

Pharmacy Refusal



Toolkit

Protecting
Women's Rights
at the
Pharmacy
Counter



Advocacy Strategies
from
States
and
Localities

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The MergerWatch Project

An affiliate of Community Catalyst

The MergerWatch Project is dedicated to the principle that in medical decision-making, the patient's rights must come first. Health care should be guided by accurate medical information and the patient's own religious or ethical beliefs.

Of course, religious faith can be an important resource for some patients, providing guidance, hope or acceptance in the face of serious illness.

But medical care that is restricted by institutional religious doctrine or the provider's moral beliefs can pose a significant threat to patients' rights and access to care:

- Pharmacists may refuse to fill prescriptions for contraceptives and other medicines they view as morally unacceptable.
- Hospitals may ban treatment that conflicts with religious doctrine.
- Employers and managed care plans may refuse to provide health insurance coverage for contraception, sterilization or abortion.
- Physicians may refuse to provide fertility services to families they find morally unacceptable.
- Politicians responding to religious conservatives may enact laws that make it difficult for patients to refuse end-of-life treatment.

MergerWatch staff work directly with community coalitions across the nation to address religiously-based threats to patients' rights and access to care. We provide research, policy analysis and technical assistance, such as help with public education, community organizing, media outreach and regulatory intervention.

To learn more about MergerWatch and the issues we address, visit our website at www.mergerwatch.org.

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Table of Contents

	i	Executive Summary	1
	I	Description of the Problem	4
	II	Why Are Some Pharmacists Refusing to Dispense EC?	5
	III	Myths and Facts About Emergency Contraception	7
	IV	Can Pharmacists Legally Refuse to Dispense EC?	10
	V	Choosing a Strategy to Protect Patients	11
		Public Education and Community Organizing	13
		Pharmacist Outreach and Training	15
		Working with Pharmacy Boards	17
		Proposing New Legislation or Regulations	21
		Resources	25
		Appendices	26
		<i>Appendix A: Questions and Answers: Over-the-counter Emergency Contraception</i>	
		<i>Appendix B: Clara Bell Duvall Project of the ACLU-Pennsylvania Pharmacy Survey</i>	
		<i>Appendix C: Sample Letters to the Editor</i>	
		<i>Appendix D: Planned Parenthood League of Massachusetts Letter to Board of Pharmacy</i>	
		<i>Appendix E: Austin, Texas Resolution</i>	
		<i>Appendix F: Madison and Dane County Public Notice</i>	

 = QuickLink

Click on the “Q”
to go directly to
that section of
the document



Executive Summary

In at least 20 states across the country¹, women trying to fill prescriptions for emergency contraception (EC) and ordinary birth control pills have reported being turned away by pharmacists who refuse to dispense contraceptives because of their personal religious or moral beliefs. While the vast majority of pharmacists have no problem dispensing contraceptives, the minority of pharmacists who do object are impeding women's ability to obtain timely reproductive health care.

When women are delayed in receiving contraception, particularly emergency contraception, their risk of unintended pregnancy increases. EC is effective up to 120 hours following intercourse but is more effective the sooner it is taken. Pharmacist refusals can be particularly problematic for low-income and rural women who may not be able to easily travel to another pharmacy.

Why are some pharmacists refusing to dispense contraceptives?

As this toolkit explains in more depth, objecting pharmacists often cite a belief that emergency contraception and even ordinary birth control pills are the same thing as abortion. In some cases, these pharmacists are simply confusing emergency contraception with RU-486, the "abortion pill." But other pharmacists, such as those who belong to Pharmacists for Life International, subscribe to an ultraconservative belief that EC causes an "early abortion" by preventing the implantation of a fertilized egg in the uterus. The "myths and facts about EC" section of this toolkit explains why this belief is based on a flawed understanding of reproductive science. This section describes what is known about the ways that EC can work to prevent unintended pregnancy.

Has the FDA's approval of non-prescription sales of EC eliminated the refusal problem?

Unfortunately, the answer is no. Women 18 and older are now able to purchase Plan B emergency contraception without a prescription, as a result of an August 2006 Food and Drug Administration (FDA) decision. But the change has not eliminated the possibility that a woman may be denied EC at a local pharmacy.

Under guidelines issued by the FDA, EC must still be kept behind the pharmacy counter, not on open store shelves with other non-prescription medicines. Women trying to purchase EC on a non-prescription basis may be able to avoid interacting with objecting pharmacists, but can just as easily encounter pharmacy technicians or clerks who refuse to sell it to them. Moreover, customers under 18 years of age and, in most states, women with Medicaid insurance (regardless of their age) must still present a prescription to be filled by a pharmacist.



Back to
Table of Contents

Can pharmacists refuse to dispense medications to which they have personal objections?

As this toolkit explains, state laws and regulations governing refusals in the pharmacy vary widely. Some states specifically allow pharmacists to refuse to fill prescriptions without ensuring that patients still can obtain needed medications in a timely manner. Other states require pharmacists or pharmacies to fill all valid prescriptions or, all contraceptive prescriptions. A third group of states has taken another approach, adopting policies that permit individual pharmacists to refuse, but require the pharmacies where they work to make sure someone else can step in to fill the prescription. Many states have no clear policy on the issue.

Federal law also informs the debate. A pharmacist who refuses to fill a prescription based on religious belief may have protection under Title VII, the federal anti-employment discrimination statute, or parallel state law. Title VII, which applies to employers with 15 or more employees, requires employers to try to make accommodations – such as re-arranging schedules or making minor changes to job duties – when informed that an employee won't perform a certain task based on a religious objection. However, Title VII sets limits on how far an employer has to go in arranging such accommodations, and does not require changes that would impose a significant burden on the employer, such as having to hire an additional employee.²

So, what can be done to address pharmacist refusals and ensure that women can have their contraceptive prescriptions filled in a timely manner at local pharmacies?

Women's health advocates have developed a number of successful strategies to ensure that women can purchase contraceptives at local pharmacies without harassment or delay. National, state and local women's health advocates from a cross section of organizations came together for the first time to share their strategies and to learn from one another at a December 2005 meeting in New York City convened by MergerWatch, the National Health Law Program, the ACLU Reproductive Freedom Project and the Planned Parenthood Federation of America. This tool kit summarizes the key strategies that were presented and provides updated information, new action ideas and tips for advocates on how to address pharmacist refusals on the state and local level.

The strategies described in this toolkit include:

- Public Education and Community Organizing
- Pharmacist Outreach and Training
- Working with State Pharmacy Boards
- Proposing new Legislation or Regulations

How should advocates choose among these strategies?

The specific problems that women encounter in obtaining EC at pharmacies vary from community to community and state to state. In some places, the problem may occur only at small, owner-operated pharmacies. In others, a large retail pharmacy chain could be the major source of the problem. When choosing a



**Back to
Table of Contents**

strategy to improve access to EC, advocates must take into account the nature of the problem in a particular state or locality.

Advocates also must assess the political environment – in other words, whether local or state politicians, state pharmacy boards and pharmacist associations are likely to be supportive of, or hostile to, proposals to protect the rights of women to fill contraceptive prescriptions at pharmacies. These realities can determine, for example, whether legislation is a realistic approach, or whether it might be better to begin with public education or pharmacist training. The toolkit explains how to make the best choice of an advocacy strategy for your community or state.



Involve your local pro-choice pharmacists! For any of these strategies to succeed, it is important that advocates reach out to local pharmacists who do provide EC and who support a woman's right to obtain contraception without interference. The professional expertise of these pro-choice pharmacists can be invaluable. We are grateful to one such pharmacist, University of Washington Pharmacy Professor Don Downing, for his guidance and steadfast support of pharmacy policies that ensure women can purchase contraceptives.

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**Back to
Table of Contents**

I

Description of the Problem

In at least 20 states across the country, women trying to purchase emergency contraception (EC) and fill prescriptions for ordinary birth control pills have reported being turned away by pharmacists who refuse to dispense contraceptives because of individual religious or moral beliefs.

- September 2004, New Hampshire: A 21-year-old single mother went to a drive-through pharmacy to fill a prescription for emergency contraception. The pharmacist told her he was morally opposed to dispensing the pill and refused to transfer her prescription to another pharmacy. By the time a pharmacist willing to fill the prescription contacted the woman, the optimal time frame for taking the pills had passed.³
- January 2005, Milwaukee, Wisconsin: A mother of six went to her local Walgreen's with a prescription for emergency contraception. The pharmacist refused to fill the prescription and berated the mother in the pharmacy's crowded waiting area, shouting: "You're a murderer! I will not help you kill this baby. I will not have the blood on my hands." The mother left the pharmacy mortified and never had her prescription filled. She subsequently became pregnant and had an abortion.⁴
- November 2005, Saratoga Springs, New York: When a woman brought her prescription for emergency contraception with three refills to her local CVS, the pharmacist dispensed the medication, but altered the prescription to void refill orders. When the prescribing provider called the pharmacy to discuss the incident, the pharmacist's supervisor defended his actions, stating that women who need EC prescription refills were "irresponsible and should bear the consequences of their actions."⁵

Instances of refusals to dispense emergency contraception have continued after the U.S. Food and Drug Administration (FDA) allowed non-prescription sales to customers over 18 years of age. Because the medication is kept behind the pharmacy counter, interaction with pharmacy staff is still required in order to purchase the medication.

- December 2006, Seattle, Washington: A 25-year-old woman went to her local Rite-Aid to get non-prescription EC after she and her fiancé experienced a birth control failure. The pharmacist told her that although the pharmacy had EC in stock, he would not give it to her because he thought it was wrong. The woman had to repeatedly insist that the pharmacist find her another pharmacy in the area that would provide her with EC before he would do so.⁶
- January 2007, Columbus, Ohio: A 23-year-old mother went to her local Wal-Mart because she had read that Wal-Mart was stocking EC in all its pharmacies. When she asked for non-prescription EC, the pharmacist on staff "shook his head and laughed." She was told that even though the store stocked EC, no one on staff would give it to her. She then had to drive 45 miles to find another pharmacy that would provide her with EC.⁷

While most pharmacists have no problem dispensing contraceptives, those pharmacists who do refuse to dispense emergency contraception or fill birth control prescriptions are creating a significant threat to women's health care.



[Back to Table of Contents](#)

These delays can be especially detrimental for low-income women or women living in rural areas who may not be able to find an alternative provider within a reasonable distance. In addition to these individual refusals, women also face refusals at some pharmacies that have adopted policies against stocking EC or all contraceptives.

- May 2007, Montana: A 49-year-old woman went into a local, privately owned pharmacy to fill her birth control prescription, which she used for a medical condition. But instead of getting her pills, she was handed a slip of paper signed by the pharmacy owners stating that the pharmacy would no longer fill prescriptions for oral contraceptives. When the customer called the pharmacy for an explanation, the owner told her that birth control pills are “dangerous” for women. Montana currently has no law specifically requiring that a pharmacy carry a specific range of medications, including contraceptives.⁸

Any delays that women encounter in obtaining EC increase the likelihood of unintended pregnancies. Patients can also suffer a loss of privacy and dignity if they are lectured about contraception by objecting pharmacists.



Why Are Some Pharmacists Refusing to Dispense EC?

Three forces have converged to make pharmacist/pharmacy refusals a significant issue in recent years:

- Religious ultraconservatives have expanded their anti-choice agenda to include advocating “right to life” protections not only for fetuses, but also for embryos and even fertilized eggs.
- To further this agenda, anti-choice groups have attempted to blur the line between contraception and abortion. A particular focus has been to declare (inaccurately) that emergency contraception is the same thing as RU-486 or mifepristone, “the abortion pill.”
- Anti-choice groups have expanded their campaign to enact new “religious refusal rights” – laws that permit health providers to refuse to provide medical information or care, based on personal moral or religious objections. Initially focused on allowing physicians and medical institutions (hospitals and health insurers) to refuse to provide abortions, this type of law is now being proposed to permit pharmacies and pharmacists to refuse to provide contraception.

Religious ultraconservatives’ campaign to protect all “pre-born life” and establish personhood for fetuses, embryos and fertilized eggs has gained momentum under the current federal administration. Groups such as Pharmacists for Life have led the movement to enact new “refusal rights” by seeking legal protection for pharmacists who refuse to fill prescriptions or even refer a patient to another pharmacist or pharmacy. Such protections would include freedom from being sued by a patient for the consequences of having been denied contraception. These efforts are intended to shield pharmacists from liability for the consequences of denying patients contraception.



[Back to Table of Contents](#)

What about the FDA decision to allow EC sales without a prescription?

Since the FDA's decision, EC can be purchased without a prescription by customers 18 years and older. However, the FDA imposed the following limitations:

- A government issued form of identification is required for proof of age to purchase EC without a prescription;
- Customers under 18 still must present a prescription;
- EC can only be sold in pharmacies, not in convenience stores, supermarkets, gas stations or other locations where non-prescription medications are commonly found;
- EC must be kept behind the pharmacy counter, not on open shelves with other non-prescription medications.

As a result, women under the age of 18 and women without government identification must still obtain a prescription. In most states that cover EC in their Medicaid programs, women of any age who have Medicaid insurance still need a prescription to obtain EC, because their state Medicaid programs require a prescription for all over-the-counter drugs. For more information on EC access and Medicaid, see the [National Health Law Program's Report "Over the Counter or Out of Reach? A Report on Evolving State Medicaid Policies for Covering Emergency Contraception"](#) and the [National Institute for Reproductive Health's Report "Expanding Medicaid Coverage for EC on the State Level."](#)

Because of these restrictions and since EC is kept behind the counter, women are still at risk of having their prescriptions denied by pharmacists or other pharmacy staff who object to emergency contraception. Once refused, women may be unable to go to another pharmacy if they lack transportation or their health insurance does not include the alternative pharmacy. The embarrassment of a refusal, particularly if it is accompanied by a lecture from the pharmacist, could also deter some women from trying again at another pharmacy.

For more information about EC's new "dual label" status, allowing both prescription and non-prescription sales, see Appendix A.

In nine states, some of these barriers to EC access have been eliminated by adoption of what are known as "pharmacy access" policies. These policies permit all women (including those under 18 years of age) to obtain EC directly from a pharmacist who has established a collaborative agreement with one or more individual physicians. In effect, the pharmacist is granted the power to both write and fill a prescription for EC. A number of pharmacists in these states have stepped forward to participate in pharmacy access programs, thus guaranteeing women EC access without harassment or risk of refusal. The nine states with pharmacy access agreements are: Alaska, California, Hawaii, Maine, Massachusetts, New Mexico, New Hampshire, Vermont and Washington State. To learn more about state "pharmacy access" policies, visit the website of the Pharmacy Access Partnership at www.pharmacyaccess.org.



**Back to
Table of Contents**

III

Myths and Facts About Emergency Contraception



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As advocates work on expanding women’s access to emergency contraception and addressing pharmacist refusals, they frequently encounter myths, inaccuracies and misleading statements about what EC is and how it works. To be effective, advocates must be prepared to provide the facts about EC. Here are some basic facts you will need to know, followed by a series of “myths” and suggestions on how you can respond to them:

Facts about Emergency Contraception

Emergency contraception (EC) is a safe, effective back-up birth control method that can prevent pregnancy after unprotected intercourse or when a regular contraceptive method fails, such as when a condom breaks. Clinicians have known for years that women could take higher-than-usual doses of regular birth control pills to have an emergency contraceptive effect.⁹ Plan B is the only contraceptive product currently on the market in the U.S. that is specifically approved by the FDA for use only as emergency contraception. Here are some facts about how it works:

- When taken within the first few days after unprotected intercourse, EC can reduce the risk of pregnancy by up to 89 percent.¹⁰
- EC is time-sensitive. The sooner it is taken, the better it works.¹¹
- Plan B is labeled to be effective for up to 72 hours after unprotected intercourse. However, studies show that it still has some effectiveness if taken up to 5 days after unprotected sex.¹²
- EC has no effect once a woman is pregnant.¹³
- EC has been proven to work in two possible ways: by preventing ovulation or preventing fertilization. It has been theorized that it could also work to prevent implantation of a fertilized egg in the uterus, but there is no scientific proof that this is the case.¹⁴

Rebutting Myths about Emergency Contraception



EC is the same as RU-486 (“the abortion pill”).



Emergency contraception is not the same as RU-486 (mifepristone) or “the abortion pill.” Emergency contraceptive pills are regular birth control pills. They contain common female hormones, either progestin alone or progestin combined with estrogen.¹⁵

EC works to *prevent pregnancy* within a short time frame after unprotected sex and has no effect on an existing pregnancy. Mifepristone, by contrast, is an effective alternative to surgical abortion and can be used to end an established pregnancy of up to nine weeks gestation.



Back to
Table of Contents



Myth

Even if it is not the same as RU-486, EC still can cause an “early abortion.”



Fact

Emergency contraception has been proven to work in two ways: 1) preventing ovulation and 2) preventing fertilization. Neither is the same as abortion.

Depending on the stage of her cycle in which a woman takes EC, Plan B can suppress ovulation. If ovulation has already occurred, EC can prevent fertilization of the egg by altering the pH of the uterine cavity fluid and thereby immobilizing sperm, as well as thickening cervical mucous and causing the movement of sperm towards the ovum to be impaired.¹⁶

Some anti-choice groups that oppose the use of EC claim it is the same as abortion, based on the idea that there is a third way (or “mechanism of action”) in which the medication could work: by interfering with the implantation of a fertilized egg. Because these groups believe pregnancy begins at fertilization (which is not the medical definition of when pregnancy begins) they consider anything that would destroy a fertilized egg to be abortion.

The first important thing to know in rebutting this argument is that the idea of a third mechanism of EC action is only a theory, not a proven fact. There are no clinical data to support this theory.¹⁷ Two prominent researchers, Frank Davidoff and James Trussell, state in an October 2006 *Journal of the American Medical Association* article: “If Plan B interferes with implantation, its efficacy should not decrease with short-term delay in use as long as it is taken just before or during implantation. In fact, delay in use causes Plan B to lose its effectiveness progressively in the 72 hours after unprotected intercourse, even when it is adjusted for cycle day of unprotected sex.”¹⁸ That finding is again consistent with a contraceptive mechanism that is independent of effects on implantation.”¹⁹ In plain English, that means the available evidence tends to disprove the theory that EC can interfere with the implantation of a fertilized egg.²⁰

The second thing you should know is that there is no test that can detect whether an egg has just been fertilized. So, people who claim EC can cause an “early abortion” are basing those claims on a hypothetical effect of EC on a hypothetical fertilized egg. What is not hypothetical is the existence of a real woman who wants to prevent a pregnancy.

Finally, even if emergency contraception could be proven to interfere with implantation of a fertilized ovum, that would not constitute an abortion. Medical science defines pregnancy as beginning upon successful implantation of a fertilized ovum.²¹ (This is true, in part, because fertilized eggs often fail to successfully implant because of such natural causes as genetic defects.) Therefore, an abortion can only occur after implantation. Because emergency contraception has no effect once implantation has occurred, it is contraception, not an abortifacient.



[Back to
Table of Contents](#)



If a woman is already pregnant and takes EC, it could hurt the fetus.



EC will not work if a woman is already pregnant. Studies have found no harm to the fetus if a pregnant woman takes either EC or regular birth control pills before she knows she is pregnant.²²



EC can be dangerous to a woman's health.



There are no serious complications associated with EC, although some women experience nausea, abdominal pain, fatigue, headache, menstrual changes, dizziness, breast tenderness, vomiting and diarrhea after taking EC.²³



Only a small number of women actually need to use EC, and those are the women who have been irresponsible and had unprotected sex, when they should have used birth control or abstained.



All women who wish to prevent an unintended pregnancy need to have access to emergency contraception. Even women already using contraception can be at risk of an unintended pregnancy if a condom breaks, a contraceptive method is not used correctly or a pill is missed. Another group of women who need immediate access to EC are survivors of sexual violence. Each year, an estimated 25,000 American women become pregnant following an act of sexual violence.²⁴ It is estimated that 88% of these pregnancies could be prevented with timely access to emergency contraception.²⁵



Access to EC increases promiscuity and risky sexual behavior among young women.



Several studies have found that the use of EC among young women does not increase risky sexual behavior. The studies found specifically that use of EC does not lead to an increase in unprotected sex or the number of sexual partners, nor to an increase in sexually-transmitted diseases. Moreover, availability of EC does not lead women to rely only on EC (instead of birth control pills or condoms) as a contraceptive method.^{26,27,28} Additional studies actually found that young women who seek emergency contraception may be more likely to seek out preventive care.²⁹



**Back to
Table of Contents**

IV

Can Pharmacists Refuse to Dispense EC?

Are pharmacists required to fill your prescriptions? Unfortunately, there currently is no federal law protecting patients' ability to obtain legal pharmaceutical drugs for which they have a prescription, or for which they need no prescription. The laws and policies governing pharmacists and pharmacies vary from state to state. Therefore, a pharmacist's obligation to fill all prescriptions depends on where you live.

Of course, a pharmacist can and should refuse to fill a prescription if it is medically contraindicated, such as when it would have a harmful interaction with other drugs that a patient is already taking, or when there is an issue involving fraud, abuse or payment. This kind of refusal is based on the pharmacist's professional judgment, not on his or her personal moral or religious beliefs.

Pharmacists who refuse to fill a prescription based on a religious belief may be protected from employment discrimination. Title VII, the federal anti-employment discrimination statute that applies to employers with 15 or more employees, or parallel state law that may cover smaller employers, requires employers to try to make accommodations when informed that an employee won't perform a certain task based on a religious objection. However, Title VII sets limits on how far an employer has to go in accommodating the objection, and does not require the employer to incur significant costs, such as having to hire an additional employee.

Four states have adopted laws or regulations that allow pharmacies or pharmacists to refuse to fill prescriptions based on moral or religious objections, and protect them from liability when they refuse to do so. These states are Arkansas, Georgia, Mississippi, and South Dakota.³⁰ Arkansas' law is specific to contraception, while South Dakota's law is specific to certain drugs. The Georgia and Mississippi policies cover all drugs. These laws do not include any provisions to ensure that the patient can obtain the needed medication, such as requiring a pharmacist to refer the patient to another pharmacist or transfer the prescription to another pharmacy with the drug in stock.

Several states – including **California, Delaware, Illinois, Maine, Massachusetts, Nevada, New York, North Carolina, Oregon, Texas and Washington** – have taken action, through law, regulation or pharmacy board policy, to protect patients trying to fill prescriptions. (At the time of publication of this toolkit, the New Jersey Assembly and Senate also had passed a patient protection act, but Governor Jon Corzine had yet to sign it into law.) Some require pharmacists or pharmacies to dispense all appropriate and prescribed medication. Others require pharmacy managers to step in when a pharmacist refuses and make sure a patient's prescription is filled, either on site or at a neighboring pharmacy.^{31,32} Several of these policies are highlighted in the later sections of this toolkit.

For a detailed legal analysis of pharmacy and pharmacist refusals, please review the American Civil Liberties Union Reproductive Freedom Project's report, [**"Religious Refusals and Reproductive Rights: Accessing Birth Control at the Pharmacy."**](#)

What Can Be Done to Protect Patients?

Women's health advocates have developed a variety of strategies to ensure that women can fill contraceptive prescriptions at their pharmacies, without interfer-



Back to
Table of Contents

ence from objecting pharmacists. A general consensus has developed that policies should place the burden of responsibility on the pharmacy, as opposed to the individual pharmacist, to ensure that prescriptions are filled on site and without delay.³³ (This point is discussed in more detail in the Legislation Section of this manual.) The strategies used to achieve patient protections range from proposing legislation to filing complaints with state pharmacy boards, surveying pharmacies and using local grassroots organizing and public education to inform women about the problem.

The strategies described in this toolkit were developed through the combined efforts of women's health advocates who have shared knowledge, tools and lessons learned about fighting for women's access to contraceptives at the pharmacy counter. The contributions of these organizations are acknowledged in the executive summary of this toolkit.



Choosing a Strategy to Protect Patients

When deciding how to address refusals in the pharmacy, it is important to assess the need for policy changes in your state and to review institutional or political factors that may affect your work. Some factors to consider include:

- The nature and extent of the refusal problem in your state. For example, does it appear to be widespread, or is it confined to a particular geographic area or pharmacy chain? Are some pharmacists refusing to dispense all contraceptives, or just EC? Is it specifically a refusal to refill prescriptions for EC? Are pharmacists in your area refusing to fill other medications?
- The amount of documentation you have about the problem. Do you have only anecdotal information, or do you have written complaints from consumers or the results of a survey?
- The extent to which patients' rights to fill prescriptions (or pharmacists' ability to refuse to do so) are already protected in your state's pharmacy codes and rules. These regulations, which vary from state to state, will inform advocates of pharmacists' duties to fill legal prescriptions and codes of professional conduct.
- The available resources (personnel, time, money), skills (such as medical, legal or political) and missions of the groups in your coalition.
- Whether or not you or someone in your coalition has a relationship with the state pharmacy association and/or state board of pharmacy.
- The resources and political power of your potential opposition regarding patients' access to EC in the pharmacy.
- The political climate of your state, and other issues that are currently on the policy agenda in your state.

This tool kit discusses the following four strategies and provides examples from several states and localities to help you assess your situation and decide which approach will work best in your community:

- **Public Education and Community Organizing:** This approach focuses on raising public awareness about the issue by publicizing instances of pharmacist refusals or the results of surveys of pharmacies.



Back to
Table of Contents

- **Pharmacist Outreach and Training:** This approach focuses on reaching out to pharmacists to provide education addressing common misconceptions about EC and to inform pharmacists about how to administer EC, both through over-the-counter sale and by filling prescriptions.
- **Working with State Pharmacy Boards:** This strategy involves helping women file consumer complaints about pharmacist refusals with state pharmacy boards and, when necessary, asking pharmacy boards to adopt or strengthen existing policies protecting patients' ability to get their medications when pharmacists refuse to dispense.
- **Proposing New Legislation or Regulations:** This approach is the most complicated one, and requires the most organizational resources. It involves seeking new state legislation and regulations that would require pharmacies and/or pharmacists to fill prescriptions in store and without delay.

These four key strategies have been successfully utilized by advocates across the country in dealing with pharmacy refusals. Please realize that you may begin with one approach and then decide that another approach may be more appropriate.



No matter which strategy you choose, one of the most important steps will be to engage friendly pharmacists in your endeavors. Most pharmacists support access to contraception and believe that patients should be served without delay. Their voices are important in the task of creating consumer-friendly pharmacy policies and encouraging other pharmacists to stock and dispense emergency contraception.

Using Surveys to Assess the Problem

It is vital to understand the nature and extent of refusals in your state before utilizing any of the strategies discussed in this toolkit. A statewide pharmacist/pharmacy survey conducted by phone or mail can be a useful way to establish whether your state has a problem with pharmacies failing to stock contraceptives, pharmacist refusals to dispense them and/or pharmacist misconceptions about how EC works. This has been an effective organizing tool in **Pennsylvania, Connecticut, New Hampshire, Kentucky, Virginia, and Wyoming**. Depending on the size of your state, and the number of pharmacies, you will need to survey approximately 10 to 25 percent of pharmacies in your state in order to have a valid assessment of the availability of the drug and any refusal or referral problems.

The Clara Bell Duvall Reproductive Freedom Project at the ACLU of Pennsylvania has created a Pharmacy Access Survey Guide to help advocates take on this endeavor. The Duvall Project recommends the following steps for your EC survey:

- Step 1. Choose a sample of pharmacies using an online telephone directory.
- Step 2. Conduct the survey over the telephone using a prepared script.
- Step 3. Organize the results using an Excel spreadsheet to analyze the data effectively.



**Back to
Table of Contents**

See Appendix B for the Duvall Project's sample survey. For more detailed step-by-step instructions on how to conduct a survey, contact the [Duvall Project](#).



Enhance your survey data with real-life stories by setting up or using an existing hotline or website to gather stories from women who have been refused contraceptives. Create materials to advertise the website or hotline. For example, Planned Parenthood of Western Washington (PPWW) uses their www.covermypills.org web site and 1-800 number to highlight the issue of pharmacist refusals and to provide women with a resource if they have been refused access to contraceptives. After a woman calls in her story, the affiliate in that area contacts the pharmacy and asks for a response. As a result of their follow-up calls, PPWW has found that some pharmacies will agree to stock and dispense EC and to better educate their pharmacists about company policies. In addition, Washington advocates are using their help line to gather positive stories about pharmacists who exemplify contraceptive access and patient care.

STRATEGY 1: PUBLIC EDUCATION AND COMMUNITY ORGANIZING

Once you have the results of a pharmacy survey, you can choose among multiple ways to educate and mobilize the public in favor of ensuring access to EC at the pharmacy.

For example, the **ACLU of Kentucky Reproductive Freedom Project** conducted a statewide “mystery shopper” telephone survey to assess the availability of emergency contraception in Kentucky and to investigate Kentucky pharmacists’ knowledge and views on emergency contraception. The final sample group included 309 out of 1,100 pharmacies across Kentucky. The survey findings suggested that a multi-faceted approach was needed to address the problem of EC access in Kentucky. Many pharmacies did not stock Plan B, and many pharmacists were ill-informed about what EC is and how it works.

As a result of the survey, the ACLU KY and Kentucky A- Fund, Inc recently launched a public awareness campaign designed to give women the facts about EC, dispel myths and inform women of their rights regarding access to EC. This approach was chosen because increased consumer requests for EC at pharmacies were considered likely to influence what drugs are stocked in the pharmacy. The campaign includes print ads for use in newspapers and bus shelters, informational cards (business and postcard size), an EC website specific to Kentucky, and informational brochures to be distributed through doctors’ offices, pharmacies, rape crisis centers, health clinics and university health fairs. The campaign informs the public about EC and provides guidance on what to do if a doctor or pharmacist refuses to write or fill a prescription for EC.

The materials can be found on-line at www.911birthcontrol.org.



Back to
Table of Contents

A Planned Parenthood Federation of America (PPFA) website, www.fillmypills-now.org, reports the results of PPFA's surveys of the 50 major pharmacy chains in the country. PPFA has issued each pharmacy chain a "thumbs up" or a "thumbs down" based on whether the survey response conformed to PPFA's model policy that contraceptive prescriptions should be filled in-store without discrimination and without delay. This resource allows advocates and consumers to educate themselves about EC policies at local outlets of various pharmacy chains and take action to demand better policies at those stores with "thumbs down" ratings.

Advocates have used survey results to launch campaigns designed to pressure pharmacy chains to change corporate policies on EC. For instance, nationwide consumer protests over Wal-Mart's EC policies helped influence the chain to begin to stock EC and then to ensure that customers wishing to buy EC were not deterred by pharmacist refusals.



Challenging corporate policy that restricts access to contraceptives starts with an orchestrated effort to expose it and put pressure on the corporation to change its policies. Wal-Mart was pressured to rewrite its refusal policy in part due to Planned Parenthood's Pill Patrol, a secret shopper campaign that relies on volunteer activists nationwide to report on local EC access. See www.pillpatrol.saveroe.com to learn more and participate.

Advocates have also used actual incidents of pharmacy/pharmacist refusals to educate the public and organize the community. For example:

- After a highly publicized refusal at a local pharmacy, Planned Parenthood Wisconsin (PPWI) used the incident to mobilize activists. Activists circulated petitions supporting access to contraceptives, registered complaints with the State Pharmacy Board, staged protests at pharmacies where other refusals occurred, and spoke against legislation that would have granted pharmacists a right to refuse. (Learn more about filing complaints with the state pharmacy boards in section III below.)

Your organization can use a variety of ways to raise awareness in your community about the problem of pharmacy refusals. Examples include writing letters to the editor of your local newspapers, providing information to internet bloggers and on your organization's websites, tabling at community events and speaking to groups in your community. Look for some sample letters to the editor in Appendix C.



When writing letters to the editor or speaking at community events, be sure to mention that the majority of Americans disagree strongly that a pharmacist should be able to refuse to dispense a prescription based on his/her own personal beliefs. According to the Pew Forum on Religion and Public Life, 80% of Americans oppose allowing pharmacists to refuse to provide birth control.³⁴



Back to
Table of Contents

STRATEGY 2: PHARMACIST OUTREACH AND TRAINING

Another very effective way to improve the availability of EC at local pharmacies is to go directly to the pharmacists. Your organization can offer to sponsor educational seminars for pharmacists about EC, including such topics as understanding EC's mechanism of action and learning how to dispense EC under the FDA's guidelines for over-the-counter sale for adults/prescription-only for those under 18. These trainings can be co-sponsored by your state's board of pharmacy, pharmacy associations and women's health organizations.

Optimally, these sessions should be presented as continuing educational seminars taught by pharmacists for pharmacists. In this setting, pharmacists are given an opportunity to address common misconceptions and confusion about emergency contraception.

Trainings should cover the following topics:

- How EC works (and does not work).
- Why EC does not cause an abortion.
- The effectiveness of EC when administered within a short time frame following unprotected sex.
- The importance of the pharmacist's role in increasing access to EC.
- What the over-the-counter status of EC means for the pharmacist and the patient.
- A review of pharmacists' responsibility to serve patients.



Coordinating and organizing these trainings is a great way to build relationships with local pharmacists. Offer to help support the travel of a pharmacist who is a leader on EC access issues to speak at a pharmacist association meeting.

Groups such as MergerWatch and the Pharmacy Access Partnership have facilitated a number of these trainings across the country. In Oregon, MergerWatch helped coordinate pharmacist trainings with the Northwest Women's Law Center, NARAL Pro-Choice Oregon, Planned Parenthood Columbia-Willamette and Planned Parenthood Health Services Southwestern Oregon. The trainings, organized by the Oregon Pharmacists Association, and led by University of Washington Pharmacy Professor Don Downing, reached over 180 pharmacists in early 2007. The trainings were held in multiple locations around the state, rather than just in the largest city (Portland) in order to make it easier for pharmacists from rural areas to participate.

To assess the effectiveness of the trainings, MergerWatch developed and had distributed to the participants simple pre-and post-training surveys to assess the participants' knowledge and beliefs regarding emergency contraception and to measure changes following the seminar. The pre-training survey disclosed confu-



[Back to
Table of Contents](#)

sion and misconceptions about emergency contraception among those surveyed. For example, nearly 15% of those surveyed thought that emergency contraception was the same as “the abortion pill,” a third (33.8%) thought that it could harm the fetus if taken by a pregnant woman, and almost half (46.9%) believed that the drug is not safe for those with a history of blood clots, migraines, or liver disease.

Many did not understand the guidelines that pharmacists should be using to dispense EC, either. Over a third (39.7%) thought that parental approval was needed for women under the age of 18 with a prescription and 19.4% of the participants thought that Oregon pharmacists could interfere with patients’ request for appropriately prescribed and FDA-approved drugs. However, most participants (91%) understood that objecting pharmacists have a duty to find the patient another viable source for emergency contraception.

Following the training, a second survey found that participating pharmacists had significantly improved their level of knowledge about how EC works, and that the most common misconceptions seemed to be dispelled. No longer did any of those surveyed consider EC and “the abortion pill” to be the same thing. Only 7.2% thought that EC could cause harm to the fetus and only 7.6% thought that the drug was not safe for those with a history of blood clots, migraines or liver disease. Concern about a patient’s medical history decreased (51.5% to 35.1%) as well as the belief that EC promotes unsafe sex (23.5% to 11.5%). Those who had concern about dispensing EC to women under the age of eighteen also diminished (38.3% to 24.6%).

The number of pharmacists with reservations about dispensing EC also changed. Before the training, three participants admitted they were opposed to dispensing EC and nine said they were unsure how they felt. After the training, only one participant remained opposed to dispensing EC and five participants remained conflicted about their stance.



Surveys of pharmacists before and after EC training can produce information about participant satisfaction with the program and illustrate changes in their knowledge and beliefs. These data can be utilized to support further EC initiatives.



**Back to
Table of Contents**

STRATEGY 3: WORKING WITH STATE PHARMACY BOARDS

If public education, community organizing and/or pharmacist education do not achieve a significant improvement in women's ability to obtain emergency contraception at pharmacies in your state, then you may consider taking the next step, which will involve interacting with your state pharmacy board.

By working with state pharmacy boards, advocates can help shape statewide policies ensuring that women can have access to contraceptive medications without delay or harassment at local pharmacies. There are two basic approaches to working with a pharmacy board: 1) filing complaints on behalf of women who were refused contraceptives and 2) seeking adoption of a new or strengthened pharmacy board policy or regulation addressing pharmacist refusals to dispense medications.

Filing complaints

If a patient has been refused her prescription, she can file a formal complaint with the state pharmacy board in the state where the refusal occurred. In some states, health care providers whose patients have been refused can also file a complaint. These complaints are important because they help document the number of refusals in your state and give the state pharmacy board an opportunity to review their patient protection regulations. The complaint process is different for each state board. Many states have information on their web sites. We encourage you to look online for a description of the process in your state.

- In **Wisconsin** in 2003, a formal complaint was filed with the state pharmacy board after a pharmacist refused to refill a prescription for contraceptives and then refused to transfer the patient's prescription to another pharmacy, thereby confiscating it.³⁵ An administrative law judge ruled that the pharmacist had engaged in practices that departed from the standard of care that should ordinarily be exercised by a pharmacist.³⁶ The judge also noted that the pharmacist failed to inform his supervisor that he would not transfer the prescription or provide referral information to the patient. The Wisconsin Pharmacy Board adopted the judge's ruling and took disciplinary action against the pharmacist. A trial court upheld the Pharmacy Examining Board's decision and it is currently under review by the Wisconsin Court Appeals.³⁷

State Pharmacy Board Action

A number of state pharmacy boards have issued statements, policies or rules/regulations addressing whether pharmacists may refuse to dispense certain medications, and under what circumstances. Some of these policies were generated by pharmacy boards acting on their own, while others were prompted by requests from women's health advocacy organizations or, alternatively, from organizations supporting pharmacists who want to refuse. The policies range from those that simply require pharmacists to fill all valid prescriptions to those suggesting ways to accommodate pharmacists who have religiously-based objections to filling prescriptions.



[Back to
Table of Contents](#)

Creating Policies That Protect Patients

Seven state pharmacy boards – **Delaware, Massachusetts, New York, North Carolina, Oregon, Texas** and **Washington** – have issued statements or policies protecting patients’ rights to receive lawfully and appropriately prescribed medications at pharmacies.³⁸ For example:

- In response to an inquiry from **Planned Parenthood League of Massachusetts** about a recent upsurge in pharmacy refusals, the Massachusetts Board of Registration in Pharmacy issued a letter in 2004 stating that pharmacists must fill all valid prescription, including emergency contraception, in accordance with state law requirements.³⁹ The Board’s president also emphasized that no exception exists for any particular class of drugs. See the letters in Appendix D.
- The **North Carolina** Board of Pharmacy’s policy states that if a pharmacist objects to filling a prescription, that pharmacist “has an obligation to get the patient and the prescription to a pharmacist who will dispense that prescription in a timely manner.”⁴⁰ In addition to ensuring a timely referral, the policy also states that it is unacceptable for pharmacists to “impose their moral or ethical beliefs on the patients they serve.”⁴¹ The policy encourages pharmacists to “take proactive measures so as to not obstruct a patient’s right to obtain such medication.”⁴²
- The **Oregon** Board of Pharmacy issued a position statement, “Considering Moral and Ethical Objections,” in November 2005 to address recurrent refusals taking place in that state.⁴³ The position statement requires Oregon pharmacists to inform employers in advance of any potential objection. It then requires the pharmacist in charge to put in place specific written protocols designed to ensure that a patient’s’ prescription will be filled if an individual pharmacist objects.

The Board has further clarified that the pharmacist must fill the patient’s prescription on site, have someone else available to fill it in a timely manner or give the patient a meaningful referral to a nearby pharmacy that has the drug in stock and will fill the prescription. In February of 2007, the Board added language to the policy making clear that it applies to non-prescription sales of EC, as well.⁴⁴

- Policy guidelines issued through the **New York State** Education Department’s Office of the Professions⁴⁵ strive to accommodate pharmacists with personal objections, while avoiding the possibility that the patient will be abandoned. The policy suggests that pharmacies where pharmacists have voiced objections to dispensing certain medications should adopt a staffing schedule that “allow[s] a pharmacist who has a religious, moral or ethical objection to practice simultaneously with another pharmacist who will fill the requested prescription [or] entering into collaborative arrangements with pharmacies in close proximity.”⁴⁶ The statement also emphasizes that confrontation or verbal harassment of a patient would constitute unprofessional conduct.
- After a long campaign by women’s health advocates, the **Washington**



**Back to
Table of Contents**

Board of Pharmacy in April of 2007 adopted a rule outlining pharmacies' responsibilities. This rule requires pharmacies to fill all valid, legal prescriptions for stocked medications on-site and ensure that all patients are treated professionally and respectfully.⁴⁷ The policy makes it the pharmacy's responsibility to ensure that patients get their prescriptions. If an individual pharmacist will not fill a prescription, the pharmacy owner must make sure another pharmacist is available to do so. If the drug is out of stock, the next step is determined by the patient. The patient can ask the pharmacy to order the drug, to find another pharmacy that has the drug in stock, to contact the prescriber to inquire about a potential therapeutically equivalent drug, or to return the prescription to the patient. In addition, the rule states that destroying or refusing to return a prescription, violating a patient's privacy, and discriminating against or harassing a patient is unacceptable and that pharmacists who engage in such conduct will face disciplinary charges from the Board of Pharmacy.

Along with adoption of this rule, advocates were able to amend the existing [Pharmacist's Responsibility Rule](#) to expand what is considered unprofessional conduct by a pharmacist.⁴⁸ The language of the rule immediately establishes that the patient must come first.



If you've worked successfully with your state pharmacy board or pharmacists' association, think about what future projects you can work on together to enhance access to EC. [Family Planning Advocates of New York State](#) and Planned Parenthood Western Washington have worked with either their state pharmacy board or state pharmacy association to develop fact sheets about EC.

Defeating Unfavorable Policies

In some states, women's health advocates have fought proposed Pharmacy Board policies that would have failed to adequately protect patients' rights. For example:

- In 2005, the **Wyoming** Pharmacy Board proposed a rule change that would have stated: "A pharmacist may choose to not dispense a prescription based on personal beliefs..."⁴⁹ At the Pharmacy Board's public hearing on the proposed rule, advocates testified against the proposal, highlighting the facts that: a) this far-reaching proposal went beyond allowing refusals to dispense contraceptives, and actually included all prescription medications, and b) in a rural state like Wyoming, there may be no nearby alternatives for a patient when a pharmacist or pharmacy refuses to dispense a medication. The Board members rejected the proposal by a vote of 3-0, but said they planned to reconsider the rule with different language at their meeting in February 2006. However, in January 2006, Board members announced they would not reconsider the proposal.



**Back to
Table of Contents**

NARAL Pro-Choice Wyoming, along with the Wyoming Health Council, the ACLU of Wyoming, Wyoming NOW, Planned Parenthood of the Rocky Mountains, Wyoming Medical Society, Wyoming HIV/AIDS Project and the National Women's Law Center worked collectively to fight the Pharmacy Board proposal. They launched an information campaign and recruited the state's family planning clinics to write letters to the Pharmacy Board from the clinics' Board of Directors. These groups also contacted partners within the state department of health, physician and nursing associations, legislators, and organization members to oppose the rule change.

In Washington, the State Board of Pharmacy in June of 2006 initially attempted to adopt a policy that would have allowed pharmacists to refuse to fill any prescription for any reason. However, the coalition work of Washington advocates produced testimony against the policy by more than 7,000 private citizens and 71 advocacy organizations.⁵⁰ This broad-based coalition used advocacy pressure – including a lengthy public hearing process that included more than 21,000 written comments – to convince the Board of Pharmacy to adopt a better patient protection policy in 2007.



Build broad-based coalitions with area women's, health and consumer rights advocacy groups and progressive religious organizations to raise community awareness and help defeat unfavorable policies. In both Wyoming and Washington, broad-based coalitions helped defeat policies that would have allowed pharmacists to refuse.

Utilizing Existing Policies to Create Change – Wal-Mart

As a corporate policy, Wal-Mart did not stock EC in any of its stores – with the exception of those located in Illinois, where it is required by state law (see Strategy 4). While Wal-Mart asserted that its policy was based on business reasons, advocates argued that the chain store was violating a Massachusetts state regulation requiring pharmacies to provide all “commonly prescribed medications.”⁵¹ Reproductive health advocates in Massachusetts chose to address Wal-Mart's restrictive policy by filing a lawsuit and a complaint with the state pharmacy board.⁵²

The Massachusetts Pharmacy Board immediately responded by requiring Wal-Mart to stock emergency contraception.⁵³ That decision, bolstered by consumer pressure from across the country, led Wal-Mart to announce it would reverse its policy and begin stocking emergency contraception in all 3,700 of its pharmacies nationwide. Wal-Mart later revised its pharmacist refusal policy to ensure that all women have timely access to EC without delay, discrimination or judgment.^{54,55}

Another Approach: Seeking Adoption of Medical/Health Association Policies

Several national medical and health organizations have issued statements or policies regarding pharmacist refusals. While these guidelines are not necessar-



**Back to
Table of Contents**

ily enforceable, they do represent the expected standard of care within the given profession, and can be used to influence pharmacy boards deliberating about proposed policy statements. For that reason, some women’s advocates have focused energy on seeking adoption of these medical or health association policies. For example:

- The **American Medical Association** (AMA) adopted a policy in June of 2005 entitled “Preserving Patients’ Ability to Have Legally Valid Prescriptions Filled.”⁵⁶ The policy states that patients require access to their medications without delay or interference. The AMA has since supported legislation to ensure that patients do not face refusals at the pharmacy counter.
- The **American Public Health Association** (APHA) adopted a policy, “Ensuring That Patients Can Have Contraceptive Prescriptions Filled at Pharmacies,” in November 2006. This policy is one of the most comprehensive yet adopted by a national health organization on this issue, and was the product of a team of reproductive health advocates, a pharmacist, public health experts and lawyers. The policy takes care to acknowledge that only a minority of pharmacists are refusing to fill contraceptive prescriptions and praises those pharmacists who are taking positive steps to increase women’s access to contraception through collaborative agreements and pharmacist education. The APHA policy declares that a patient’s health and well-being must come first, in both health care delivery and policy. It states that a patient must be able to obtain her prescription in a timely manner and without interference from those pharmacists who may personally object to contraception. View this policy (No. 200611) in APHA’s policy database at <http://www.apha.org/advocacy/policy/>.
- **The American Medical Women’s Association** adopted a statement on EC in November 1996. It stresses the importance of increasing women’s access to EC and specifically expresses concern over pharmacy refusals. The AMWA statement also actively endorses collaborative practices between doctors and pharmacists to improve access for women.

STRATEGY 4: PROPOSING NEW LEGISLATION OR REGULATIONS

Statewide Initiatives

While advocates in some states have relied solely on their pharmacy board to address refusals, women’s health organizations in other states have sought adoptions of laws or regulations by approaching the Governor or state Legislature. For example:

- **California** Governor Arnold Schwarzenegger signed into **law** in September 2005 SB 644, which creates a duty for pharmacists to fill valid prescriptions, unless the medication is medically contraindicated or it is not in stock (in which case, a referral or transfer of the prescription to another pharmacy is required).⁵⁷ Pharmacists who object to dispensing certain medications on moral or religious grounds must provide advance notice to their employers. The employer must try to reasonably accommodate the pharmacist’s objec-



**Back to
Table of Contents**

tions, but only if the pharmacy can still ensure that the patient receives her medication in a timely manner (such as from another pharmacist on duty).

If a pharmacist is found to be in violation of the law, the Board of Pharmacy may issue citations, impose fines and/or require proof of corrected procedures.



The successful approach of California reproductive justice advocates was to include pharmacists in the process from the beginning, in order to obtain their input in the drafting process and to win their support for the approach that was developed.

- **Illinois** Governor Rod Blagojevich issued a **regulation** that requires pharmacies to fill all valid prescriptions for contraceptives “without delay, consistent with the normal timeframe for filling prescriptions.”⁵⁸ If the requested contraceptive is not in stock, the pharmacy is required to provide a suitable alternative or, at the request of the patient, order the drug from the supplier, transfer the prescription to a different pharmacy or return the prescription to the patient. In addition, pharmacies are now required to post signs outlining customers’ right to obtain contraceptives and providing information on where to file a complaint with the state if the pharmacy violates that right.

There have been several lawsuits filed in state court by pharmacists challenging the regulation under the Illinois Health Care Right of Conscience Act and the Illinois Religious Freedom Restoration Act.⁵⁹ The federal courts have also heard claims by pharmacies as well as pharmacists of constitutional and Title VII violations.

Local Initiatives

In three cities, City Council members took action to help ensure access to contraceptives at local pharmacies for the women in their communities:

- In **New York City**, the City Council enacted (over the mayor’s veto) a **local ordinance** requiring pharmacies to post a sign if they do not carry emergency contraception.⁶⁰ In addition, the City Council passed two more laws requiring City health clinics⁶¹ and hospitals that receive City funding⁶² to provide patients information and emergency contraception upon request. It is believed that these ordinances are partly responsible for a dramatic increase in the number of city pharmacies that stock emergency contraception.⁶³
- In **Austin, TX**, the City Council attached a condition to the city’s contract with Walgreen’s pharmacies to serve residents who are on medical assistance programs.⁶⁴ The condition requires Walgreen’s to fill all prescriptions in-store “without discrimination or delay” even if their pharmacist has moral objections. A year later, in August 2006, the policy became mandated by a local resolution, which states that any city contracts with



Back to
Table of Contents

pharmacies must include a patient protection clause, prohibiting refusals/referrals.⁶⁵ See Appendix E to view the language of the resolution.

- **Madison, WI** took action through its City Council in October 2006 by approving a local ordinance requiring that those pharmacies which do not stock emergency contraception must display a notice saying so, with information about the nearest location where the medication would be available.⁶⁶ The notice also applies to pharmacies which normally carry emergency contraception but are temporarily out-of-stock. While the ordinance does not mandate that pharmacies carry or dispense emergency contraception, it does allow patients to be more informed. See Appendix F for a notice sample.



State legislation is not the only course of action – think locally! If it is politically unfeasible to seek changes on the state level, consider approaching local politicians with a track record of protecting patients' rights and women's health.

For a summary of the current status of laws and regulations regarding pharmacist refusals, visit the website of the [National Women's Law Center's Pharmacy Refusal Project](#).

Is your organization or coalition ready to seek legislation?

Seeking legislation is a very complicated and time-consuming endeavor, and one that requires considerable resources. Before you decide to pursue this strategy, consider these questions:

- **Do you have documented evidence of a problem?** If you have not yet conducted a survey of refusals in your state, you should do that first.
- **Is the political climate right for such legislation?** If one or both houses of your state legislature is controlled by anti-choice lawmakers who are hostile to emergency contraception, or if your Governor is anti-choice, you will face an uphill struggle to enact legislation. You may want to consider trying another approach first, such as pharmacist education or working with your state Pharmacy Board. Be sure to research whether any similar legislation has been introduced in the past and, if so, why it did not succeed. You should also research whether there is an existing “refusal” or “conscience” law in your state that could be interpreted to already grant pharmacists the right to refuse to dispense medications.
- **Have you formed a coalition of interested advocacy groups?** As demonstrated by the cases in Washington State, Wyoming and other states, coali-



Back to
Table of Contents

tion work is important to this endeavor. Conduct outreach to other groups before drafting legislation.

- **How powerful are the forces likely to oppose your legislation?** Groups that oppose emergency contraception – such as Pharmacists for Life, the National Right-to-Life Association, Feminists for Life and others – can be well organized and have active members who will speak out against your proposals. In addition, certain religious groups that are opposed to emergency contraception may speak out against your legislation. Be prepared to have your supporters mobilized to respond.
- **Have you identified potential key sponsors of the legislation in both houses who will be committed to actively working for passage of the bill?** You should look for sponsors who are passionate about the issue and educated about what amendments would be unacceptable to your coalition.
- **Have you researched the policies and politics of your state pharmacy association?** Pharmacy associations can be powerful in state politics. It is important to see where they stand on this issue and if there are ways you can work together. If you cannot find common ground, determine if legislation is the best option.

What should we consider in drafting such legislation?

Many women’s health advocates and the American Civil Liberties Union have concluded that the best approach to take in drafting such legislation is to place the burden of responsibility for meeting the patient’s need on the pharmacy. The pharmacy can then attempt to accommodate individual pharmacist refusals, if possible, but ultimately will be responsible for ensuring that the patient is able to obtain needed medication in store and without delay.⁶⁷ For more information, please review the [ACLU’s “Religious Refusals and Reproductive Rights: Accessing Birth Control at the Pharmacy” Guide](#).



Back to
Table of Contents

Resources

Websites and Publications

MergerWatch Project
www.mergerwatch.org

**American Civil Liberties Union
Reproductive Freedom Project**
www.aclu.org/reproductiverights/

ACLU's
[“Religious Refusals and
Reproductive Rights: Accessing Birth
Control at the Pharmacy”](#)

Back Up Your Birth Control
www.backupyourbirthcontrol.org

**The Emergency Contraception
Website**
www.not-2-late.com

The Guttmacher Institute
www.guttmacher.org

The Guttmacher Institute's
[“State Policies in Brief: Emergency
Contraception”](#)

NARAL Pro-choice America
www.prochoiceamerica.org

**NARAL Pro-Choice New York
and the National Institute for
Reproductive Health Access**

Low Income Access Project
[http://www.prochoiceny.org/issues/
lowincome.shtml](http://www.prochoiceny.org/issues/lowincome.shtml)

**National Conference of State
Legislatures**
[www.ncsl.org/programs/health/
ecleg.htm](http://www.ncsl.org/programs/health/ecleg.htm)

National Health Law Program
www.healthlaw.org

NHeLP's
[“Over the Counter or Out of Reach?
A Report on Evolving State Medic-
aid Policies for Covering Emergency
Contraception.”](#)

National Women's Law Center
www.nwlc.org

NWLC's
[Pharmacy Refusals: State Laws, Reg-
ulations and Policies](#)

Northwest Women's Law Center
www.nwwlc.org

Pharmacy Access Partnership
www.GO2EC.org

**Planned Parenthood Federation of
America**
www.ppfa.org
www.fillmypillsnow.org

**Reproductive Health Technologies
Project**
www.rhtp.org

**American Public Health
Association**
Policy Statement “Ensuring that Indi-
viduals are Able to Obtain Contracep-
tives at Pharmacies” Located online at:
[APHA: Policy Statement Database](#)

American Pharmacists Association
[“Code of Ethics for Pharmacists.”](#)



Back to
Table of Contents

Appendix A

Questions and Answers: Over-the-Counter Emergency Contraception

Where can one purchase over-the-counter Plan B?

Plan B can be purchased at a pharmacy/store staffed by a licensed pharmacist. It is not likely to be available for purchase if a licensed pharmacist is off duty, as the FDA requires that a health care professional be available to answer questions. Similarly, it will not be available in businesses that do not have a licensed pharmacist on staff, such as gas stations and convenience stores.

Who can purchase over-the-counter Plan B?

Consumers 18 and older can purchase Plan B after presenting a government-issued identification as proof of age. Examples of such ID include: U.S. passport (current or expired), state driver's license, governmental ID card, voter registration card, U.S. military card, Alien Registration Receipt card or Permanent Resident card. Note, however, that women over 18 who have Medicaid insurance may still have to present a prescription in most states because of Medicaid rules requiring prescriptions for over-the-counter drugs.

Can pharmacies provide Plan B to women under 18 years old?

Women under 18 are able to obtain Plan B with a prescription anywhere in the country and without a prescription in states with direct pharmacy access partnerships. These states include: Alaska, California, Hawaii, Maine, Massachusetts, Montana, New Hampshire, New Mexico, Vermont, and Washington. See www.not-2-late.com to find specific participating pharmacies.

Can pharmacies sell Plan B to a man?

Yes. The FDA does not specify that the product be sold to its intended user. In fact, the FDA explicitly states on its website that men can purchase Plan B.

Where in the pharmacy can one find Plan B?

In order to manage both prescription and over-the-counter dispensing, Plan B must be kept behind the counter, though it can be fully visible to customers.

Is there a purchase limit for Plan B?

No. There is no limit to the number of non-prescription doses that can be bought over the counter. If Plan B is sold by prescription, the prescriber may indicate a dose limit.

Is over-the-counter Plan B available in clinics?

Yes. Health care clinics with a healthcare provider on site are able to distribute Plan B without a prescription to patients 18 and older as long as an age confirmation system is in place. Women under 18 can get a prescription at a clinic. However, an office visit usually is first required before prescribing Plan B.

Where can I find more information about emergency contraception's over-the-counter status?

The [FDA's website](http://www.fda.gov) can provide more Plan B information.



Pharmacy Access Survey Guide

☑ Choosing a Sample

This survey is intended for groups that wish to determine how easily women can obtain emergency contraception in pharmacies statewide.

- ★ **Step 1:** Point your browser to www.yellowpages.com. On the front page, type "pharmacy" into the category field, choose your state from the dropdown menu, and click "find."



International Yellow Pages
Happy Holidays!
(choose one) Go

Basic Business Search

Category: pharmacy OR Name:

[Browse Index](#)

City: (optional) State: Pennsylvania Find

- ★ **Step 2:** Now you should see the screen shown below. The number in parenthesis is the total number of pharmacies listed in the yellow pages in your state. Consider how many pharmacies you will survey, based on the total number of pharmacies and how many people will be conducting the survey.

For instance, in PA, there are 2,573 pharmacies listed, so surveying 10% of the pharmacies (or about 250) would be appropriate. However, in WV, there are only 486 pharmacies listed, so the percentage should be higher (say 25%).



You Searched: for pharmacy in PA.

Or try a ...
New Search

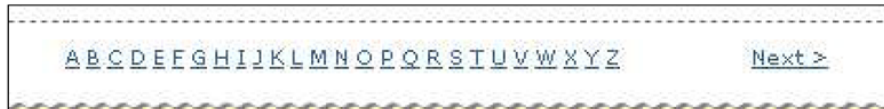
Feedback

Retail Stores
Drug Stores & Pharmacies
- Drug Stores & Pharmacies (2573)



Appendix B

- ★ **Step 3:** Click the link with the number next to it. Next you will see a list of advertisements—ignore these and scroll to the bottom of the page. You will see a link for each letter of the alphabet. Click on the letter “A.”



- ★ **Step 4:** Now you will see a list of pharmacies in alphabetical order. Depending on the percentage you decided to survey, highlight the appropriate pharmacies and copy and paste them into a Word document—this document will become your Master List. For instance, if you decided to survey 10% of all pharmacies, you would choose every tenth listing. If you decided to survey 25%, you would choose every fourth listing.

When you reach the bottom of the page, click “Next” to continue—there will likely be more than one page of listings for each letter of the alphabet. When you reach the end of the listings beginning with A, click on “B” to continue, and so on.

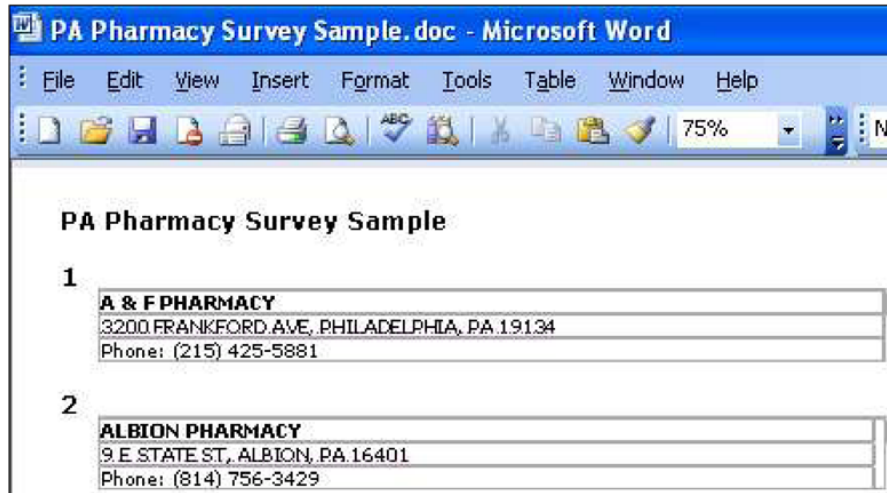
Note that some listings are clearly not pharmacies. In the example below, the second listing is not a pharmacy and would not be included in the sample. If this happens, simply use the next listing in the sample.

If during the course of the survey process, a listing does not work or turns out not to be a pharmacy, simply return to the yellow pages and choose the next listing. Be sure to note any changes on the Master List.



Appendix B

- ★ **Step 5:** Number each pharmacy in the Master List.



- ★ **Step 6:** Now that you have your sample, you can create a 3-ring survey notebook to organize the survey process and results. The notebook should include the Master List, as well as a survey sheet for each individual pharmacy (sample included in this guide).



Appendix B

Conducting the Survey

Once you've chosen your sample and created a notebook, you are ready to conduct the survey. Before you call, fill in the information on the top of the survey page, including the pharmacy number, name, type (chain or non-chain), phone number, your name, and the date and time of the call.

Survey tips:

- ★ If more than one person is conducting the survey, make sure communication is excellent. If the surveyors will be in separate offices (or states!), check in frequently to share strategies and to make sure mistakes aren't being repeated.
- ★ Take a moment to look over the survey before you make your first call. Note that, depending on the pharmacist's answers, you may not ask every question.
- ★ Be sure to answer every question, even if all you need to do is mark "not applicable." If you leave a question blank, you may not remember why later.
- ★ When in doubt, WRITE IT DOWN! Record all information given by the pharmacist, even if it seems irrelevant at the time. If the interviewee mentions that the pharmacist on duty on Mondays won't fill a prescription for EC, or that it's against store policy but she can substitute birth control pills for you, write it down. The more information you have about the pharmacy, the better.
- ★ If a pharmacist is particularly friendly or rude, record his/her specific comments—direct quotations from pharmacists proved to be one of the most powerful tools from the PA survey.
- ★ Take a moment after you finish the call to make sure you've checked off the appropriate boxes. Write down any details you didn't have time to record earlier.



Appendix B

☑ Organizing the Results

Now that you've completed your survey, you can enter information into an Excel file using the steps below.

- ★ **Step 1:** Create a column for each survey question and a row for each pharmacy. If you are interested in analyzing the survey data by region, you can include the city names or zip codes.
- ★ **Step 2:** If some questions are blank, enter a placeholder (such as "BL" below).

	A	B	C	D	E	F	G							
1	Pharmacy ID		Zip code		Type of Pharmacy		1 Fill EC		2 EC Price		2a Pharmacy H		3 C	
2	1	19143	2	2	BL	BL								5
3	2	18241	1	2	\$ 35.89	BL								1
4	3	19145	1	2	BL	BL								2
5	4	18990	1	2	BL	BL								2
6	5	18721	1	1	\$ 29.19		9:00							9
7	6	19124	1	2	\$ 35.89	BL								1
8	7	19145	2	1	\$ 27.86		7:00							9

- ★ **Step 3:** Now you can sort the data according to any of the column headings by choosing "Data" from the main menu, then "Sort." For instance, if you want to analyze the data by region, you can sort by zip code.

The screenshot shows the 'Sort' dialog box in Microsoft Excel. The 'Sort by' dropdown is set to 'Zip code' and 'Ascending' is selected. The 'Then by' dropdown is empty and 'Ascending' is selected. The 'My data range has' section has 'Header row' selected. The background shows the same data table as above, with rows 2-16 highlighted in blue.



Appendix B *Sample Survey from Clara Bell Duvall Reproductive Freedom Project*

Subject # _____
Pharmacy Name _____
 Chain = 1 Non-Chain = 2 Hospital pharmacy = 3
Phone Number _____

Caller: _____
Date of call _____
Time of call _____

1) "I have a prescription for Plan B. Can you fill it if I come in today?"

- Yes = 1
- No = 2 (*skip to Q3*)

2) "How much does it cost?" \$ _____ (*If asked about insurance, say you don't have any and will pay with cash.*)

2a) "What are the pharmacy hours?" _____
(*Skip to Q6*)

3) "Can you get it?"

- Yes = 1
 - 3a) "How long will it take you to get it?"**
 - End of the day = 1
 - Tomorrow (within 24 hours) = 2
 - Day after tomorrow (within 48 hours) = 3
 - More than 48 hours = 4
 - A substitute is available = 6
 - "What is it?"** (*check off boxes on Q4*)
 - Don't know = 0
 - Not Applicable = 9

- No = 2
 - 3b) "Why?"**
 - We don't carry it = 1
 - Against store policy to carry it = 2 (*skip to Q6*)
 - Against personal beliefs to prescribe it = 3 (*skip to Q6*)
 - Not legal/Not available in this country = 4 (*End survey*)
 - Don't know what it is = 0 (*End survey*)
 - Other: _____
 - Not Applicable = 9

4) "The box is checked for substitutes. Is there something else you can give me instead?"

- Birth control pills = 1 (*includes, e.g., Ovral and Lo-Ovral*)
- No = 2
- Other = 3: _____
- Don't know = 0
- Not Applicable = 9



Appendix B

4a) If substitution is available: “How much does it cost?” _____

4b) “What are the pharmacy hours?” _____
(Skip to Q6)

5) If pharmacist cannot fill prescription or provide substitution:

“Do you know where can I get it filled?”

Yes = 1

5a) If yes, name of pharmacy: _____

5b) Town pharmacy is in: _____

5c) Phone number: _____

No = 2

Not Applicable = 9

6) “I have another question. Is this the abortion pill?”

Yes = 1

No =2

6a) “What’s the difference between them?” _____

Don’t know =3

7) Please note below anything unusual in your conversation with the pharmacist. For example, was the person particularly helpful? Unhelpful? Hostile? Knowledgeable? Record direct quotations where possible.

—END SURVEY—

8) Result of referral call:

EC available now = 1

EC not available now = 2

Problem with pharmacy referral



Back to
Table of Contents

Appendix C

Sample Letters to the Editor

Sample letter # 1

To the Editor:

When pharmacists use their own moral or religious beliefs to decide whether prescriptions should be filled, they are placing their beliefs above the public health needs of their patients. By obstructing women's timely access to contraceptives, these pharmacists are increasing their patients' risk of unintended pregnancy and exacerbating the other medical conditions for which contraceptives are sometimes prescribed. At the pharmacy counter, patients' needs must come first.

Sample letter # 2

To the Editor:

Some pharmacists who refuse to fill prescriptions for emergency contraception inaccurately suggest that the "morning-after pill" is the same thing as RU-486, the "abortion pill." In fact, emergency contraception is a high dose of ordinary birth control that can be taken within 120 hours of unprotected sex to *prevent* a pregnancy from occurring. Unlike RU-486, emergency contraception has no effect on an established pregnancy, according to the FDA and numerous national medical organizations.

Because emergency contraception prevents pregnancy, pharmacists who are opposed to abortion should be doing everything in their power to make sure women have timely and affordable access to this medication at the pharmacy counter.

Sample letter #3

To the Editor:

As patients, women use their own ethical or religious beliefs to make medical decisions, including whether to use contraceptives. Their religious freedom and decision-making ability as patients must be respected, and should not be obstructed by crusading pharmacists who do not believe in contraception.

Of course, pharmacists should use their professional training to identify potential drug interactions and check that prescribed doses are appropriate. But, they should not be allowed to deliver moral lectures at the pharmacy counter or obstruct women's ability to obtain legal, prescribed medications.





February 25, 2004

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2003-2004

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Dianne Luby, *President and CEO*

Headquarters
1055 Commonwealth Avenue
Boston, MA 02215-1001
(617) 616-1660
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www.pplm.org

James T. DeVita, R.Ph.
President
Board of Registration in Pharmacy
239 Causeway Street, Suite 500
Boston, MA 02114

Dear Mr. DeVita,

I am writing to respectfully request an advisory letter from the Board of Registration in Pharmacy regarding pharmacists' obligation to fill prescriptions for emergency contraception (EC). As a women's health organization that prescribes EC, Planned Parenthood League of Massachusetts would like to have the board's written policy on file, so that we may share it with pharmacies when questions arise.

We are requesting an advisory letter due to a recent increase in patient complaints. In recent months, we have received five complaints from women in the Worcester area who have had difficulty filling prescriptions for EC. One patient was turned away by the pharmacist on religious grounds, and was not given a referral to a neighboring pharmacy. The remaining four received their medication, but complained that they were questioned or lectured by the pharmacist. In two of these cases, the pharmacists called our health center in Worcester to object because we had prescribed EC to the same patient more than once.

Planned Parenthood is committed to providing women with the full spectrum of reproductive health services. Given the safety and effectiveness of EC, and its ability to substantially reduce the need for abortions, we are working to raise awareness of and access to this important drug.

As you know, public awareness of EC is relatively low. In addition, members of the general public often confuse EC with the abortion pill, RU-486. As public awareness grows and requests for prescriptions increase, it will become even more important to minimize conflicts between pharmacists and patients.

We are currently working with the Massachusetts College of Pharmacy and Health Sciences and Northeastern's School of Pharmacy to develop a continuing education program for pharmacists on emergency contraception, which we hope will help to address this issue. In addition, we would greatly appreciate a statement from the Board. Thank you for your consideration of this important matter.

Sincerely yours,

Dianne Luby
President/CEO





The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

MITT ROMNEY
GOVERNOR
KERRY HEALEY
LIEUTENANT GOVERNOR
RONALD PRESTON
SECRETARY
CHRISTINE C. FERGUSON
COMMISSIONER

Board of Registration in Pharmacy
239 Causeway Street, 5th Floor
Boston, MA 02114

May 6, 2004

Dianne Luby, Pres./CEO
PLANNED PARENTHOOD
League of Massachusetts, Inc.
1005 Commonwealth Ave.
Boston, MA 02215-1001

Dear Ms. Luby:

In response to your February 25, 2004 letter to the Board of Registration in Pharmacy regarding emergency contraception prescriptions, please be advised that a Massachusetts licensed pharmacist providing services in the Commonwealth is required to fill a prescription that has been determined by the pharmacist, in accordance with the corresponding responsibility requirements of Mass. Genl. Laws c. 94C, s. 19, subsection (a), to be a valid prescription written in accordance with relevant state and federal laws and regulations.

In addition, a pharmacist must conduct a prospective drug review before each new prescription is dispensed, in accordance with the requirements of Mass. Genl. Laws c. 94C, s. 21A and Board regulation 247 CMR 9.07. This review may include, but not be limited to, screening for potential drug therapy problems due to therapeutic duplication, drug disease contraindication, drug interactions, including serious interactions with nonprescription or over-the-counter drugs, incorrect drug dosage, duration of drug treatment, drug allergy interactions and clinical abuse or misuse.

No statutory or regulatory exception exists for any particular drug or class of drugs.

Very truly yours,

A handwritten signature in black ink that reads "James T. DeVita".

James T. DeVita, R.Ph.
President





Amendment No. 2
to
Contract Number S050038
Agreement for Pharmacy Benefit Management Services
between
Walgreens Health Initiatives, Inc.
and the
City of Austin

This Amendment No. 2 to the Pharmacy Benefit Management Agreement dated October 1, 2004, is made and is effective on August 4, 2005 by and between Walgreens Health Initiatives, Inc., an Illinois Corporation, with offices located at 1417 Lake Cook Road, Deerfield, IL 60015, and the City of Austin, a home-rule municipal corporation of the State of Texas.

The above referenced Pharmacy Benefit Management Agreement is amended as stated below.

1.0 **Section 3, COMPENSATION:**

- 1.1 Increase the total not-to-exceed amount and the not-to-exceed amounts for the option years as follows:
 - 1.1.1 Paragraph 3.1, Agreement Amount: Increase the total not-to-exceed amount by \$6,343,054 from \$8,038,676 to \$14,343,054.
 - 1.1.2 Paragraph 3.1.2, first extension option (second year of Agreement): increase the not-to-exceed amount by \$1,397,638 from \$1,400,000 to \$2,797,638.
 - 1.1.3 Paragraph 3.1.3, second extension option (third year of Agreement): Increase the not-to-exceed amount by \$1,495,351 from \$1,800,000 to \$3,095,351.
 - 1.1.4 Paragraph 3.1.4, third extension option (fourth year of Agreement): Increase the not-to-exceed amount by \$1,623,823 from \$1,800,000 to \$3,423,823.
 - 1.1.5 Paragraph 3.1.5, fourth extension option (fifth year of Agreement): Increase the not-to-exceed amount by \$1,787,566 from \$2,000,000 to \$3,787,566.

cityofaustin-WHI S050038 Amend 2 Revised 5.doc



1.2 In accordance with Section 1.1, above, amend Paragraph 3.1, Agreement Amount, to read as follows:

3.1 Agreement Amount. Subject to all terms and conditions of this Section 3.1, the total not-to-exceed amount authorized for the City to spend on this Agreement for pharmacy benefit services management, including those pharmacy management services described in Attachment F to this Agreement, is \$14,343,054 if the City exercises all of the available extension options. This amount, which is exclusive of any Manufacturer Incentives shared with the City or patient dispensing fees (as such terms are used in the applicable Attachments hereto) is divided as follows:

3.1.1 Initial term (first year of Agreement) – not to exceed \$1,238,676 (as amended by Amendment No. 1);

3.1.2 first extension option (second year of Agreement) – not to exceed \$2,797,638;

3.1.3 second extension option (third year of Agreement) – not to exceed \$3,095,351;

3.1.4 third extension option (fourth year of Agreement) – not to exceed \$3,423,823; and

3.1.5 fourth extension option (fifth year of Agreement) – not to exceed \$3,787,566.

The parties acknowledge that the Contractor is providing Services under this Agreement to patients served through the City's as well as Travis County's healthcare initiatives and that the City has the authority and shall remain responsible to pay the Contractor for all such Services provided hereunder in accordance with the payment terms set forth herein. The parties further acknowledge that the not-to-exceed amount for the initial term referenced above applies only to that portion of Services provided by the Contractor on behalf of the City, not Travis County. The not-to-exceed amounts for the option years apply to services provided by the Contractor on behalf of the City and Travis County. In any event, City shall remain responsible for the payment for any Services provided by Contractor to Travis County patients pursuant to this Agreement.

2.0 ATTACHMENT B, ADDITIONAL RESPONSIBILITIES OF THE CONTRACTOR AND THE CITY:

2.1 Paragraph A.2.(c), Amend, effective September 1, 2005, to read as follows:

(c) The Network Pharmacy may withhold prescription services to a Patient for the following reasons: the City's nonpayment for prescription services provided to Patients when such payments are due; the Patient's failure to pay for services rendered, when applicable (e.g., patient dispensing fee); requests by Patient for quantities of drugs in excess of prescribed amounts or refill limitations pursuant to the pharmacy benefit information; or where, in the professional judgment of the dispensing pharmacist, the prescription should not be filled. Contractor agrees that, subject to the foregoing and all applicable law, the Network Pharmacy will not refuse to fill a prescription due to a pharmacist's personal beliefs regarding the medication or the use of the medication. In the event that an individual pharmacist declines to fill a prescription based on personal belief rather than professional judgment, the store's pharmacy manager will take



Appendix E

necessary steps to arrange to have the prescription filled in-store, without discrimination or delay (in the normal time frame for filling prescriptions that are in stock).

3.0 All other terms and conditions of the contract remain the same.

This Amendment No. 2 is hereby made a part of the Agreement for Pharmacy Benefit Management Services and all terms and conditions therein contained are applicable. The Pharmacy Benefit Management Services Agreement and this Amendment No. 2 shall be collectively referred to as the "Agreement".

BY THE SIGNATURES affixed below, Amendment No. 2 is hereby executed and incorporated into and made a part of the above-referenced Pharmacy Benefit Management Services Agreement.

WALGREENS HEALTH INITIATIVES, INC.

By: *Kenneth Crawford*
Name

Kenneth Crawford
Signature

Vice President
Title

9/30/05
Date



CITY OF AUSTIN

By: *Urcha M. Dunbar-Crespo*
Name

Urcha M. Dunbar-Crespo
Signature

Deputy Purchasing Officer
Title

9/30/05
Date

cityofaustin-WHI SC#0038 Amend 2 Revised 5.doc



NOTICE

This pharmacy does not stock Emergency Contraception (EC) medicine.

A nearby location where EC is known to be available is:

NAME OF PHARMACY

ADDRESS OF PHARMACY

PHONE

Please ask the pharmacist if you need more help in locating a pharmacy where EC can be obtained, or if you need more information about EC.

EMERGENCY CONTRACEPTION FACTS

EC, sometimes called “the morning after pill”, is an FDA-approved high dose form of oral contraceptive (birth control pill) that should be taken as soon as possible after unprotected intercourse (sex without birth control) to prevent pregnancy.

The FDA approves this up to 72 hours (3 days) after unprotected intercourse. Some studies indicate that this product can be effective up to 120 hours (5 days) after unprotected intercourse.

If you are 18 or older you do not need a prescription to obtain EC; if you are under 18, you must get a prescription.

Public Health - Madison and Dane County

The display of this notice and the availability of the informational brochure are required by Sec. 7.09 of the Madison General Ordinances

1/12/2007-ECPoster.doc



NOTICE

This pharmacy is currently out of Emergency Contraception (EC) medicine.

A nearby location where EC is known to be available is:

NAME OF PHARMACY

ADDRESS OF PHARMACY

PHONE

Please ask the pharmacist if you need more help in locating a pharmacy where EC can be obtained, or if you need more information about EC.

EMERGENCY CONTRACEPTION FACTS

EC, sometimes called “the morning after pill”, is an FDA-approved high dose form of oral contraceptive (birth control pill) that should be taken as soon as possible after unprotected intercourse (sex without birth control) to prevent pregnancy.

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Public Health - Madison and Dane County

The display of this notice and the availability of the informational brochure are required by Sec. 7.09 of the Madison General Ordinances

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Endnotes

1. National Women's Law Center's *Pharmacy Refusals 101*, May 2007.
2. MergerWatch Project, "Summary of the 2005 Meeting: "Pharmacy Refusals: Successful Strategies for Protecting Patients' Rights in 2006." December 2005. For more information review the American Civil Liberties Union Report ["Religious Refusals and Reproductive Rights: Accessing Birth Control at the Pharmacy."](#)
3. "Laconia Woman Denied Morning After Pill By Pharmacist." *Assoc. Press* (Sept. 26, 2004) in "Guarantee Women's Access to Prescriptions," NARAL Pro-Choice America, January 2007.
4. Johnson, Annysa. "State Probes Drug Refusal; Pharmacist Wouldn't Fill Order for Contraceptive." *Milwaukee Journal Sentinel* (May 11, 2005) in National Women's Law Center's *Pharmacy Refusals 101*, February, 2007.
5. NYCLU Reproductive Freedom Project. "Pharmacists Should Be Held Accountable for Refusing to Honor Prescriptions for Emergency Contraception, NYCLU Says." Press Release, August, 15, 2006.
6. National Women's Law Center's *Pharmacy Refusals 101*, May 2007.
7. Crane, Misti. "Some Still Refuse to Dispense Plan B." *The Columbus Dispatch* (January 15, 2007) in NWLC's *Pharmacy Refusals 101*.
8. Johnson, Peter. "Pharmacy Draws Fire for Stopping the Sale of Birth Control Pills." *Great Falls Tribune*, June 3, 2007.
9. For information about how birth control pills and other contraceptive devices can be used as emergency contraception visit the [Not-2-Late web site](#).
10. von Hertzen, Helena. "Low Dose Mifepristone and Two Regimens of Levonorgestrel for Emergency Contraception: a WHO Multicentre Randomized Trial," *The Lancet* 2002; 360(1803).
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13. Not-2-Late.com "Can emergency contraceptive pills cause birth defects?" <http://ec.princeton.edu/questions/bdfect.html>. (Last accessed May 22, 2007).
14. Davidoff, F, and Trussell, J. "Plan B and the Politics of Doubt." *The Journal of the American Medical Association* October 11, 2006; 296(14).
15. Not-2-Late.com "How Emergency Contraception Works" <http://ec.princeton.edu/questions/ecnotru.html> (Last accessed June 5, 2007.)
16. Croxatto HB. "Emergency contraception pills: How do they work?" *IPPF Medical Bulletin* 2002; 36: Appendix 1-1,2.
17. Hatcher, Robert A. *Contraceptive Technology* (18th Ed.) New York: Ardent Media Trade, 2004: 285.
18. Piaggio G, Von Hertzen H, Grimes DA, et al. "Timing of emergency contraception with levonorgestrel or the Yuzpe regimen." *The Lancet* 1999; 353-721 in Davidoff F, and Trussell, J (2006).
19. Davidoff, F, and Trussell, J. "Plan B and the Politics of Doubt." *The Journal of the American Medical Association* October 11, 2006; 296(14).



**Back to
Table of Contents**

20. The label on the Plan B package does say that the medication may interfere with implantation. That possibility could not be absolutely ruled out by research available at the time the manufacturer of Plan B went to the FDA for approval to sell the product. To change the label would require a new submission to the FDA, a time-consuming process.
21. Trussell, J., Stewart, F., and Raymond, E. "Emergency Contraception: A Cost-Effective Approach to Preventing Unintended Pregnancy," May 2006; American College of Obstetricians and Gynecologists. "Statement on Contraceptive Methods," Washington DC, July 1998; Hughes, EC (ed) Committee on Terminology, The American College of Obstetricians and Gynecologists, *Obstetric-Gynecological Terminology*, Philadelphia, PA:FA Davis Company, 1972.
22. Not-2-Late.com "Can emergency contraceptive pills cause birth defects?" <http://ec.princeton.edu/questions/bdfect.html>. (Last accessed May 22, 2007).
23. Norris Turner A, Ellertson C. "How safe is emergency contraception?" *Drug Safety* January 2002; 25(10): 695-706.
24. Stewart, Felicia H. and Trussel, James. "Prevention of Pregnancy Resulting from Rape: A Neglected Preventive Health Measure," *American Journal of Preventive Medicine* 2000; 19(228, 229).
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27. Raine T, *et al.* "Emergency Contraception: Advance Provision in a Young, High Risk Clinic Population." *Obstetrics and Gynecology* 2000; 96: 1-7.
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30. Ark. Code Ann. § 20-16-304 (1973); GA Comp. R. & Regs. R. 480-5-03 (2001); Miss. Code Ann § 41-107-1 (2004); S.D. Codified Laws § 36-11-70 (1998).
31. Cal. Bus. & Prof. Code §§ 4314, 4315, 733 (2005); "Considering Moral and Ethical Objections," *Delaware State Board of Pharmacy News* (Delaware State Board of Pharmacy, Dover, Del., March, 2006); Ill. Admin. Code. Tit. 68, § 1330.91 (2005); 02-392 CMR Ch. 19 § 11 (2004) (citing ME. Rev. Stat. Ann. Tit. 32 § 13795(2)); Mass. Gen. Laws. c. 94C, s. 19(a) (2004); Nev. Admin. Code § 639.753 (2006); S. 1195 and A. 992, 212th Leg., Reg. Sess. (N.J. 2006) (waiting for Governor's signature, June 2007); Office of the Professions, New York State Education Department. "Policy Guideline Concerning Matters of Conscience." November 18, 2005. <http://www.op.nysed.gov/pharmconscience-guideline.htm>. (Last accessed June 18, 2007); North Carolina Board of Pharmacy Policy "Conscience Concerns in Pharmacist Decisions." Revised April, 2005. <http://ncbop.org/LawsRules/ConscienceClause.pdf> (Last accessed June 18, 2007); Oregon Board of Pharmacy Position Statement "Considering Moral and Ethical Objections." Revised August, 2007. <http://www.oregon.gov/Pharmacy/M and E Objections 6-06.pdf> (Last accessed June 18, 2007); Texas State Board of Pharmacy, Plan B, www.tsbp.state.tx.us/planb.htm (Last accessed June 18, 2007); Adopted Rule of WA Board of Pharmacy, to be codified at Wash. Admin Code § 246-869-010 (2007).



Back to
Table of Contents

32. National Women's Law Center's *Pharmacy Refusals: State Laws, Regulations and Policies. Bills Governing Pharmacy Refusals*, April 2007. Last accessed June 13, 2007 at <http://www.nwlc.org/pdf/PharmacyRefusalPoliciesApril2007.pdf>.
33. Goldschein, Sondra. *Religious Refusals and Reproductive Rights: Accessing Birth Control at the Pharmacy*. American Civil Liberties Union Reproductive Freedom Project, 2007: p.28.
34. The Pew Forum on Religion and Public Life, "Pragmatic Americans Liberal and Conservative on Social Issues." August 3, 2006. <http://pewforum.org/docs/index.php?DocID=150>. (Last accessed May 25, 2007).
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Back to
Table of Contents

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Back to
Table of Contents