicians with primary responsibility to fill prescriptions raises question about the provision of quality supervision over technicians and, consequently, patient safety.

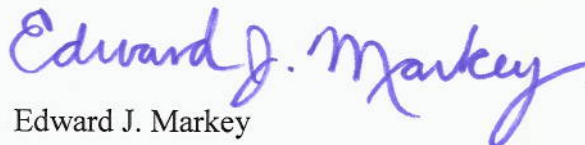
To ensure these matters are addressed and to better understand the Well Experience pharmacy model, I ask for your response to the following questions:

- 1) How many total pharmacies does Walgreens operate nationwide? Please provide a breakdown of the number of pharmacies located in each state.
- 2) How many Well Experience stores are currently open and operational in the U.S.? Please provide a list of all locations. Please describe Walgreens plans to expand the use of this model.
- 3) With the implementation of this new design, has Walgreens put in place additional training requirements for its pharmacists, technicians and employees that address the security of prescription data and medications, and the privacy of conversations between pharmacists and patients? If yes, please describe those requirements. If no, why not?
- 4) Has Walgreens done the required assessment of how the new design and workflow could impact patient privacy and data security? If yes, what did Walgreens discover? If no, why not?
  - a. Has Walgreens made changes to its policies and procedures to mitigate any new data security and privacy risks posed by this new design? If yes, please describe those changes. If no, why not?
  - b. Has Walgreens implemented any physical design safeguards to mitigate risks to patient privacy, to prescription and data security, and to access to medications stemming from the layout of the pharmacist's new workstation?
- 5) The recent report issued on Walgreens new pharmacy model indicates that the new design provides members of the public with easy access to items left on the pharmacist's desk, including prescriptions to be picked up and protected health information. Computer screens with protected health information may be left unattended and can be viewed by customers in the store. Additionally, the report highlights that medication is sometimes unintentionally left unattended on pharmacy desks in public areas. Has Walgreens implemented any physical design safeguards to mitigate risks to prescription and medication security stemming from the layout of the pharmacist's new workstation? If yes, please describe. If no, why not?
- 6) What steps has the company taken to ensure the new pharmacy model does not decrease the security of prescription drugs, including heightened steps to assure the security of controlled substances? Please describe these steps and provide supporting material, including any memos or training manuals that address this issue.

- 7) What has the company learned about the effectiveness of its policies, safeguards and training since implementation of the new model? What adjustments, if any, have been made as the pilot has proceeded?
- 8) Please describe all types of patient information that is stored on computer and mobile devices that are used and stored in public areas, such as the pharmacists' computer, iPad and mobile phone.
- 9) What safeguards has Walgreens put in place to protect private health information on mobile devices, in particular? Is the information encrypted when stored and/or transmitted between devices or systems? What heightened risk assessments have been done for mobile devices?
- 10) Has Walgreens put in place policies and procedures to respond to a member of the public if a concern is raised about unattended protected patient information, unattended drugs, or other patient privacy or drug security issues? If yes, please describe those policies and procedures. If no, why not?
  - a. Please describe whether there have been incidents in which members of the public have issued such a complaint, and whether a minor was involved. Please describe the number and location of all incidents and the company's responses to the incidents, including addressing the harms, data breaches reported, and how the technology and process issues that caused the incidents were addressed.
  - b. Please include any reports made to state or national authorities about the exposure of controlled substance prescriptions, or the theft or loss of unattended controlled substances. Please include new training materials and policies to address the handling of controlled substances and controlled substance prescriptions and data.
  - c. Please include information about the steps Walgreens takes to notify a patient whose medical information was put at risk or whose privacy was violated.

Thank you for your attention to this important matter. Please provide written responses to these questions no later than close of business on November 5, 2013. If you have any questions, please have a member of your staff contact Mr. Joseph Wender or Dr. Avenel Joseph at 202-224-2742.

Sincerely,

  
Edward J. Markey