



# THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

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**Via U.S. Mail and email**

Albertsons Companies, Inc.  
250 Parkcenter Blvd.  
Boise, Idaho, 83706  
c/o Larry Carr, Corporate Director, State &  
Local Government Relations

CVS Health  
One CVS Drive  
Woonsocket, Rhode Island 02895  
c/o Elizabeth S. Ferguson, Deputy General  
Counsel & Senior Vice President

Costco Wholesale  
P.O. Box 34331  
Seattle, WA 98124  
c/o Helen Goff Foster, Corporate Counsel  
(Privacy and Marketing)

Rite Aid Corp.  
30 Hunter Lane  
Camp Hill, PA 17011  
c/o Janet Hart, Director, Government Affairs

Retail Business Services, LLC  
1385 Hancock St  
Quincy, MA, 02169-5103  
c/o Teross Young, VP Government Affairs

Topco Associates, LLC  
150 NW Point Blvd  
Elk Grove Village, IL 60007  
c/o Andrew Broccolo, SVP General Counsel

Walgreen Co.  
104 Wilmot Road  
Deerfield, IL 60015  
c/o Greg Kunstman, Group Vice President,  
Commercial Legal Services and  
Daniel P. Fitzgerald, Senior Counsel  
Government Litigation

Walmart  
31 Home Depot Drive  
PMB 295  
Plymouth, MA 02360  
c/o Christopher N. Buchanan, Director, Public  
Affairs & State and Local Government Relations

Dear all:

We are writing in connection with your administration of vaccinations for the 2019 novel coronavirus. Access to vaccines is a critical public health initiative and we appreciate the critical service that your companies are providing to make vaccines more accessible to Massachusetts residents.

We are reaching out in response to reports<sup>1</sup> that personally identifying information is being collected from consumers who seek to obtain vaccinations from retail pharmacies. The reports echo concerns we have received on behalf of consumers who complain that they are required to provide personal data that is not necessary for the administration of their vaccination, and who worry that such personal data is being collected for unrelated marketing or other commercial purposes.

We understand that some personal information is necessary to establish vaccine eligibility, schedule appointments, and seek reimbursement from insurance carriers or the federal government. We also appreciate that some consumers may want to participate in loyalty or other marketing programs offered by your companies. But access to life-saving vaccines should not be conditioned on a consumer's consent to provide personal data not necessary for the vaccination administration. Nor can consent to such data collection or marketing be presumed based on a consumer's desire to obtain a vaccination. The expansion of vaccination eligibility to teenagers 16 years old and above, and later to children and teens, raises heightened concerns about unnecessary data collection and secondary uses of data collected for vaccine registration purposes.

Expanding access to vaccination opportunities is the central goal of the collaboration between your pharmacies and the federal government.<sup>2</sup> Collection of personal data unrelated to the administration of that program undermines that goal to the extent consumers—especially those in areas with limited vaccination opportunities—avoid seeking vaccinations because they do not wish to provide unrelated personal data or be targeted with marketing. We are also concerned that unnecessary data collection might exacerbate existing racial and ethnic disparities in distribution rates.<sup>3</sup>

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<sup>1</sup> Sharon Terlep, *CVS, Walgreens Look for Big Data Reward From Covid-19 Vaccinations*, Wall Street J. (Mar. 2, 2021), <https://www.wsj.com/articles/cvs-walgreens-look-for-big-data-reward-from-covid-19-vaccinations-11614681180>.

<sup>2</sup> See Centers for Disease Control and Prevention, *Understanding the Federal Retail Pharmacy Program for COVID-19 Vaccination*, at <https://www.cdc.gov/vaccines/covid-19/retail-pharmacy-program/index.html> (noting that the goal of the program is to provide “about 90% of Americans [with] vaccine access through a community pharmacy within five miles of where they live – including in some of the nation’s hardest-hit and highest-risk communities. Increasing the number of places where people can get vaccinated will help ensure more people are protected, ultimately helping us end this unprecedented pandemic.”).

<sup>3</sup> See *Health Equity Considerations and Racial and Ethnic Minority Groups*, CDC (April 19, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/race-ethnicity.html> (“The COVID-19 pandemic has brought social and racial injustice and inequity to the forefront of public health. It has highlighted that health equity is still not a reality as COVID-19 has unequally affected many racial and ethnic minority groups, putting them more at risk of getting sick and dying from COVID-19.”) (internal hyperlinks omitted); *Latest Data on COVID-19 Vaccinations Race/Ethnicity*, KFF (April 28, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/latest-data-on-covid-19-vaccinations-race-ethnicity/> (“As observed in prior weeks, Black and Hispanic people have received smaller shares of vaccinations compared to their shares of cases and deaths and compared to their shares of the total population in most states.”).

In order to promote the public's trust in the vaccine distribution process, we are seeking clarification of the following:

1. What information is requested or collected from people who: (1) view available vaccination appointments with your retail stores in Massachusetts, (2) sign up for a vaccination with your retail stores in Massachusetts, (3) obtain a vaccination with your retail stores in Massachusetts?
2. Are consumers required to create an account with your company in order to (1) view available vaccination appointments with your retail stores in Massachusetts, (2) sign up for a vaccination with your retail stores in Massachusetts, (3) obtain a vaccination with your retail stores in Massachusetts?
3. What disclosures to consumers are made in connection with this information collection and/or account creation?
4. How did you obtain consent of each consumer to collect personal data relating to them? Was your collection of such data automatic unless the consumer "opted-out" of the collection or did consumers have to affirmatively opt-in before any data collection? If the former, please describe the process by which a consumer is able to opt-out of the data collection and what happens to their data if that opt-out is exercised.
5. What are the purposes of collecting each element of personal data that you collect? Please describe with respect to each element whether it is necessary to be collected in connection with your vaccination administration and identify the reason why it is necessary.
6. What do you intend to do with this data? Will it be used for marketing or business development purposes? Will it be shared with others? If so, with whom and why?
7. If you are collecting personal data from consumers in connection with providing vaccinations that is not necessary for the administration and reimbursement of the vaccinations, is that data being stored separately, or otherwise segregated from, other personal information collected from the consumer for marketing or other commercial purposes?

Again, we greatly appreciate the important public service your companies are providing the residents of the Commonwealth. Your companies are carrying a mantle of immense trust of the nation and Massachusetts and preserving that trust is of critical importance to the public's welfare. We look forward to your responses to the above questions.

Sincerely,

/s/ Sara Cable

Sara Cable  
Chief, Data Privacy and Security Division  
Assistant Attorney General