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Section: PERSPECTIVE

Rx for trouble: Just give us the medicine, please

THE MORALIST

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Pharmacists have pangs of conscience like everyone else. Maybe they feel guilty dishing out pricey uppers, downers and painkillers people don't really need. Or maybe they feel guilty dispensing birth control.

So here comes another skirmish in the culture wars: a battle over whether pharmacists and pharmacies may refuse on moral grounds to sell birth control and "morning after" pills. Some people, including Catholic Church officials, believe "morning after" emergency contraceptives are tantamount to do-it-yourself abortions.

According to the Ethical Code of the American Pharmacists Association (APHA), a pharmacist has a duty to act with "conviction of conscience." But the medicine counter is no place for ad hoc moralizing. Or making political protests.

While they are on duty, pharmacists are obliged to set aside personal beliefs about individual FDA-approved drugs. Pharmacists should serve without bias - that, too, is an express obligation of the APHA ethical code. When the workday is done, pharmacists are free to decry any medications, for whatever reason, in any forum.

What's really going on here? The recent emphasis on so-called "conscience clauses" for pharmacists - laws that would permit pharmacists to refuse to dispense certain drugs - must be understood in the context of larger efforts to restrict access to abortion.

Supporters of reproductive freedom have repeatedly won major constitutional battles in the courts. In 1965, the U.S. Supreme Court struck down laws criminalizing birth control in *Griswold vs. Connecticut*. Less than a decade later, *Roe vs. Wade* struck down laws criminalizing abortion. In 1992, in *Planned Parenthood vs. Casey*, the court reaffirmed *Roe* and limited restrictive laws to those that do not "unduly burden" the right to choose. More recently, in 2000, *Stenberg vs. Carhart* struck down a Nebraska law that criminalized the dilation and extraction (or "partial birth") late-term abortion method.

Against the grain of these and other decisions, the court has allowed states and the federal government to deny Medicaid funding for poor women's abortions - a kind of conscience clause for government. The constitution allows the state to express a moral preference for life, the court said.

The call for conscience clauses for pharmacists has been a part of a quest for additional limits on abortions. Similar efforts have focused on spousal consent requirements, parental vetoes, waiting periods, mandatory counseling, bans on taking minors across state lines and rules against over-the-counter sale of contraception. Years ago, anti-abortion activists strenuously opposed the introduction of what used to be called RU-486, the abortion pill imported from France that proved to be wildly unpopular with American women once it wound its way through the FDA approval process.

The uncivil tenor of the abortion wars gives pharmacists themselves reason to say "no thank you" to conscience-clause legislation. The existence of such laws enables powerful politicians and vocal activists to pressure druggists into invoking "conscience." For pharmacists in small towns or competitive urban markets, it may seem easier to avoid controversial medicines than to face the threat of throngs of

protesters and store boycotts.

Politics aside, conscientious choosiness makes sense for some health care providers - but not for pharmacists. Surgeons rightly have a degree of choice about the services they offer and the people they serve. Serious qualms could render a surgeon's hands unsteady. (Not without controversy, special "conscience clause" laws in some states expressly allow otherwise qualified doctors and hospitals to deny non-emergency procedures, including abortions, that violate moral or religious values.)

Some laws that protect conscience do make sense. Men and women seriously opposed on religious grounds to military service, for instance, should be excused from combat. But morality and the First Amendment do not always side with conscience clauses.

Professionals who undertake to provide basic services to the general public know in advance what their work entails. It is not too much to ask that pharmacists withhold their moral judgments at work, confident that they are not personally responsible for the choices of customers and prescribing physicians.

Ethically speaking, pharmacists are like pilots and bus drivers. It would be outrageous for a commercial airline pilot who disapproved of gambling to refuse to transport Las Vegas-bound passengers if they intended to visit the casinos. Or for a bus driver, disturbed that tax dollars went to a lavish new football stadium rather than a decrepit public school, to refuse to let sports fans off at the arena.

Questions about the moral rights and obligations of pharmacists have been around for a long time. Adopted in 1994 and still embraced by many professionals today, the APHA Code of Ethics does not instruct pharmacists to dictate patient care. A core principle of the code is that "A pharmacist respects the autonomy and dignity of each patient."

In fact, the nonbinding, voluntary code states that pharmacists should promote the patient's "right of self-determination" and recognize "individual self-worth by encouraging patients to participate in decisions about their health." Moreover "a pharmacist respects personal and cultural differences among patients." I'd say that refusing to fill a prescription written by a licensed physician for an FDA-approved drug is an odd way to respect patient autonomy or recognize differences.

Refusing to dispense ordinary birth control pills on moral grounds is as harmful as it is unprincipled. The same medication that is prescribed for preventing pregnancy is also prescribed to treat disorders such as irregular menstrual cycles, abnormally heavy or prolonged menstrual bleeding and debilitating menstrual pain. The morning-after pill serves important medical uses tied to women's physical and emotional health. It can counteract the uncertain effects of contraceptive failure and protect rape and incest victims from the burden of a possible pregnancy.

Professional pharmacists hold a state-conferred monopoly on dispensing medications. In that respect, they are public servants. Their role calls for neutrality on the job. When customers enter drugstores with valid prescriptions, they should not have to fear that they will be embarrassed or turned away.

I may be preaching to the choir. According to an ACLU survey, 88 percent of Americans agree that conscientious refusal should not be permitted. Although Arkansas, Georgia, Mississippi and South Dakota permit pharmacists to refuse to dispense specific drugs, New Jersey Senate Bill 2178 would prevent a pharmacist from refusing to fill a prescription on the basis of "philosophical, moral, or religious beliefs."

Relief may be coming on the federal front, too. Last month, U.S. Sen. Frank Lautenberg (D-N.J.) introduced the Access to Legal Pharmaceuticals Act (ALPhA). The compromise law allows an individual pharmacist to refuse to fill a prescription, but would require that another pharmacist in the same establishment do the job.