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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

Committee on Labor and Election Process Reform...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

- David Lasker, Madison — Individual Rights and Responsibilities Section of the State Bar of WI
- LuAnn Bird, Oshkosh
- Amanda Gennerman — ACLU-WI
- April Scheine, Madison
- Tia Torhorst, Madison

Appearances for Information Only

- Tom Engels, Madison — Pharmacy Society of Wisconsin
- John Huebscher, Madison — Wisconsin Catholic Conference

Registrations For

- Carol Owens — Representative, 53rd Assembly District
- M. Ware
- Joe Leibham — Senator
- Julaine Appling, Madison — The Family Research Institute of Wisconsin
- Mary Matuska, Beloit — Pro-Life Wisconsin

Registrations Against

- Andrea Gage, Brookfield
- Hugh Iltis, Madison
- Sharyn Wisniewski, Madison
- Lori Greenberg, Fitchburg
- Sue Larson, Madison — Rev., Lutheran Office for Public Policy in WI
- Lisa Boyce, Milwaukee — PPWI
- Lauren Rank, Madison
- Michelle Zallar, Sun Prairie
- Suzanne Gaulocher, Madison
- Vicki Berenson — 145 Jackson St.
- Janie Ocejo, Madison
- Ann Brickson, Madison
- Jen Rubin, Madison
- Susan Rampsacher, Madison
- Nora Cusack, Madison — Woman's Medical Fund
- Jackie Nesbitt, Madison
- Matt Douglas, Madison
- Jennifer Dencher, Milwaukee
- Laura Gardner, Milwaukee
- Melissa Sands, Madison
- Eric Jacobsen, Madison
- Leslie Wasserstrom, Madison
- Elaine Keller, Madison
- Erin Guex-Clark, Madison
- Kate Tripp, Madison

- Trish Welte, Madison
- Mindy Malec, Madison
- Martha Mukelich-Austin, Madison
- Michael Sabacinski, Madison
- Deborah Gartenberg, Whitefish Bay
- Terri Strodthoff, Glendale
- Deedee Rongstad, Whitefish Bay
- Jeralyn Wendelberger, Milwaukee
- Amanda Parrish, Madison
- Sara Finger, Madison
- John Carey, Madison
- Brian Carey, Madison
- Rosemarie Lester, Madison
- Nicole Safar, Madison
- Meg Gaines, Madison
- Christine Olsen, Madison
- Jeanne Witton, Racine
- Severa Austin, Madison
- Miriam Brosseau, Madison
- Rebecca Young, Madison
- Andrea Kaminski, Madison — League of Women Voters of Wisconsin
- Arleigh Birchler, Madison — Bram's Addition Life & Choice
- Jeremy Levin — WI Medical Society
- Scott Froehlue, Madison — WI Academy of Trial Lawyers
- Patti Seger, Madison — WI Coalition Against Domestic Violence

May 18, 2005

EXECUTIVE SESSION - POLLING

Moved by Senator Hansen, seconded by Senator Carpenter that **Senate Amendment 1** be recommended for adoption.

Ayes: (2) Senators Hansen and Carpenter.

Noes: (3) Senators Reynolds, Lazich and Kanavas.

ADOPTION OF SENATE AMENDMENT 1 NOT RECOMMENDED, Ayes 2, Noes 3

May 18, 2005

EXECUTIVE SESSION – POLLING

Moved by Senator Hansen, seconded by Senator Carpenter that **Senate Amendment LRB a0636** be recommended for introduction.

Ayes: (5) Senators Reynolds, Lazich, Kanavas, Hansen
and Carpenter.

Noes: (0) None.

INTRODUCTION OF SENATE AMENDMENT LRB A0636
RECOMMENDED, Ayes 5, Noes 0

May 18, 2005

EXECUTIVE SESSION - POLLING

Moved by Senator Hansen, seconded by Senator Carpenter that
Senate Amendment LRB a0636 be recommended for adoption.

Ayes: (2) Senators Hansen and Carpenter.

Noes: (3) Senators Reynolds, Lazich and Kanavas.

ADOPTION OF SENATE AMENDMENT LRB A0636 NOT
RECOMMENDED, Ayes 2, Noes 3

May 18, 2005

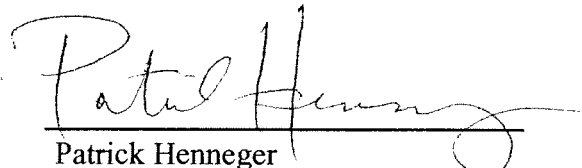
EXECUTIVE SESSION - POLLING

Moved by Senator Reynolds, seconded by Senator Lazich that
Senate Bill 155 be recommended for passage.

Ayes: (3) Senators Reynolds, Lazich and Kanavas.

Noes: (2) Senators Hansen and Carpenter.

PASSAGE RECOMMENDED, Ayes 3, Noes 2


Patrick Henneger
Committee Clerk

SENATE COMMITTEE ON LABOR AND ELECTION PROCESS
REFORM

Paper Ballot: Senator Carpenter
Deadline: Wednesday, May 18th, 2005, 2:00 p.m.

Please return your vote via ballot to Senator Reynolds' office (306 South) by 2:00 p.m.,
Wednesday, May 18th, 2005.

Thank you.

MOTION

Recommend introduction of LRB a0611/2 to Senate Bill 155 (*Attached is a copy of LRB a0611/2*).

Aye ✓ Nay _____

MOTION

Recommend adoption of LRB a0611/2 to Senate Bill 155.

Aye ✓ Nay _____

MOTION

Recommend introduction of LRB a0636/1 to Senate Bill 155 (*Attached is a copy of LRB a0636/1*).

Aye ✓ Nay _____

MOTION

Recommend adoption of LRB a0636/1 to Senate Bill 155.

Aye _____ Nay _____

MOTION

Recommend Senate Bill 155 for passage (*Attached is a copy of Senate Bill 155*)

Aye _____ Nay _____

Signature

Tim Carpenter

Distributed 5-17-05, 5 PM



SENATE COMMITTEE ON LABOR AND ELECTION PROCESS
REFORM

Paper Ballot: Senator Hansen
Deadline: Wednesday, May 18th, 2005, 2:00 p.m.

Please return your vote via ballot to Senator Reynolds' office (306 South) by 2:00 p.m.,
Wednesday May 18th, 2005.

Thank you.

MOTION

Recommend introduction of LRB a0611/2 to Senate Bill 155 (*Attached is a copy of LRB a0611/2*).

Aye X Nay _____

MOTION

Recommend adoption of LRB a0611/2 to Senate Bill 155.

Aye X Nay _____

MOTION

Recommend introduction of LRB a0636/1 to Senate Bill 155 (*Attached is a copy of LRB a0636/1*).

Aye X Nay _____

MOTION

Recommend adoption of LRB a0636/1 to Senate Bill 155.

Aye X Nay _____

MOTION

Recommend Senate Bill 155 for passage (*Attached is a copy of Senate Bill 155*)

Aye _____ Nay X

Signature

Dave Hansen

Distributed 5-17-05, 5 PM



SENATE COMMITTEE ON LABOR AND ELECTION PROCESS
REFORM

Paper Ballot: Senator Kanavas
Deadline: Wednesday, May 18th, 2005, 2:00 p.m.

Please return your vote via ballot to Senator Reynolds' office (306 South) by 2:00 p.m.,
Wednesday, May 18th, 2005.

Thank you.

MOTION

Recommend introduction of LRB a0611/2 to Senate Bill 155 (*Attached is a copy of LRB a0611/2*).

Aye X Nay _____

MOTION

Recommend adoption of LRB a0611/2 to Senate Bill 155.

Aye _____ Nay X

MOTION

Recommend introduction of LRB a0636/1 to Senate Bill 155 (*Attached is a copy of LRB a0636/1*).

Aye X Nay _____

MOTION

Recommend adoption of LRB a0636/1 to Senate Bill 155.


Aye _____ Nay X

MOTION

Recommend Senate Bill 155 for passage (*Attached is a copy of Senate Bill 155*)

Aye X _____ Nay _____

Signature



Distributed 5-17-05, 5 PM

SENATE COMMITTEE ON LABOR AND ELECTION PROCESS
REFORM

Paper Ballot: Senator Lazich

Deadline: Wednesday, May 18th, 2005, 2:00 p.m.

Please return your vote via ballot to Senator Reynolds' office (306 South) by 2:00 p.m.,
Wednesday, May 18th, 2005.

Thank you.

MOTION

Recommend introduction of LRB a0611/2 to Senate Bill 155 (*Attached is a copy of LRB a0611/2*).

Aye X Nay

MOTION

Recommend adoption of LRB a0611/2 to Senate Bill 155.

Aye Nay ✓

MOTION

Recommend introduction of LRB a0636/1 to Senate Bill 155 (*Attached is a copy of LRB a0636/1*).

Aye X Nay

MOTION

Recommend adoption of LRB a0636/1 to Senate Bill 155.

Aye _____ Nay

MOTION

Recommend Senate Bill 155 for passage (*Attached is a copy of Senate Bill 155*)

Aye Nay _____

Signature

Mary Kayich

Distributed 5-17-05, 5 PM



SENATE COMMITTEE ON LABOR AND ELECTION PROCESS
REFORM

Paper Ballot: Senator Reynolds
Deadline: Wednesday, May 18th, 2005, 2:00 p.m.

Please return your vote via ballot to Senator Reynolds' office (306 South) by 2:00 p.m., Wednesday, May 18th, 2005.

Thank you.

MOTION

Recommend introduction of LRB a0611/2 to Senate Bill 155 (*Attached is a copy of LRB a0611/2*).

Aye _____ Nay _____

MOTION

Recommend adoption of LRB a0611/2 to Senate Bill 155.

Aye _____ Nay _____

MOTION

Recommend introduction of LRB a0636/1 to Senate Bill 155 (*Attached is a copy of LRB a0636/1*).

Aye _____ Nay _____

MOTION

Recommend adoption of LRB a0636/1 to Senate Bill 155.


Aye _____ Nay X _____

MOTION

Recommend Senate Bill 155 for passage (*Attached is a copy of Senate Bill 155*)

Aye X _____ Nay _____

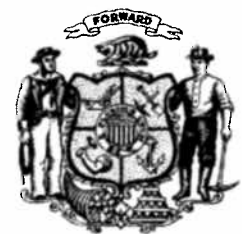
Signature



Distributed 5-17-05, 5 PM



WISCONSIN STATE LEGISLATURE





*"Building on the past.
Preparing for the future."*

Date: April 13, 2005
To: Wisconsin Pharmacy Examining Board
From: Pharmacy Society of Wisconsin Board of Directors
Mark Zwaska, President
Subject: Disciplinary Proceedings Against Neil Noesen, R.Ph.

On behalf of the Pharmacy Society of Wisconsin (PSW) we encourage the Wisconsin Pharmacy Examining Board to accept the recommendation of the Administrative Law Judge Colleen Baird in the disciplinary proceedings against registered pharmacist Neil Noesen. It is the collective opinion of the PSW Board of Directors, based upon review of the findings of fact outlined in the case proceedings, that pharmacist Noesen acted unprofessionally by refusing to transfer a prescription order to another pharmacy upon the request of the patient. Refusing to transfer a prescription order, that is eligible and medically appropriate to transfer, is equivalent to refusing release of a specific patient health care record. The prescription order is, without question, a component of a patient's health care record and is therefore property of both the patient and the health care provider maintaining the record.

It is the position of the Pharmacy Society of Wisconsin that a pharmacist is entitled to refuse to provide a product or service based on reasons of professional concern or conscientious objection. The pharmacist and employer must reach an agreement regarding how the needs of the patient will be met when the pharmacist refuses to dispense a prescription for right of conscience. The PSW Board of Directors believes it is important to distinguish, in this case, the significant difference between the right of a pharmacist to refuse to dispense a prescription for reasons of personal conscience and a refusal to provide a patient or other qualified health care professional a copy of a requested health care record. In considering this case and in reaching a final decision, the PSW Board of Directors recommends that the Pharmacy Examining Board affirmatively state that distinction, thereby reaffirming the right of a pharmacist licensed in Wisconsin to refuse to dispense any prescription order for right of conscience.

701 Heartland Trail
Madison, WI 53717
tele 608.827.9200
fax 608.827.9292
info@pswi.org
www.pswi.org

May 12, 2005

Guest Editorial to the Milwaukee Journal Sentinel

By Chris Decker, Executive Vice President of the Pharmacy Society of Wisconsin



*"Leading Our Profession
in a Changing
Health Care Environment"*

I am writing in regard to the MJS May 11th column regarding a pharmacist who refused to dispense a prescription to a woman referenced as Jane Doe. The article incorrectly stated that pharmacists are not allowed to refuse to dispense products used to terminate life. That is not the case.

The Wisconsin constitution provides every Wisconsin citizen the right to exercise and follow their conscience. The Wisconsin Pharmacy Examining Board has held that pharmacists are permitted to refuse to dispense a prescription when they object to doing so. It is also the position of the Pharmacy Society of Wisconsin, the state's professional society for pharmacists, that pharmacists have the right to not dispense a prescription and that they should proactively work with the management of the pharmacy practice to establish a mechanism to accommodate individual situations when they occur.

Pharmacists and other health professionals who choose not to partake in certain procedures to which they object should absolutely explain themselves in a professional manner and they should never berate a patient. Jane Doe's claim against this pharmacist is completely unsubstantiated and it is inconsistent with the manner that this pharmacist is known to practice.

It is possible and necessary to strike a balance between the rights of pharmacists and other health professionals and the individuals seeking treatments that those pharmacists, physicians or nurses may choose not to provide. That balance may be delicate but it is achievable.

However, professionally refusing to dispense a prescription should not be confused with a refusal to transfer a prescription order to another pharmacy, which the pharmacist from Menomonie, who was also referenced in the article, did. A prescription order is part of a patient's medical record and it should be released to another pharmacy or a physician at the request of a patient or a person acting on behalf of the patient.

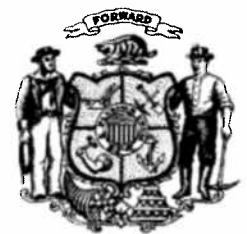
So, what's the right balance? Pharmacists have a right to step away from dispensing certain prescriptions but they should not step in the way and actively obstruct access to a legally prescribed, clinically appropriate therapy.

Christopher J. Decker
Executive Vice President
Pharmacy Society of Wisconsin

701 Heartland Trail
Madison, WI 53717
Tele 608.327.9200
Fax 608.327.9292
info@pswi.org
www.pswi.org



WISCONSIN STATE LEGISLATURE





EAR, NOSE, THROAT AND ALLERGY CENTER

EDITH A. McFADDEN, M.D., M.A., F.A.A.O.A. – Director

*Board Certified in Otolaryngology and Otolaryngic Allergy
Pediatric and Adult General Otolaryngology and Allergy*

May 11, 2005

Dear Wisconsin Legislator Committee Members,

I am a physician practicing on the south side of Milwaukee. I am very concerned about the Prescription Denial Bill, a Wisconsin bill under consideration at this hearing that would make it legal for Wisconsin pharmacists to interfere with the doctor-patient relationship by refusing to fill lawful prescriptions written by qualified physicians. This would also be a form of "practicing medicine without a license" and not the level of care Wisconsin citizens have a right to expect from pharmacists.

Unfortunately, there have been recent instances of Wisconsin pharmacists refusing to fill contraception prescriptions for women patients.

If these pharmacists are opposed to contraception based on their idiosyncratic interpretation of their religious traditions (because every major world religion has rich traditions which can be interpreted as prochoice as well as no-choice, including the Roman Catholic Church) then these pharmacists should not be working in areas where they are directly involved in patient care. They could use their training in pharmaceutical research, etc or they could go into another area of work. This is true for any healthcare professional. However, if they are deliberately seeking employment as a clinical pharmacist, dispensing medications to the public, and refuse to treat patients respectfully and professionally, and refuse to dispense particular medications because of their personal beliefs, then this is unprofessional, unethical, and completely unacceptable and should not be legally condoned.

Additionally, this bill would make it legal for pharmacists to discriminate against women by refusing to fill their contraception prescriptions. This is a violation of the basic human rights of women.

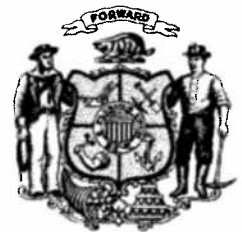
The pharmacists' refusal to fill prescriptions based on a religious belief is an assault on the religious freedom of patients to exercise their moral choice based on their own developed consciences and consistent with their rich religious traditions. We do not live in a theocracy and in a democracy the pharmacists' conscience is not more important than the conscience of a patient who is trying to care for herself in accordance with the evaluation and recommendation of her physician.

Sincerely,

Edith A. McFadden, M.D., F.A.A.O.A. Director
EAR, NOSE, THROAT AND ALLERGY CENTER
3201 South 16th St., Ste 400
Milwaukee, WI 53215
(414) 383-7528; fax: 383-7538
emcfadde@iqc.org



WISCONSIN STATE LEGISLATURE



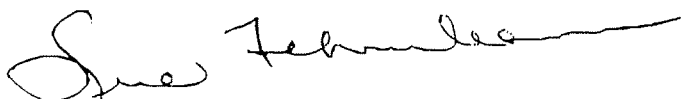
Testimony in Opposition of SB 155

I am a practicing pharmacist in Eau Claire. I have been practicing for 23 years. I am submitting testimony in opposition to SB 155 because I believe it would legalize the behavior of pharmacists like Neil Noesen, who refused to fill a woman's birth control prescription in my neighboring town of Menomonie.

Mr. Noesen was presented with a valid, legal prescription for hormonal birth control pills. Instead of performing his job and acting in the patient's best interest by filling the prescription, he instead chose to place his own moral beliefs above his patient's health. Even if he did question the patient's reasons for taking the medication, he did not concern himself with the fact that the woman may have been taking birth control pills to protect her life and health, and he then blocked the patient's access to medication legally prescribed by her doctor by refusing to give the prescription back or transferring the prescription.

Mr. Noesen was recently disciplined by the Pharmacy Examining Board for his unethical and judgmental behavior. The PEB stated in its opinion that patient-centered health care must be a pharmacist's utmost concern and a pharmacist cannot allow personal objections to endanger a patient's health. I oppose SB 155 because it would not only legalize Mr. Noesen's actions, but it would also strip the PEB's authority to discipline pharmacists who put patient health at risk.

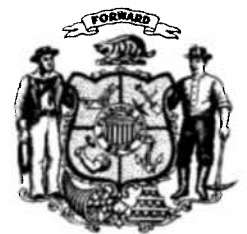
Please oppose this egregious and irresponsible attack on the health care system in Wisconsin.



Sue Fehrenbach, RPh
4532 Brittany Ct.
Eau Claire, WI 54701



WISCONSIN STATE LEGISLATURE



May 16, 2005

Dear Chairman Reynolds and Members of the Senate Labor Committee:

As an advanced practice nurse prescriber and a constituent, I am writing to urge you to oppose Senate Bill 155, also known as the Prescription Denial Bill.

As a health care provider, I meticulously review the health history and family history of every patient I see. I listen to their concerns in an exam room that allows for the privacy needed to fully understand that patient's perspective. Together, the patient and I make a decision about what medications are necessary for his or her continued health.

Today's savvy and educated patients do not take starting a medication lightly; many are extremely well informed before they even see their health care provider. For other patients, the decision to start a medication is only made after several face to face consultations with their health care provider. A lot of careful thought on the part of the patient and the health care providers goes into taking and prescribing medications.

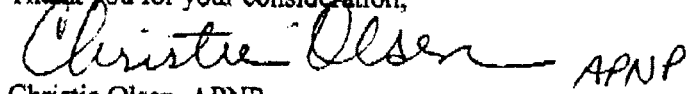
Once the decision to begin a medication is made, the patient will likely encounter the pharmacist, an essential member of the health care team. The pharmacist contributes to the patient's health by educating the patient on the medication and ensuring that no other ongoing medications will interfere with the new one. It is not the role of the pharmacist to determine who gets which medications. If a pharmacist has a problem giving a certain medication, clearly the patient should not suffer because of this. Senate Bill 155 would certainly cause patients undue suffering. We have already seen cases of this occurring in the *absence* of Senate Bill 155.

How far can this bill go? **When will the "moral objections" of others begin to cause people harm?** What if a pharmacist who believes it is immoral or wrong to be obese restricts a patient's access to Lipitor, a cholesterol reducing medication that could improve the life expectancy for someone with high cholesterol? The pharmacist, based on their own moral or religious beliefs, could argue that dietary modifications and exercise would be a better way to treat this patient's illness. Should a smoker seeking prescription medication to stop smoking also be subjected to the judgment of a pharmacist? The answer is clear. Of course not. As health care providers, our jobs are to help, and not harm, the patients we see.

And let's be honest about this bill. The only cases pertaining to this bill that I know of relate to pharmacists restricting access to contraception. You will probably hear testimony today from people trying to tell you that contraception is an abortion. Do not be fooled by these false claims. As an informed legislator, you know better than to accept this as true. Wisconsin state law has extremely CLEAR regulations on the necessary steps that must be taken prior to an abortion (24 hour waiting period, parental consent, filled out state mandated forms, etc.). None of these regulations are done prior to dispensing birth control. By definition, our state has already recognized the science and evidence-based facts supporting that birth control is not an abortion.

To be clear, Senate Bill 155 would undoubtedly delay patient's access to medications that have been carefully chosen. In some cases, delaying a medication could have grave outcomes. **You are privileged to be in a position to prevent these grave outcomes.** Please do the right thing and oppose the Prescription Denial Bill before you today.

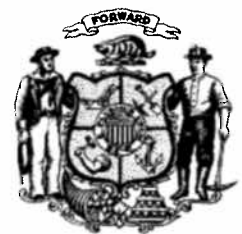
Thank you for your consideration,

A handwritten signature in cursive script that reads "Christie Olsen" followed by the letters "APNP" in a slightly different, more blocky script.

Christie Olsen, APNP
Madison, WI



WISCONSIN STATE LEGISLATURE



The Sheboygan Clinic



Aurora
HealthCare®

2414 Kohler Memorial Drive
Sheboygan, WI 53081
Tel (920) 457-4461

May 17, 2005

Dear Chairman Reynolds and Members of the Senate Labor Committee:

As board certified Obstetrics & Gynecology physicians by the American Board of Obstetrics & Gynecology, members of the American College of Obstetrics & Gynecology, and the Wisconsin State and County Medical Societies, and as physicians who represent the opinion of the majority of Wisconsin's 600 obstetricians and gynecologists, we are submitting testimony in this case because we strongly oppose SB 155.

This bill is even more egregious than AB 207 because it is targeted mainly at women in their reproductive years. This bill is a clear violation of patients' rights to receive accurate medical information and access to care from their providers.

First, because SB 155 would allow pharmacists to refuse to fill or dispense women's birth control prescriptions, we would like to provide the Committee with some basic information on the inherent risks of pregnancy. Pregnancy, especially unintended pregnancy, potentially creates numerous health risks. Many of these risks could be fatal to a woman. According to the World Health Organization, up to 15% of pregnant women in the world experience potentially fatal complications from pregnancy—that is over 20 million women a year. The Center for Disease Control cites the average maternal mortality rate at 9.1 deaths per 100,000 in the United States.

Maternal morbidity and mortality can result from a host of problems throughout pregnancy, labor and delivery, and the postpartum period. Between 12% and 27% of all women are hospitalized sometime during pregnancy. There are several potentially fatal conditions that can arise from pregnancy, including ectopic pregnancy, eclampsia, and thromboembolic disease. In addition, direct complications that account for the majority of maternal deaths are hemorrhaging, and sepsis (infection). Pregnancy may also contribute to other dangers to a woman's health such as gestational diabetes, anemia, hyperemesis gravidarum (extreme nausea and vomiting) and as mentioned earlier, pregnancy related high blood pressure (preeclampsia). All of these illnesses are induced by pregnancy, and if not treated can lead to maternal fatalities.

The risks are heightened in the case of unintended pregnancy. When a woman is exercising her reproductive right to use contraception, she may not realize that conception has occurred until it is too late to treat the pregnancy induced health problems. We want to be clear, every pregnancy has the potential for morbidity and mortality. All of these risks apply to what would otherwise seem to be a healthy woman in her childbearing years.

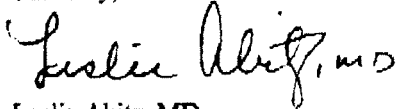
Second, because SB 155 allows pharmacists who believe a medication causes an abortion to refuse to dispense, we would like to share our knowledge of oral contraceptives with the Committee. Oral contraceptives work to prevent a woman from becoming pregnant. Such drugs prohibit a woman's ovaries from releasing eggs, stop an egg from being fertilized by a sperm or prevent a fertilized egg from implanting in the uterus. **It is medically impossible for oral contraceptives to cause an abortion.** Some pharmacists who have already refused to dispense legal prescriptions in Wisconsin refer to birth control as an "abortifacient." This use of the term has no basis in the scientific data surrounding oral contraceptives. In a press statement supporting emergency contraceptive pills, which are essentially high dose birth control pills, the American College of Obstetricians and Gynecologists has stated that "When political expediency prevails over sound scientific information, women once again become marginalized in their ability to make

critical decisions." This statement accurately reflects the current ideological assault on oral contraceptives.

In addition, SB 155 is wholly unnecessary to protect pharmacists from "participating in" an abortion. Currently, Wisconsin Administrative Code, Chapter 11, Section 11.03 allows only physicians to perform medical or surgical abortions. Therefore, pharmacists are prohibited from dispensing medical abortion prescriptions, such as Mifeprex (also called RU-486). Again, since this law protecting pharmacists already exists, it leads me to conclude that SB 155 is aimed at denying women access to birth control pills.

Please consider our testimony and oppose SB 155, the Prescription Denial bill.

Sincerely,



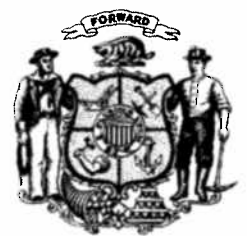
Leslie Abitz, MD
2414 Kohler Memorial Dr
Sheboygan, WI 53081



Katherine Cleveland, MD
2414 Kohler Memorial Dr
Sheboygan, WI 53081



WISCONSIN STATE LEGISLATURE





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Colby, WI

Ingolf Wallow, M.D., Vice President
Middleton, WI

Connie Mullins, Secretary
Colby, WI

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Jaren Hiller
Bayside, WI

Joyce Kessenich
Prairie du Sac, WI

Yvonne Vinkemulder
Penney Farms, FL
(formerly Madison)

Erika Wallow
Middleton, WI

—
Julaine K. Appling
Executive Director

Testimony of Julaine K. Appling, Executive Director
The Family Research Institute of Wisconsin
Hearing of Senate Committee on Labor and Election Reform
Senate Bill 155
Tuesday, May 17, 2005, 11:00 a.m.

I wish to thank Senator Reynolds and the members of the committee for the opportunity to submit written testimony on SB 155, a bill that provides that a licensed pharmacist may not be forced to dispense a drug or device intended to or that the pharmacist believes will be used to cause an abortion or cause the death of any other person by means of assisted suicide or euthanasia. SB 155 provides important protection from employment discrimination and discipline or liability based on a pharmacist's creed. The Family Research Institute of Wisconsin is not adding new information or arguments to this issue or bill, but we believe it is important that legislators know we wholeheartedly support this "workers' right" bill.

Current state statutes restrict conscience rights protection to licensed physicians, certified physician assistants, licensed nurses, hospitals and hospital employees. Pharmacists who work outside a hospital are not protected. This bill remedies that inequity.

I urge the members of this committee to vote in favor of SB 155.

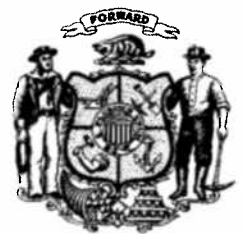
Dedicated to strengthening and preserving marriage and family, life and liberty in Wisconsin

PO Box 2075, Madison WI 53701-2075
222 S. Hamilton Street, Suite 23, Madison WI 53703-3201
(608) 256-3228 • Toll Free 888-378-7395 • Fax (608) 256-3370
www.fri-wi.org

A non-partisan, not-for-profit, pro-family education & research institute. Associated with Focus on the Family.



WISCONSIN STATE LEGISLATURE



Testimony in Support of SB 155 - The Pharmacists Conscience Clause Bill
Sister Rosalia Bauer, R.N., M.N., F.N.P.

Senate Committee on Labor and Election Process Reform

737 ½ Hackett St, Beloit, WI 53511

May 17, 2005

As a registered nurse, I urge you to support **Senate Bill (SB) 155**: The Pharmacists Conscience Clause Bill. We, as health care providers are committed to life-promoting and health-motivating services. Our prescriptions are never to directly shorten one's life here on earth, or to directly kill a human life.

Being a pharmacist is being a member of an honorable profession. Pharmacists are committed to the principle of 'doing no harm,' to people whom they serve. Pharmacists should not be threatened with discipline, or be terminated from their employment because they in conscience decline to provide drugs or devices that cause chemical abortions.

In this new century, we are swamped and surrounded with violence. What is more violent than killing a helpless, voiceless embryonic human being? Where will this violence of killing lead? Who will be next? Do you, as our State Legislators, want to be known in history as the 'beginners' of the legalized, lethal killing of human persons?

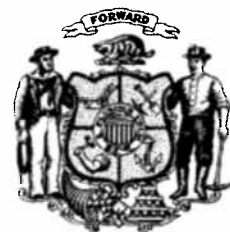
Other health care providers have been granted the legal protection to abstain from participating in procedures which harm the person. Pharmacists should be given that same protection. **I hold pharmacists in high regard, and I don't want to see them become agents of the abortion industry.**

I humbly request that each of you give your full support to SB 155, the Pharmacists' Conscience Clause Bill.

Respectfully Submitted.



WISCONSIN STATE LEGISLATURE



Testimony in Opposition of SB 155, the Prescription Denial Bill

May 17, 2005

Senate Labor Committee

Chairman Reynolds and Members of the Labor Committee:

My name is Denise Borsheim, and I am a Registered Nurse. I have practiced nursing for 28 years in a variety of settings.

My concern is then issue of patient abandonment, which certainly has occurred in the Neil Noeson and Michelle Long cases. They are being cited not for conscientiously objecting but for refusing to care for their patients.

As a nurse, I may decline to assist in or perform certain nursing procedures, but I may not do so unless I have procured another nurse to take over for me. And at no time may I proselytize regarding my feelings about the procedure. Judges may, in fact must, recuse themselves from conflict of interest cases.

I ask that pharmacists be held to these same standards. They must be expected to act professionally at all times, and cannot be allowed to be politically active (as these two certainly were) in their clinical setting at the expense of their patients.

The patient/health care provider interaction is focused on the patient—not the provider. The essence of health care providing is the use of the provider as a tool or conduit to advance the health of the patient.

Please reinforce these basic standards by opposing this bill: Senate Bill 155.

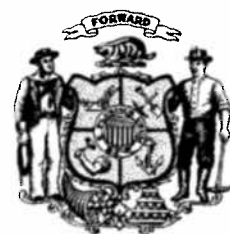
Thank you.

Denise Borsheim, R.N.

Denise Borsheim
N83W18100 Le Mons Dr.
Menomonee Falls, WI 53051



WISCONSIN STATE LEGISLATURE



Women's Medical Fund, Inc.

P.O. Box 248 • Madison, WI 53701 • Telephone (608) 256-8900

Administrator

Anne Nicol Gaylor

Board of Directors

Nora Cusack

Kathryn Elwers

Annie Laurie Gaylor

Phyllis Rose

Prof. Robert West

TESTIMONY OF NORA CUSACK

Opposing 2005 SB 138

May 17, 2005

Wisconsin State Senate

Committee on Labor and Election Process Reform

Senator Reynolds and members of the Committee, my name is Nora Cusack and I represent the Women's Medical Fund, a 32-year old all-volunteer non-profit charitable organization which helps Wisconsin women who are seeking to terminate an unwanted pregnancy and cannot afford to do so. Our Fund helps low income women—*most of whom qualify for Medical Assistance which will not cover abortion services*—and victims of sexual assault receive potentially life-saving care.

I strongly oppose SB155—The Pharmacists Denial of Medical Services Bill.

Most of the pregnancies terminated by the women we serve are the result of birth control failure. As has been made very clear by the recent case in Milwaukee of a pharmacist refusal to fill a prescription for emergency contraception, *SB155 will impede women's efforts to obtain and use effective birth control, resulting in unintended pregnancy and possible abortion.*

I would like to address what SB155 actually is and is not, what it says and doesn't say.

- **SB155 would allow pharmacists to refuse to fill your prescription** if “the pharmacist believes” that the drug or device would be used to cause an abortion. Some pharmacists feel that all birth control is abortion and could refuse to fill your prescription for birth control. This is wrong.
- The language of SB155 is inexact. SB155 would allow pharmacists to refuse to fill virtually *any* prescription. A pharmacist could “believe” that any drug, taken in sufficient quantity *could* cause an abortion or be used in suicide or euthanasia. Life saving medication could be denied. This is wrong and potentially dangerous.
- SB155 would **put government between** health professionals and their employers and the patients they both serve. This is wrong.
- SB155 allows pharmacists to **deny access to legal, prescribed drugs** to a patient, with no regard to the potential consequences of their actions. This is wrong.

- SB155 has **no provision for patient notification**. A patient will not know ahead of time if a pharmacist will not fill a prescription. This is wrong.
- SB155 is **unnecessary and *not* a bill which addresses employment discrimination in the workplace**.
- SB155 *is* a bill which allows pharmacists to **impose their religious practices** on a patient against a patient's wishes. This is wrong.
- SB155 says pharmacists **can deny medical services** to patients, with no regard to the potential consequences of their actions. It provides **no civil, criminal or disciplinary recourse** for a patient denied services. This is wrong.
- SB155 **includes birth control**. Women in the state of Wisconsin could be denied access to birth control by pharmacists, including emergency contraception. This is wrong.
- SB155 allows the beliefs of the pharmacist, rather than medical or scientific fact, to supersede the rights of a patient. This is wrong.

Pharmacists have a professional and ethical obligation to respect the rights of their patients and enable them to access the health care they need. SB155 would allow pharmacists to violate that expectation. *This is wrong.*

As the *Wisconsin State Journal* eloquently stated in an editorial on May 15, 2005 (attached): **"The patient's interests should come first. If a pharmacist cannot put the patient's interests first, the pharmacist should look for another line of work."**

I urge the members of this committee to closely examine exactly what SB155 says, and its possible consequences. Ask yourself whether you want the rights of patients in the state of Wisconsin to be violated and their health care compromised, regardless of the patient's individual situation.

SB155 is wrong for the patients of Wisconsin. It does not deserve your support

Thank you for your time and attention.

Nora Cusack
On behalf of the Women's Medical Fund

Home address:
1707 Rutledge St
Madison, WI 53704

OPINION

Wisconsin State Journal

B3 • Sunday, May 15, 2005

Editorial Page Editor: Scott Milfred, (608) 252-6110

Editorial Writers: Chuck Martin, Sunny Schubert, (608) 252-6107

OUR OPINION

Fill contraceptive prescriptions

You go to a pharmacy to get a prescription filled, not to be denied service and lectured on morality.

That is why the profession of pharmacy should act now to resolve the problem created by the growing number of activist pharmacists who refuse to fill prescriptions for some contraceptives.

The profession should update its standards of conduct to prohibit a pharmacist from refusing to fill a prescription simply because the prescription is contrary to the pharmacists' ideology.

The patient's interests should come first.

Incidents in which pharmacists refuse to fill contraceptive prescriptions remain rare. But the number has been growing as more contraceptives have become available through pharmacies.

In the latest Wisconsin case to come to light, state regulators are investigating a claim by a Milwaukee woman that in January a pharmacist refused to fill her prescription for an emergency contraceptive.

The woman reported that after a condom broke during sex, she obtained a prescription for an emergency contraceptive. She attempted to have the prescription filled at a pharmacy, but the pharmacist refused and berated her as a baby killer.

The woman left without the contraceptive, became pregnant and obtained an abortion.

Whether the claim has merit will be determined by investigators for the state Department of Regulation and Licensing. But complaints about pharmacists refusing to fill prescriptions are becoming more common. Earlier this year pharmacist Neil Noesen was disciplined by the state Pharmacy Examining Board after he refused to fill a prescription for a contraceptive and kept the prescription, preventing the patient from getting it filled elsewhere.

Although Noesen was punished, his case highlighted a need to strengthen the pharmacists' code

of ethics. The Pharmacy Examining Board found that Noesen was wrong in refusing to transfer the prescription. But, the board said, he was within his rights in refusing to fill the prescription.

Indeed, the pharmacy profession has generally supported that position. In 1998 the American Pharmaceutical Association endorsed a pharmacist's right to refuse to fill a prescription so long as systems of referral were in place so that the patient could get the prescription filled, either by another pharmacist at the same store or by transferring the prescription to another location.

That position is contrary to interests of patients.

What about situations where there is only one pharmacy in town? What about a woman who needs emergency contraception and lacks transportation to another location? What about the trauma of being denied service and morally judged?

To be sure, any pharmacist has a right to oppose the use of any contraceptive. But that opposition should be on the pharmacist's own time. It should not be inflicted upon patients.

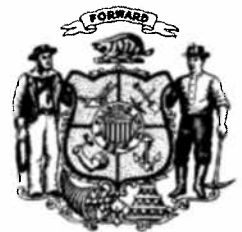
Pharmacists play important roles in the health care system. If a pharmacist suspects that a prescription will be abused or is concerned about drug interactions, the pharmacist should raise a red flag. But in those cases the pharmacist's judgment is in the patient's interest. That's different from when a pharmacist refuses to fill a prescription because of the pharmacists' interest in a political or moral ideology that opposes contraception.

The profession of pharmacy in Wisconsin and nationwide should revise its standards to prohibit pharmacists from inflicting the opposition to contraception on patients.

If a pharmacist cannot put the patient's interest first, the pharmacist should look for another line of work.



WISCONSIN STATE LEGISLATURE



THE CENTER FOR PATIENT PARTNERSHIPS

AT THE UNIVERSITY OF WISCONSIN

MARTHA E. GAINES, Director

PETER A. DALY, Patient Advocate
SUZANNE LEE, MD, Patient Advocate
PEGGY HACKER, Administrator

May 17, 2005

Chairperson Reynolds and
Members of the
Senate Labor Committee

Dear Chairperson Reynolds and the Members of the Senate Labor Committee:

I am writing to express my opposition today to SB 155, the Prescription Denial bill. I am the Director and co-founder of the Center for Patient Partnerships and a Clinical Professor at the University of Wisconsin Law School. As an advocate for patients' rights in the health care system, I believe this bill is a truly egregious attack on the physician-patient relationship and access to health care.

Its problems are many but the most important one from my perspective is that it interferes profoundly with the physician-patient relationship. The physician-patient relationship is based on trust that the physician will protect the patient's best interests. It is a sacred relationship that should not be violated by pharmacists, whose role is to facilitate the safe delivery of health care services to patients, not to make judgments about what medications a doctor has prescribed. Ultimately, the Prescription Denial bill gives pharmacists veto power over a physician's diagnostic responsibility and treatment recommendations. The bill, which allows pharmacists to refuse to fill or dispense any medication that he or she believes would cause an abortion or would be used to "cause the death of any person," usurps the physician's role in the health care system to provide patients with appropriate medications for their conditions.

This violation of the sanctity of the physician-patient relationship is dually troubling. First, it puts a patient's health at risk by denying access to legally prescribed medication based on a particular pharmacist's moral opposition to abortion or euthanasia. It is important to note here that in Wisconsin it is illegal for a pharmacist to dispense any medication designed to induce abortion and that assisted-suicide is also illegal. Second, this bill removes a patient's ability to file a complaint against a pharmacist whose actions harm the patient; and it removes the Pharmacy Examining Board's authority to discipline a pharmacist who harms a patient by denying access to medications. This essentially makes pharmacists a special protected class of health care workers; unanswerable to any court or regulatory authority for harm they may cause patients.

Suite 4311, 975 Bascom Mall, Madison, WI 53706-1379
Telephone No. 608.265.6267, Fax No. 608.263.3380

Chairperson Reynolds and Members of the Senate Labor Committee
May 17, 2005
Page Two

The Prescription Denial bill would profoundly interfere with the physician-patient and physician-pharmacist relationship, and relegate the patient's best interests to secondary status. Please oppose SB 155 and support patient-centered health care in Wisconsin.

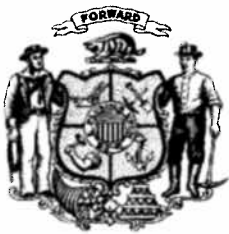
Sincerely,

A handwritten signature in cursive script, appearing to read "Martha E. Gaines".

Martha E. Gaines, J.D., L.L.M.
Clinical Professor of Law
University of Wisconsin Law School
Director, Center for Patient Partnerships



WISCONSIN STATE LEGISLATURE





Wisconsin Medical Society

Your Doctor. Your Health.

TO: Members, Senate Committee on Labor and Election Process Reform
Senator Thomas Reynolds, Chair

FROM: Mark Grapentine, JD – Vice President, Government Relations
Jeremy Levin – Government Relations Specialist

DATE: May 17, 2005

RE: **Opposition** to Senate Bill 155

On behalf of the 10,000 members of the Wisconsin Medical Society we thank you for this opportunity to testify in opposition to Senate Bill 155.

The Society has policy pertaining to the main thrust of SB 155, which relates to a pharmacist's refusal to fill a legitimate prescription:

ETH-038

Legitimate Medical Orders or Valid Prescriptions: The Wisconsin Medical Society believes that non-physician clinicians/pharmacists should not be able to ignore legitimate medical orders or valid prescriptions written by physicians. Non-physician clinicians/pharmacists who find this morally objectionable should provide patients with information on where these orders or prescriptions can be filled. (House of Delegates, April 2004)

Simply put, the Society believes a pharmacist should not hold blanket "veto power" over a legitimate, physician-provided prescription.

Pharmacist "Belief" Needs Further Definition/Qualification

Under the bill, a pharmacist would be immune from any Pharmacy Examining Board or employer discipline even if that pharmacist makes an unreasonable assumption that a certain prescription is going to be used for abortion, assisted suicide or euthanasia. This open-ended language is far too vague and is not dependent on any rational basis. A pharmacist could claim that *any* prescription could be used for an abortion, assisted suicide or euthanasia and be immune from any discipline, even if a rational pharmacist would not consider the prescription related to an abortion, assisted suicide or euthanasia.

To give just one example, this problem could easily arise in pain management care. Patients suffering from debilitating pain often require significant prescriptions. An inexperienced or uninformed pharmacist could easily receive a legitimate prescription and jump to a conclusion that the pain medication could be used for a purposeful, fatal overdose. This inaccurate conclusion could then be couched as a "belief," and therefore be immune from any disciplinary action; in the meantime, the patient could be greatly inconvenienced despite having no ill intent.

Patient Access to Care May Suffer

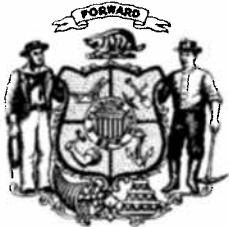
In some areas of Wisconsin, patients could have little or no pharmacy access should this bill pass. Depending on the location, and especially in rural areas, patients could be left without access to other pharmacies that would fill legal, needed prescriptions. Patients who need these prescriptions immediately may be left abandoned with no other access to their physician-prescribed treatment. The Society's policy above is rooted in the belief that restricting health care access in this way is not wise.

The fundamental elements of any medical decision must honor the physician/patient relationship and whatever is in the patient's best interest. Physicians hold an extremely high ethical obligation to provide lifesaving care to the patient and to advocate for the patient whenever the patient's health is threatened. A pharmacist – or any other health care professional – should be held to the same standard. In cases where the pharmacist may have a medical concern about a prescription, that pharmacist should immediately contact the patient's physician to discuss the concern. **It is not the pharmacist's role to make any medical decisions.** This includes respecting the patient's wishes for medical care and ensuring that the patient's wishes are followed in accordance with the medical doctor's directives.

Thank you again for the opportunity to provide this testimony. If you have any further questions or need additional information, please feel free to contact Mark Grapentine at markg@wismed.org or Jeremy Levin at jeremyl@wismed.org. Both can be reached at 608.442.3800.



WISCONSIN STATE LEGISLATURE



May 17, 2005

To: Members, Senate Committee on Labor and Election Process Reform

From: Susan Grosskreuz, R.Ph.

Re: Support for Senate Bill 155: The Pharmacists Conscience Clause Bill

As a registered pharmacist in the state of Wisconsin, I firmly believe that we need a Conscience Clause for practicing pharmacists, who today are an integral part of the health care team.

Because I believe that pharmacy is to be a totally life-saving profession, it goes against my conscience to dispense certain drugs which cause early abortion or intentional death of human life at any stage of development, including the elderly. Such drugs include many forms of contraception, including the birth control pill, contraceptive implants and injections, the pill used for "morning after" uses, and of course, the abortion drug mifepristone (RU-486).

Although birth control pills are supposed to and often do prevent ovulation, it is still possible for breakthrough ovulation, and thus, fertilization to occur. It is further possible that the hormones in the pill may alter the woman's uterine lining so that implantation of a newly formed embryo cannot occur and the embryo dies, which to me is a very early abortion. Some pills are more likely to "work" this way (that is, prevent implantation) than others. However, such early abortions may occur with all types, including contraceptive implants and injections. Also, I need not go into detail about the abortion pill mifepristone, which currently cannot be dispensed at your local pharmacy but is clearly designed to terminate an established pregnancy.

I believe that life begins at fertilization, not just when it implants in the uterus or after it is born. Therefore, it goes against my conscience to dispense drugs that can terminate lives at their earliest beginnings. Likewise, if our state ever legalized euthanasia or assisted suicide, I would find it morally objectionable to dispense a drug to aid in a person's death.

I realize that not everyone agrees with my views on life issues. However, this isn't about me taking away somebody's "right" to obtain a certain drug, or me wanting to "harass" patients with my viewpoints. This isn't about making birth control pills unavailable to the general population of women, which Planned Parenthood would like you to believe. This is just about my right not to participate in an act that clearly goes against my conscience. We would not say that a physician who refuses to perform surgical abortions or a hospital that doesn't allow them is taking away someone's right to obtain one. We would allow them to refuse based on their moral, religious, or ethical convictions. Likewise, then, pharmacists should have the same right to not be forced to dispense abortifacient or other life-ending drugs, if they truly believe it conflicts with their mission of being in a totally life-saving profession. Yes, it would be easier for me to just dispense everything I am told to dispense but my conscience does not work that way.

Presently pharmacists have no protection against employment discrimination if they do not want to dispense drugs which have controversial mechanisms of action. Although there is an extremely high demand for pharmacists in our state, I have had to be very selective as to where I am willing to work because I cannot go against my conscience. Soon after I became licensed in this state, my husband and I moved to central Wisconsin where he had just accepted a job. Although pharmacy jobs in the retail sector were generally plentiful all around, I accepted a

position at a newly created pharmacy in Stevens Point that served only nursing home patients. It was a 40 minute drive for me, but I knew I could work within my conscience at this pharmacy (thankfully we have not legalized euthanasia in this state). I actually would have preferred working in the retail sector but I didn't feel I had any protection if I requested to refrain from filling prescriptions that had abortifacient potential. I had interviewed for a store job in Wautoma prior to accepting the Stevens Point position and I did write a letter to my interviewer afterwards with my concern about dispensing such drugs, but he didn't seem to understand my position, telling me that pregnancy is defined as beginning at implantation. I didn't pursue this with him, however, because I soon found the nursing home position.

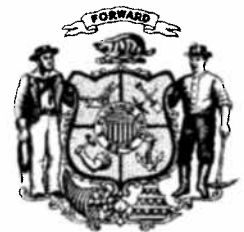
Since then we have moved to southeastern Wisconsin and I am raising five young children. There are no nursing home positions fairly close to my home that I know of where I could work very part-time as I raise my children, although there are plenty of retail jobs close by.

There will always be difficult moral and ethical issues in the medical profession. Just because something may be legal does not make it morally right from every health professional's standpoint. **I believe a pharmacist's job is to help preserve and enhance life, and that pharmacists should never be forced to do otherwise, against their own consciences.** Please support Senate Bill 155. Thank you.

Susan M. Grosskreuz, R.Ph.
6868 Northvue Ct.
West Bend, WI 53090



WISCONSIN STATE LEGISLATURE



Testimony 5/17/05
Re: AB 235/SB 155
Kay Heggstad, M.D.

I am a family physician and palliative care physician who has been practicing in Wisconsin for over 30 years and I am strongly opposed to AB 235 / SB 155. If a pharmacist does not want to follow a physician's order to dispense certain medicines then s/he should not work as a pharmacist. Allowing such a person in pharmacy school would be as ridiculous as enlisting a person in the army after he has said that he'll learn how to shoot but would never consider killing another person due to his religious beliefs. Should an atheist be allowed to keep his job teaching Sunday school in spite of teaching the kids that there is no God?

A pharmacist's job is to collaborate with the physician to make sure that the correct medicine is chosen, given at the right time and in the correct amount for the optimal care of the patient and then to dispense the medicine. As long as the prescription is written correctly for a legal medicine for the stated indication, it is not the pharmacist's job to decide if the medicine fits in with his or her personal religious beliefs.

No pharmacist in the U.S. may dispense any medicine that will cause an abortion. Physician assisted suicide and euthanasia are illegal in Wisconsin so there will be no prescriptions written that would say, for example: "Take 80 of these morphine pills with 5 shots of whiskey". A pharmacist would have every right to refuse to fill that prescription.

The biggest problem with the bill is that some pharmacists falsely believe that birth control pills cause abortions and thus, under this law, would not fill a prescription for the birth control pill. In addition, we all know that opioids could theoretically be taken in excess and thus could be used for suicide. In fact, most pills if taken in excess could be lethal. Thus, would the pharmacist be able to not fill a woman's heart pills because he thinks she is depressed and might overdose on them?

A pharmacist has a duty to question the doctor if s/he has concerns about the indication for a medicine, or the dosage or timing of administration. But, if the medicine is properly prescribed for a legal indication, including the "morning after pill", the pharmacist has no right to not fill that prescription. If s/he can't do it on religious grounds, then he should quit the profession.

Sincerely,



Kay Heggstad, MD
4221 Venetian Lane
Madison, WI 53718



TESTIMONY OF CHARMAINE HERBERT

UW-ALUMNI FOR LIFE

SENATE BILL 155

Senate Committee on Labor and Election Process Reform

May 17, 2005

Dear Chairman Reynolds and Committee Members,

I am a graduate of the College of Agricultural and Life Sciences at UW-Madison and have 12-years experience at one of the nation's leading pharmaceutical companies. I appreciate the opportunity to stand with UW Alumni for life in support of Assembly Bill 63. This bill would remedy the inadequacy of safeguards afforded to pharmacists in our state and extend state statutes to incorporate end-of-life issues.

As you know, licensed physicians, certified physician assistants, hospitals, hospital employees and licensed nurses are all afforded protection from being forced to participate in abortions under current state statutes. There is no such protection for pharmacists who work outside of the hospital setting.

Pharmacists serve a crucial role in the process of making available and providing medication and devices that are wanted and needed in their communities. Even so, pharmacists must be afforded exemption from liability or disciplinary action and protection from employment discrimination based on creed when they wish to serve their conscience and not dispense drugs or devices that they believe would be used for abortion, assisted suicide, mercy killing, euthanasia.

This conscience protection must be granted even if it means that there may, at time, be some amount of inconvenience for a portion of the consumers. In a free market society such as ours. Consumers who do not find a product or service in one location, or from one manager, will go to another in order to secure that product or service. Pharmacies, and retailers in general, are not held liable or discriminated against when they are found to not carry a particular item. So too should the pharmacist be afforded the freedom from liability and discrimination when he or she decides not to dispense certain drugs/devices.

It is also important to realize that the existence of this freedom for pharmacies to stock and make available to the general public the medications and devices it sees fit is in no way an infringement upon the "needs" of the patient or on the doctor-patient relationship. Likewise, the freedom of the pharmacist to conscientiously object to dispensing a particular drug or device that he or she believes will cause an abortion or cause the death of any other person (i.e. assisted suicide, euthanasia, mercy killing, etc.) is in no way an infringement on the patient or the doctor-patient relationship.

With respect to the specific action of contraceptives involved, there is no doubt that synthetic chemicals interfere with a woman's fertility and the systems and organs involved in coordinating it. In addition to preventing or suppressing ovulation and sperm migration, most contraceptives prevent implantation by irritating the uterine wall, causing an early abortion where there was a fertilized egg.

For the pharmacist who is conscientious about the type and actions of drugs and devices prescribed, there exists a very real and legitimate concern for human life itself. Employers and consumers must respect the pharmacists wish to not be involved in killing another human being. This conscience right of pharmacists must be upheld, or we as a society will have lost some of our most precious freedoms.

Pharmacists should not be required to participate in the dispensing of what they believe will cause abortion or the killing of another human being. They should also not have to choose between their conscience and their employment, or career. I urge you to support AB 63 and allow pharmacists their conscience right in the state of Wisconsin. Thank you.





WISCONSIN CATHOLIC CONFERENCE

TESTIMONY REGARDING SENATE BILL 155 Presented by John Huebscher, Executive Director May 17, 2005

Thank you for the opportunity to testify before you today on this important issue.

This testimony, provided “for information only” will briefly discuss SB 155 in light of the Catholic understanding of “conscience,” and the role of government in the protection of religious freedom and suggest that the protection of conscience be thought of in broad not narrow terms.

Conscience in the Catholic Tradition

For Catholics, conscience is “the interior voice of a human being, within whose heart the inner law of God is inscribed. Moral conscience is a judgment of practical reason about the moral quality of a human action. It moves a person at the appropriate moment to *do good* and to *avoid evil*.” (*Catechism of the Catholic Church*, #1777-1778, emphasis added)

Too often our society views conscience as merely that which stops individuals from doing evil. However, conscience, in its fullest sense, is that which calls us to something better, to be something more than what we are. Conscience is not minimalist, seeking the lowest common denominator. Conscience leads one to the higher, greater good. It is not a means of calculating, “What is the minimum I must do-- or avoid doing --to be a moral person?” Rather, it is a voice that calls us to be as virtuous as we can be.

This is why we favor defining the rights to act in accordance with our conscience in broader, not narrower terms. It is also why we affirm the freedom of conscience for those who might reach different judgments.

The formation of conscience is a lifelong task for individuals. For life in society constantly presents us with new challenges and opportunities to exchange insights with each other on questions that have ethical dimensions.

But even as we meet new questions, we are called to live by timeless principles.

The most basic of these is to respect the sanctity of every human life and the dignity of every person. Each of us is obligated to refuse to cooperate in actions that have the effect of destroying or demeaning human life.

Furthermore, cooperation in immoral acts cannot be justified by invoking respect for the freedom of others. Even when civil law permits—or even requires—that one act against life, we cannot participate in that act.

As Pope John Paul II wrote in his 1995 encyclical, *The Gospel of Life*, "Refusing to take part in committing an injustice is not only a moral duty; it is also a basic human right.... What is at stake therefore is an essential right that, precisely as such, should be acknowledged and protected by civil law." (*The Gospel of Life*, #74)

The Protection of Religious Freedom

While the broad principles we affirm come from a "faith based" foundation, the rights we assert are grounded in this country's secular constitutional tradition.

Both the US Constitution and the Wisconsin Constitution recognize the free exercise of religion as a fundamental right. Indeed, Article I, Section 18 is explicit in its affirmation that "no control or interference with the rights of conscience be permitted."

Even as the state seeks to balance individual rights in a way that best secures the freedom of all, the state must protect any person from compulsion to act in ways that contradict his or her religious and moral values.

It may be true that no civil right is completely unlimited. Our ability to act must account for the rights of others. But it is one thing to limit behavior. It is quite another thing to compel it.

This protection is especially important in the area of health care and should include protection from both criminal prosecution and occupational sanction. As John Paul II has written, "the opportunity to refuse to take part in the phases of consultation, preparation and execution of these acts against life should be guaranteed to physicians, health-care personnel, and directors of hospitals, clinics and convalescent facilities. Those who have recourse to conscientious objection must be protected not only from legal penalties but also from any negative effects on the legal, disciplinary, financial and professional plane." (*The Gospel of Life*, #74)

Nor do we ask that the scope of conscience be defined by Catholic teaching.

While the Catholic Church views contraception as morally wrong, it does not by definition involve the taking of a human life. But Catholics nonetheless respect a person's right to make that judgment. Persons who do make that judgment should not be compelled to act in ways that violate their beliefs.

This is consistent with our views on the matter of conscientious objection to participating in war. Though our Catholic tradition does not obligate us to be pacifists we defend the right of others, such as Quakers, Mennonites and Catholics whose conscience calls them to be pacifists, to object to serving in the military.

Applying Timeless Principles in a Time of Rapidly Changing Technology

Our pluralistic society has left considerable open space for people of faith and their institutions to deliver many social goods. Far from restricting rights, these ministries have helped countless individuals to live more fully and freely in our society. And Wisconsin is the better for it.

One who is called to the vocation of pharmacy is no less deserving of the protection of our civil laws than are other health care professionals. The law currently provides enhanced protection for health care institutions and health care providers who express a moral objection to participating in abortion and sterilization procedures. It would be consistent for the state to extend that protection to all health care providers, including pharmacists.

Some suggest that once a doctor has written a prescription it is not the place of the pharmacist to object. But our occupation does not define our morality. Rather, our moral code defines how we approach our occupation.

As we regularly argue in our testimony on the rights of workers, human beings are not raw materials in the economy. Each person is a moral agent. Each has an equal claim to act in accordance with his or her conscience. Nurses and pharmacists have as much right as doctors to object to acts that violate their sense of right or wrong.

A person's religious and moral conviction does not make them less qualified to provide health care. Rather it is a priceless source of "social capital."

At the same time, we recognize that no bill can anticipate or address every contingency. Not every ethical dilemma will have a legal remedy. We doubt it will ever be possible to identify or delineate every range of concerns that a health care professional may face.

Ideally, a conscience law will be broadly worded to accommodate all foreseeable concerns. Even as you deliberate SB 155, technology continues to evolve, new issues will arise and new questions will be asked. Indeed, the bill itself delineates two particular concerns that pharmacists may have, but in doing so it fails to offer an expansive protection of all possible objections. While we view this as a limitation of this particular measure, SB 155 would have the value of establishing a statutory recognition of pharmacists as deserving of the protections that our current law extends to other health care professionals.

We hope that, as you deliberate on this bill and other conscience bills before this body this session, you will find ways to define the scope of conscience protection as fully as reason permits, so that people of all faiths will continue to feel comfortable in bringing their religious convictions to the healing ministry of health care in Wisconsin.