

## Emergency Contraception: An Evolving Controversy in Pharmacy Practice

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## Plan B restricted availability

- ◆ Moral grounds vs. business decision
- ◆ OTC petition currently under review at FDA
- ◆ GAO report

[www.gao.gov/new.items/d06109.pdf](http://www.gao.gov/new.items/d06109.pdf)

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## Plan B remains an Rx drug, pharmacists and legislatures begin to step in...

- ◆ Four states have “conscience clause” laws in place allowing pharmacists to refuse to fill prescriptions for ECP beyond what the federal law permits: Georgia, Arkansas, SD, Mississippi. Several other states have proposed such laws.

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## Other proposed legislation:

- ◆ Federal Lautenberg Bill (S.809, introduced 4/14/05) has essentially the same intent (currently in committee).
- ◆ Other states have proposed bills that would require hospitals to make Plan B available to rape victims if they request it (Catholic hospitals have objected to this).
- ◆ CA SB 644: “No licentiate shall obstruct a patient in obtaining a drug or device that has been legally prescribed or ordered for that patient.” ... unless ...
  - Contrary to law or harmful or would adversely affect the patient ...
  - Drug is not in stock (notification, transfer to another pharmacy, return Rx with referral)
  - Refusal on moral grounds if ... notification of employer in writing ... reasonable accommodation
  - (2006)

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## Existing legislation:

- ◆ Washington and several other states have “collaborative practice measures” which allow the pharmacists to dispense ECP without a prescription provided that s/he has undergone training.

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## Current Federal Employment Law:

- ◆ Under Title VII of the Civil Rights Act of 1964, employer must make “reasonable accommodation” to the religious observances and practices of the employee.
- ◆ TWA v Hardison (USSC 1977) and subsequent case law further clarified “reasonable accommodation”.

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## TWA V. Hardison and subsequent Supreme Ct. cases:

- ◆ Employers still have a duty of “reasonable accommodation” of the religious beliefs and practices of the employee provided that the employer is not required to incur more than a *de minimus* cost.
- ◆ Relationship defined between employer and employee: what about third parties?

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## WSPA position on pharmacists' responsibilities:

- ◆ “To hold the autonomy, dignity, and confidentiality [of patients] in the highest regard”;
- ◆ “To appropriately communicate the availability or unavailability of pharmacy services [to patients], and the prescribers in the community”;
- ◆ “To have options in place to communicate to the patient when the pharmacist is unable to fill a prescription”;

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## WSPA position of pharmacists' responsibilities:

- ◆ "To diligently develop his or her conscience-guided response to selected pharmaceutical services"; and
- ◆ "To inform and reach agreement with an employer and the pharmacy's staff, as appropriate, concerning his or her anticipated response to identified pharmaceutical care requests.