

Appendix A

States That Have Taken a Position on Pharmacist Refusals

Most pharmacy boards remain silent on the issue of pharmacist refusals despite continuing occurrences all over the country. As of January 2008, 18 states have explicitly addressed the issue. Seven states ensure women's access to contraception at the pharmacy. Seven states have policies that allow refusals, but prohibit pharmacists from obstructing patient access to medication or from refusing to transfer or refer prescriptions to another pharmacy. Only four states permit refusals without any patient protections. These laws, regulations, and policies are described below.

States Requiring Pharmacies or Pharmacists to Provide Medication

There are currently seven states that ensure access to medication in the pharmacy.

California

In 2005 the California legislature passed a law that prevents pharmacists from obstructing a patient in obtaining a prescription drug. The law permits refusals based on personal beliefs only if the pharmacist has notified the employer in writing and the employer can accommodate the refusal without undue hardship. The pharmacy is responsible for putting in place protocols that ensure the patient will have "timely access" to their prescribed drug. The California law also requires posting a notice to consumers of their rights.⁷³

Illinois

Prompted by a rash of refusal incidents, Governor Blagojevich ordered the Department of Financial and Professional Regulation to issue an emergency regulation on the topic. The rule, which later became permanent, requires retail pharmacies that sell contraceptives to fill prescriptions for birth control, without delay, if in stock.⁷⁴ When a contraceptive is not in stock, the pharmacy must follow the customer's wishes and provide an alternative, order the drug, transfer the prescription to another pharmacy, or return it to the customer.⁷⁵ A later regulation from the Department requires pharmacies to post notice of the original rule, so that patients are informed of their rights.⁷⁶

Maine

A Maine pharmacy regulation passed by the board of pharmacy interprets Maine law to make clear that a pharmacist may refuse to fill a prescription or dispense drugs only for professional reasons.⁷⁷

Massachusetts

The Massachusetts Board of Pharmacy established an explicit requirement for pharmacists to fill prescriptions in 2004 in response to a letter of inquiry from an advocate about the issue.⁷⁸ In the letter, the Board said pharmacists must fill prescriptions, including those for EC, pursuant to a review for contraindications and similar concerns.⁷⁹

Nevada

The Nevada Pharmacy Board passed a rule in 2006 which allows a pharmacist to refuse to fill a prescription on professional grounds.⁸⁰ The general counsel of the pharmacy board has interpreted this rule to mean that refusals based on other considerations, such as personal beliefs, could result in discipline.⁸¹

New Jersey

In November 2007, Governor Corzine of New Jersey signed a bill into law that places a duty on the pharmacy to ensure that drug orders are filled "without delay," even if an individual pharmacist refuses. If the drug is not in stock, the law mandates that the pharmacy order it, transfer the prescription to another pharmacy "reasonably accessible to the patient," or return the prescription, whichever the customer chooses.⁸²

Washington

In April 2007, the Washington State Board of Pharmacy finalized a rule that requires pharmacies to deliver in a timely manner lawfully prescribed drugs and devices as well as drugs approved for restricted distribution, which includes non-prescription EC.⁸³ The rule addresses situations where the drug is out of stock. The board additionally passed rules clarifying that it is unprofessional conduct if a pharmacist or pharmacy destroys an unfilled prescription, refuses to return an unfilled lawful prescription, violates a patient's privacy, discriminates against a patient, or intimidates or harasses a patient.⁸⁴

States Permitting Refusals but Prohibiting Obstruction

Seven state pharmacy boards have issued policy guidance or policies permitting individual pharmacist refusals but prohibiting obstruction or refusals to refer and transfer patients' prescription information.

Alabama

In its February 2007 newsletter, the Alabama board of pharmacy described its position on refusals and Plan B®. It said that Alabama pharmacists have right to refuse but there should be a concerted effort to provide a meaningful referral.⁸⁵

Delaware

In its March 2006 newsletter, the Delaware Board of Pharmacy announced its position on refusals. It said while there is no regulation requiring pharmacists to dispense every prescription, pharmacists cannot interfere with a patient's right to receive medication.⁸⁶ In November 2007, the Delaware Board of Pharmacy codified a rule requiring pharmacists-in-charge to establish protocols to deal with a refusal situation.⁸⁷ The statement and rule operate together; protocols should respect a pharmacist's right to refuse without interfering with the patient's right to receive timely drug therapy.

New York

In November 2005, the New York Board of Pharmacy issued practice guidelines on refusals. The guidelines permit refusals, but prohibit refusing pharmacists from obstructing patient access to drugs. They also make clear that verbal abuse or other harassment of a patient constitutes unprofessional conduct. The guidelines tell pharmacies to assure delivery of services to patients.⁸⁸

North Carolina

In April 2005, the North Carolina Board of Pharmacy issued a policy statement on refusals. It says that although pharmacists have a right to avoid moral or ethical conflicts, they do not have the right to obstruct otherwise legitimate prescription dispensing or delivery. It requires pharmacists to get patients and prescriptions to another pharmacist who will dispense the prescription in a timely manner.⁸⁹

Oregon

The Oregon Board of Pharmacy issued a statement on refusals in November 2005, and clarified it in June 2006. The statement permits pharmacists to refuse, but prohibits interference and clarifies that it is unprofessional conduct for a pharmacist to lecture a patient, violate the patient's privacy or confiscate or tamper with a patient's prescription. The statement requires pharmacies to adopt policies to ensure that patients' needs are met in case of a refusal.⁹⁰

Pennsylvania

In October 2007 the Pennsylvania Board of Pharmacy adopted a statement of policy. It allows pharmacists to refuse to fill a prescription based on personal beliefs, but says the pharmacist cannot interfere. It tells pharmacists to devise guidelines to assure delivery of services to patients in need.⁹¹

Texas

The Texas Board of Pharmacy posted a position statement on its website in late 2006. It says that pharmacists who refuse to fill prescriptions or sell medications (such as non-prescription EC) should refer patients to another pharmacist within the pharmacy or refer the patient to a pharmacy where the patient can obtain the medication.⁹²

States Permitting Refusals

Four states have explicit laws or regulations allowing a pharmacist to refuse to dispense medication without patient protections, such as prohibitions on obstruction or requirements for referrals or transfers.

Arkansas

An Arkansas law from 1973 allows pharmacists to refuse to supply contraceptive procedures, supplies, and information.⁹³

Georgia

A Georgia pharmacy regulation specifies that it will not be considered unprofessional conduct for any pharmacist to refuse to fill any prescription based on ethical or moral beliefs.⁹⁴

Mississippi

A Mississippi law passed in 2004 allows all health care providers, including pharmacists, and all health care institutions, including pharmacies, to refuse to dispense or administer any drug, device, or medication.⁹⁵

South Dakota

A 1998 South Dakota law specifies that pharmacists can refuse to dispense medication if there is "reason to believe" the medication would be used to "cause an abortion."⁹⁶