

Religion Versus Women's Reproductive Rights in the Pharmacy Field

In order for women to obtain emergency contraception, such as Plan B, they must first obtain a prescription from their physician. Pharmacists have a legal obligation to fill all valid prescriptions unless the medication poses a health risk to the patient, in which case they can refuse. However, even with a prescription, some women are denied emergency contraception because the pharmacist feels, based on their religion, that by filling the prescription they are contributing to an immoral act. Complicating this issue, legislatures have recently passed laws protecting the right of religious freedom for the pharmacist as well as reproductive rights for women. Finding a solution that would satisfy both sides of this dispute has proved to be difficult. Some state legislatures have passed a conscience clause that permits pharmacists to decline filling a prescription if it conflicts with their moral or religious beliefs (Duvall, 1488). Contradictory with these state laws, federal legislatures passed the Pharmacy Consumer Protection Act; requiring pharmacies fill all valid prescriptions in a timely manner (Duvall, 1494). While they have created laws and guidelines to help the situation, complications still arise at the pharmacy counter. Pharmacists are still being put in the awkward situation of providing medication to women that goes against their religious beliefs and women are not being allowed access to the medical treatment they desire. This battle needs to be put to rest. By examining the laws and procedures currently dealing with this issue, maybe a compromise can be found. Instead of having different laws in each state governing this matter, congress should pass a federal law in order to avoid any further issues concerning this conflict.

Most state pharmacy laws require all legal prescriptions be filled, even if the pharmacist doesn't morally agree with the prescription. Few states have passed the conscience clause, which would protect the religious right of the pharmacist. Pharmacists working in states without the

Conscience clause risk losing their license by refusing to fill a prescription. Many pro-life pharmacists are lobbying state legislatures to adopt the Conscience clause provisions to exempt them from any repercussions for religious reasons (Duvall, 1492). The main concern that pro-life pharmacists have is that they are contributing to the act of abortion. Medically defined, pregnancy begins when a fertilized egg becomes attached to the uterine wall (Fielder, 89). However, the time at which pregnancy begins is controversial; some people believe it begins with the fertilized egg. The Pharmacists for Life International (PFLI) argues that emergency contraceptives cause abortion because they are not always successful in preventing fertilization (Lumpkin, 105-106). Plan B prevents a fertilized egg from attaching to the womb, by damaging the lining of the uterus, creating a “post-fertilization effect” (Fielder, 89). So whether the use of Plan B is considered abortion depends on when an individual believes pregnancy begins. This dispute is a sensitive subject, but to avoid conflict, there needs to be a legal definition of when pregnancy begins.

Conversely, by refusing to fill emergency contraceptives, pharmacists are making it difficult for patients to receive the medication they desire. Obstruction to obtaining Plan B, especially since it must be taken within 72 hours to be effective, may cause unplanned pregnancy, mental distress, financial burdens, and disease progression in some cases (Bramstedt, 1219). This should not be a problem since Plan B is FDA approved in 1999, the drug was created as a safe and effective way to reduce unwanted pregnancies and abortions, (Fielder, 88). Also, if the patient has a prescription, then their physician knows the patients situation and has advised them to take the medication. Pro-life pharmacists have a negative view on emergency contraception, but they need to put the needs of the patient above their personal belief. Women’s groups see it as an attempt to enforce religious beliefs on patients who are in need (Fielder, 88).

What if the patient is a rape victim or by becoming pregnant they are risking the health of themselves or the child? Without access to oral contraception, women lose the ability to make autonomous reproductive decisions. By allowing women access to drugs such as Plan B, women may control when they want to reproduce, which in turn gains women social equality with men. This reproductive power allows women to pursue full-time careers, travel the world, compete in sports, and many other lifestyle choices that having a baby might prevent.

Among legislatures, there is too much confusion on how this situation should be legally handled when there are state laws that contradict federal laws along with regulations of the American Pharmacy Association and others. Many laws are already in place concerning this issue, although none have successfully solved the problem yet. In order to stay neutral the Supreme Court has held a separationist stance between church and state when making decisions (Duvall, 1501). The Supreme Court has found it difficult to abide by all the laws pertaining to this issue and regulate how government and religion should interact. There are many laws that have to be abided by and it is impossible to satisfy both sides. A compromise must be made between the patient and the pharmacist; from there federal legislatures should pass a law, putting this conflict to rest. The American Pharmacy Association permits pharmacists to refuse to fill prescriptions but requires them to “immediately transfer the patient to another available pharmacist or pharmacy that will” (Bramstedt, 1219). However, many pharmacists still feel like they are assisting the patients with an immoral act and continue to refuse to fill the prescription or intentionally will not stock the medication (Bramstedt, 1219). This regulation by the APA is a good compromise; however, it is not properly enforced as a federal law would be.

Many people have proposed solutions regarding the issue at hand. Bramstedt, writing in *The Lancet*, suggested the use of an automated dispensing system, where a machine would fill,

label and provide verification for the medication (1220). This could work; it may satisfy the comfort level of the pharmacist since their role in the situation is reduced, but it is not completely eliminated. Bramstedt also proposed that the medication be sold over the counter so that pharmacist does not have any involvement (1221). However, due to the potential side-effects and risk of abuse of this medication, this is not possible. Also, FDA is concerned that easy access to Plan B would increase the sexual activity of young women.

Nonetheless, the legal issues pertaining to the problem would still need to be addressed. Duvall writes in *The American University Law Review* that courts should analyze conscience clauses under the law of “religious accommodation” in order to determine the proper scope and place of Conscience clause legislation in society today (1489). The Supreme Court has affirmed that legislatures can exempt religious adherents from the clause that fail to include provisions warranting that patients receive medications without “unnecessary delay or interference” (Duvall, 1489). The article recommends that the clause should contain provisions guaranteeing patients’ access to Plan B in a timely manner as well as protecting the pharmacist’s religious beliefs as long as they do not interfere with the reproductive rights or health of the patient (Duvall, 1490). Without these provisions included, legislatures could argue that the clause is unconstitutional because it “substantially” burdens women in need. But the court has not fully defined a “substantial burden” (Duvall, 1490). By making this argument, legislatures could exempt the Conscience clause unless they include the necessary provisions. This would also be helpful in passing a bill that was recently introduced in the House of Representatives, the Access to Legal Pharmaceuticals Act. This Act would require pharmacists that refuse to dispense a medication to ensure another pharmacist fill the prescription “without delay” (Lumpkin, 128). This is basically the same as the regulations the APA set, but if it is passed it will be a federal

law.

To conclude, by refusing to fill emergency contraceptives, pharmacists are placing their concern of their own ethical views above the medical need of their patients. Pharmacists should agree never to abandon their patients no matter what their beliefs are pertaining to a particular drug. The American Pharmacy Association states in code of ethics:

“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 in a private and confidential manner.” (Fielder, 90)

Pharmacists may not want to contribute to an act they consider immoral, but by refusing Plan B to deserved patients pharmacist are failing to serve a client with a legitimate need. I think this problem needs to be brought to the public’s awareness. Before researching this subject, I personally did not know there was any problem in obtaining oral contraceptives. “Most Americans are supportive in the use of oral contraceptives, and 95% of American women use some form of birth control at some point in their lives” (Lumpkin, 129). Meanwhile, many have no idea of the laws that are being created and the effect it will have on their lives. If young women were made aware of this issue, they would have a chance to protest before they lose their reproductive right.

Bibliography

Bramstedt, Katrina A. "When pharmacists refuse to dispense prescriptions", *The Lancet* 367:9518 (2006): 1219-1220. Web. 10 Oct. 2012.

Duvall, Melissa. "Pharmacy Conscience Clause Statutes: Constitutional Religious "Accommodations" or Unconstitutional "Substantial Burdens" on Women?" *The American University Law Review* 55:5 (2006): 1485. Print. 10 Oct. 2012.

Fielder, J.H.; , "Pharmacists refuse to fill emergency contraception prescriptions," *Engineering in Medicine and Biology Magazine* 24:4 (2005): 88- 91. Print. 10 Oct. 2012.

Lumpkin, Christina A. "Does a Pharmacist Have the Right to Refuse to Fill a Prescription for Birth Control?" *Miami Law Review* 60:1 (2010): 105-129. Print. 2 Oct. 2012.