



Written by [Raven Clabough](#) on October 1, 2012

Illinois Pharmacists Not Required to Dispense Plan B Pills

An Illinois appeals court has [ruled](#) that pharmacists may refuse to dispense the “morning after pill” after a seven-year-long protracted legal battle involving two Illinois pharmacists who took issue with having to dispense the pills. Luke VanderBleek and Glen Kosirog, long-time Christians, sought a religious exemption from a 2005 executive order that directed all pharmacists to fill prescriptions for the morning after, or “Plan B,” pill. The appeals court ruled in their favor on September 21.



Former Illinois Governor Rod Blagojevich mandated in 2005 that all pharmacists and pharmacies sell “Plan B” pills to prevent pregnancy.

But critics of Plan B say it is an abortion pill because it prevents a fertilized egg from attaching to the uterus. Among those critics are Luke VanderBleek and Glen Kosirog.

The two men filed a lawsuit asserting that the Illinois Health Care Right of Conscience Act should protect them from being punished if they refused to offer a service that is diametrically opposed to their convictions. The Illinois Right of Conscience Act allows pharmacists to refuse to dispense certain items, argued the two pharmacists. The statute reads:

No physician or health care personnel shall be civilly or criminally liable to any person, estate, public or private entity or public official by reason of his or her refusal to perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care service which is contrary to the conscience of such physician or health care personnel.

According to their attorney, Frances Manion, senior counsel at the American Center for Law and Justice, that law “provides the broadest protections for the right of conscience of healthcare professionals of any law in the country.”

In 2008, a circuit court dismissed their claim, but the state’s Supreme Court ruled in 2008 that a court must hear it. In 2011, a judge in Sangamon County entered an injunction against the executive order. The court had sided with the two men, asserting that state law in fact protected them from having to fill prescriptions for emergency contraceptives “due to their conscience.”

The lower court found that a pharmacist “may not be discriminated against or punished civilly or criminally if they make a conscience-based decision not to comply” with the rule, according to the ruling filed Friday, September 21.

The decision by the 4th District Appellate Court affirmed the injunction, and found that the state law should “protect the pharmacists’ decisions not to dispense emergency contraceptives due to their conscience.”

Though the ruling applies strictly to the two pharmacists and does not provide exemption to pharmacists statewide, Manion asserts that the case will create the necessary precedent for others who seek similar exemptions.



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"This is plenty, because the precedent that this will set in the state of Illinois means that the state is not going to go after a pharmacist that exercises conscientious objection when they know the court has ruled this way in this case," he said. "We're very happy about it."

"It strikes an appropriate balance between the rights of people to have access to medical care and ... the rights of people who object ... to being coerced into violating their conscience," Manion said.

And Karen Brauer, president of Pharmacists for Life International, a pro-life pharmacy organization, states that the precedent set by the case may help prevent other pharmacists from losing their jobs in the event that they refuse to sell the morning-after pill.

"When pharmacists find out they might be fired for doing the right thing, they feel very alone," she said. "They don't know where to go or what to do."

Brauer explains that pharmacists' opposition to the morning-after pill because it can induce abortion, and any assertion that the pill simply prevents ovulation is false.

"If the morning after pill is taken after the surge of luteinizing hormone, it will not suppress ovulation, and will then work after fertilization, to interfere with implantation of the early human embryo," she said.

The American Civil Liberties Union expressed [frustration](#) with the court's decision.

"We are dismayed that the court expressly refused to consider the interests of women who are seeking lawful prescription medication and essentially held that the religious practice of individuals trumps women's health care," said ACLU spokesman Ed Yohnka. "We think the court could not be more wrong."

The Illinois appeals court rejected the ACLU's argument that emergency contraceptives fell under an exception in the Illinois Health Care Right of Conscience for "emergency medical care."

In Washington, a federal court had [struck down](#) a similar state rule earlier this year, according to the Becket Fund, a non-profit law firm that represented the plaintiffs in the Washington case.

The Washington State Board of Pharmacy had passed a new set of regulations in 2007 that made it illegal to refer patients to neighboring pharmacies for reasons of conscience, instead requiring pharmacies to sell any drug in demand, with just a few exemptions for business reasons.

U.S. District Judge Ronald Leighton issued a 48-page ruling finding Washington's rule to be unconstitutional if it does not allow exemptions for religious or moral reasons. SeattlePi.com reports:

He said the state's real goal in adopting its rule was not to promote timely access to Plan B and other medicine, but to infringe on the religious freedom of pharmacists who believe that life begins at conception.

"The Board of Pharmacy's 2007 rules are not neutral, and they are not generally applicable," the Court explained. "They were designed instead to force religious objectors to dispense Plan B, and they sought to do so despite the fact that refusals to deliver for all sorts of secular reasons were permitted."

"The Board's regulations have been aimed at Plan B and conscientious objections from their inception," the court explained. "Indeed, Plaintiffs have presented reams of [internal government documents] demonstrating that the predominant purpose of the rule was to stamp out the right to refuse [for religious reasons]."

The Beckett Fund notes that the similar ruling in Illinois is a cause for celebration.



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“This decision is a great victory for religious freedom,” said Mark Rienzi, senior counsel for the Becket Fund, quoted in a statement about the decision.

Photo: [Portrait of an handsome senior pharmacist in his shop](#) via Shutterstock



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