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Federal Appeals Court Rules in Favor of Patients' Right to Medication in WA Board of Pharmacy Case

Court lifts injunction of Board of Pharmacy Rules

Seattle, July 8, 2009 Legal Voice (formerly the Northwest Women's Law Center) and Planned Parenthood of the Great Northwest applaud today's decision by the Ninth Circuit Court of Appeals in *Stormans et al v. Selecky et al.* The case involves a challenge brought by two pharmacists and a pharmacy to Washington State Board of Pharmacy rules requiring all licensed pharmacies to fill patients' prescriptions, regardless of an individual pharmacist's personal beliefs about a particular medication. Legal Voice and PPGNW, with the help of Seattle law firms Perkins Coie and Orrick Herrington & Sutcliffe, represent seven Washington patients who intervened to defend the rules.

In October of 2007, a federal court in Tacoma enjoined enforcement of the rules pending trial – but only as to pharmacies and pharmacists who refuse to dispense Plan B, the emergency contraceptive. The effect of this rule is to single out women's reproductive healthcare for different – and worse – treatment.

In its strongly-worded decision, the Ninth Circuit Court of Appeals lifted the injunction, finding that the trial judge abused his discretion in enjoining the pharmacy rule. Instead, the appeals court found, "the new rules do not aim to suppress, target, or single out in any way the practice of religion," but, rather, their objective was to increase access to all lawfully prescribed medications. The court specifically recognized that the trial court "erred in finding that access to Plan B was not a problem, especially given that state officials have already made findings suggesting the opposite."

Today's decision affects all patients, not only those seeking contraception. "The ruling sends a clear signal that the regulations are constitutional and will ultimately be upheld," said Lisa Stone, Executive Director of Legal Voice. Dismissal of the case would clear the way for the state to enforce its rules, ensuring that all pharmacies comply with the requirement that all patients get their medication needs met in a timely manner, without delay, and without harassment. "We are extremely pleased," said Chris Charbonneau, CEO of Planned Parenthood of the Great Northwest. "Prompt access to medications is crucial to meet the needs of patients." Under the rules, individual pharmacists with personal objections to filling prescriptions may have their beliefs accommodated - but not at the expense of patients.

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