

Modern Healthcare

Pharmacist groups ask Supreme Court to take religious objections case

By [Lisa Schencker](#) | February 8, 2016

National and state pharmacy associations want the [U.S. Supreme Court](#) to take a [case \(PDF\)](#) over a Washington state regulation that says pharmacies cannot refuse to fill certain prescriptions because of religious beliefs.

The associations argue that the rule undermines pharmacies' ability to choose which medications to stock and eliminates pharmacists' ability to abstain from actions they conscientiously oppose—such as, in some cases, providing emergency contraception. The Washington Board of Pharmacy, however, has argued that it developed the rule to ensure patients could access important medications quickly.

A federal appeals court [upheld the regulation \(PDF\)](#) in July, reversing a lower court's decision. The plaintiffs in the case—two pharmacists and a family-owned pharmacy with religious objections to providing emergency contraceptives—have asked the U.S. Supreme Court to weigh in on the matter. They say their jobs and their business, respectively, are in danger if they don't comply.

On Friday, a number of organizations, including pharmacy associations, filed briefs in the case, *Stormans v. Wiesman*, supporting the pharmacists with religious objections. The groups include the American Pharmacists Association, the Academy of Managed Care Pharmacy, the American Association of Colleges of Pharmacy, the American College of Clinical Pharmacy, the National Alliance of State Pharmacy Associations and 32 state pharmacy organizations.

The associations argue that when pharmacists object to filling certain prescriptions they referred patients to other nearby pharmacies. Such referrals protect pharmacists while allowing patients to still get drugs, the associations argue.

“According respect to a pharmacist's right of conscience recognizes pharmacists as the medical professionals that they are,” according to the associations' brief. “Pharmacists are not humanoid vending machines, mere automatons dispensing medication to anyone with a prescription.”

The pharmacy board, however, says it created the regulation to ensure patients safe and timely access to medications.

“For years, Washington law was silent on whether pharmacies were required to fill prescriptions,” the pharmacy board has said in court documents. That silence, it said, sometimes led to “disastrous consequences for patients,” including a woman who was raped but then became pregnant after several pharmacies refused her emergency contraceptives and a patient who was denied HIV medication because of her perceived lifestyle.

In court documents, the plaintiffs argue that the regulations illegally prohibit pharmacists from refusing to fill prescriptions for religious reasons while allowing refusals for many other reasons. Washington is the only state in the country with such a rule, said Luke Goodrich, an attorney for the Becket Fund for Religious Liberty who is representing the plaintiffs in the case.

“It’s the very rare case where a government body clearly set out to target religious conduct and make it illegal even when the religious conduct clearly was not causing any sort of harm,” Goodrich said.

He believes it’s likely the Supreme Court justices will take the case.

Not everyone, however, agrees. Elizabeth Sepper, an associate professor of law at Washington University Law in St. Louis, said the argument that the Washington regulations target those with religious beliefs doesn’t hold water. That’s because the regulation doesn’t just prohibit pharmacists from denying drugs because of religious reasons. Rather, the regulation lists a handful of reasons for which pharmacies may reject prescriptions and disallows any other reason—which could include religious objections or personal beliefs or preferences, for example.

“The regulation applies broadly, it doesn’t just apply to religion,” Sepper said.

The state of Washington has not yet filed its response to the plaintiffs’ request for the Supreme Court to hear the case. Organizations including the American Academy of HIV Medicine, the American Public Health Association, the National Health Law Program and the Washington State Nurses Association filed briefs supporting the state when the case was in the appeals court.

The Supreme Court will review whether to take the case in a closed-door conference, though the case is not yet on a conference agenda. Goodrich said it’s likely the justices will decide whether to take the case within the next few months, and if they take it, it would likely be heard in the fall.