



Written by [Dave Bohon](#) on February 25, 2012

Court Rules for Pro-life Pharmacists in Washington State

On February 22 U.S. District Judge Ronald Leighton found that, under pressure from Gov. Chris Gregoire, the state's Board of Pharmacy had violated the constitutionally guaranteed religious freedoms of pro-life pharmacists with a 2007 rule requiring them to stock and supply drugs such as Plan B and "ella" that can induce abortions, and prohibiting them from referring customers to other pharmacies for the drugs.



The plaintiffs in the case included a family-owned pharmacy, Ralph's Thriftway, and two pharmacists, Margo Thelen and Rhonda Mesler, who refused to dispense the abortion drugs because of their pro-life convictions, instead referring patients to other druggists who would provide the contraceptives.

Because of the state's regulations that trashed conscience protections for such individuals and parties, Margo Thelen lost her job, Rhonda Mesler was forced to transfer to another state, and Kevin Stormans, the owner of Ralph's Thriftway, faced repeated investigations and threats of punishment from the State Board of Pharmacy.

"The Board of Pharmacy's 2007 rules are not neutral, and they are not generally applicable," wrote Leighton in his ruling. "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."

He added that the rules forced pro-life pharmacists "to choose between their religious beliefs and their livelihood. The facts of this case lead to the inescapable conclusion that the Board's rules discriminate intentionally and impinge [the pharmacists'] fundamental right to free exercise of religion."

Luke Goodrich of the [Becket Fund for Religious Liberty](#), which worked with Washington State attorneys to defend pro-life pharmacists in the case, said that Leighton's ruling "sends a very clear message: No individual can be forced out of her profession solely because of her religious beliefs. If the state allows pharmacies to refer patients elsewhere for economic, business, and convenience reasons, it has to allow them to refer for reasons of conscience."

Margo Thelen, who has served as a pharmacist for nearly 40 years, said that she was "thrilled that the court ruled to protect our constitutional right of conscience. I was forced to leave a job I loved simply because of my deeply held religious convictions."

As reported by the [Catholic News Agency](#), in his opinion Leighton recalled that in 2006 the state pharmacy board had adopted a draft rule that included conscience protections for pharmacists wishing to opt out of supplying emergency contraception.



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But Gov. Gregoire vigorously objected to the opt-out rule, insisting that “no one should be denied appropriate prescription drugs based on the personal, religious, or moral objection of individual pharmacists.” The Governor threatened to replace the entire board if it allowed the conscience rule to stand. The board caved in and its final rule “drew from proposals by Planned Parenthood and the Northwest Women’s Law Center, and included provisions Judge Leighton said were meant ‘to eliminate conscientious objection,’ ” reported the Catholic News Agency.

“While the board allows pharmacies to refuse to stock drugs for countless secular reasons,” wrote the judge in his ruling, “the board will investigate if a religious objector refuses to stock Plan B for a religious reason. The Board of Pharmacy has interpreted the rules to ensure that the burden falls squarely and almost exclusively on religious objectors.”

Leighton pointed out that a rule “is not constitutional when the government applies it in a selective, discriminatory manner, thus singling out the plaintiffs’ religiously motivated conduct. When the government enforces a law against religious conduct but not similar secular conduct, it devalues religious reasons by judging them to be of lesser import than nonreligious reasons. This is exactly what has occurred here.”

Attorney Steven H. Aden with the [Alliance Defense Fund](#), which also lent its legal expertise to the case, said that “Americans should be able to rely on health care providers who have a conscience. The court’s decision is a ringing affirmation that conscience and good health care are not only compatible, but inseparable.”

Joseph Backholm of the [Family Policy Institute of Washington](#), noted that the ruling goes to the very heart of the American ideal “that the government will not tell small-business owners what they have to sell in their stores.” He told [OneNewsNow.com](#) that both state and federal agencies should take note of the ruling. “There is a growing tendency by government to want to not only tell people what they must sell, but also tell people what they must purchase,” he said. “And the combination of those things coming down on people — really for just partisan and ideological reasons — would be disastrous for all of us.”

Dan Kennedy of [Human Life of Washington](#), the state’s largest pro-life group, commented,

[T]he First Amendment protection of both freedom of religion and the right of conscience was at stake [in the case]. The state, in a heavy-handed manner, clearly transgressed its constitutional boundaries by trying to force an abortion agenda on all pharmacists and pharmacies. Thanks to today’s court ruling, there is still room in this state for tolerance of diverse moral principles.



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