

Appendix B

Elements of a Model “Duty to Dispense” Rule or Policy

The most important element of any rule or policy on refusals is to ultimately guarantee that customers receive their medication in-store, in a timely manner without hassle. Some state pharmacy boards have permitted pharmacists from refusing altogether. It is more likely that your board will want to accommodate refusals. Below are elements of a policy that recognizes the delicate balance between a pharmacist’s personal beliefs and the patient’s right to receive medication in a timely manner and without obstruction.

Burden on the Pharmacy

The best way to guarantee access to medication in the event of a pharmacist refusal is to put the burden on the pharmacy to deliver medication to customers. This type of policy allows patients to have their drugs dispensed at the pharmacies of their choice and still allows accommodation of pharmacists who may have an objection to dispensing certain drugs.

- **On-site Delivery:** The policy should require pharmacies to guarantee that lawful requests for in-stock medication (absent contraindications or other professional concerns) are filled expeditiously and without delay at the same pharmacy. This approach truly meets patients’ needs and is consistent with what other states have done, major pharmacy chain policies, and federal law.
- **Advance Notice to the Pharmacy:** The policy should require pharmacists to notify their employers in advance, in writing, about any objections they may have to dispensing certain classes of drugs.
- **Accommodation:** Employers may attempt to accommodate the religious beliefs of their employees after receiving notice. But this accommodation is required by federal law only if doing so would not constitute an “undue hardship,” a standard not defined in law. A provision governing refusals could include a definition of undue hardship that delineates factors to be considered, such as degree of financial costs, impact on the pharmacy’s reputation, and delay to the patient in receiving medication.

Ensuring Access to Non-Prescription EC

Any rule or policy on refusals also should make sure those seeking non-prescription EC receive the same protections as patients seeking prescription medication. This could be accomplished by adding language specific to non-prescription EC. The Washington Board of Pharmacy used “drugs and devices approved by the U.S. Food and Drug Administration for restricted distribution by pharmacies”⁹⁷ to capture non-prescription EC.

Out of Stock Drugs

It is important that the rule or policy govern what happens when a drug is out of stock. The policy should allow the patient to choose what the pharmacist’s subsequent course of action should be. In Illinois, the patient has the option of receiving an alternative, ordering the drug, transferring the prescription to a local pharmacy of their choice, or requesting to have the unfilled prescription returned.⁹⁸

Preserving Pharmacist Duties

The rule or policy also should clarify that a pharmacist must still complete their traditional duties, such as checking for possible drug interactions or contraindications in all circumstances.

Treating Patients with Respect

Refusals to dispense legal prescriptions or medications have sometimes included moralistic lectures, harassment and intimidation, misrepresentation about whether a drug is in stock or the way it works, disclosure of private medical information, and refusals to return prescriptions to patients. Any policy or rule should ensure that pharmacy personnel and pharmacies always treat patients with respect and do not:

- Intimidate, threaten, or harass customers in the delivery of services;
- Interfere with or obstruct the delivery of services;
- Intentionally misrepresent or deceive customers about the availability of medication or its mechanism of action;
- Breach patient confidentiality; or
- Refuse to return a valid, lawful prescription upon customer request.

Some states already have laws protecting against this behavior. The rule or policy could either reference these sections or restate and add to them.