

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
WHITESIDE COUNTY, ILLINOIS

FILED
CIRCUIT COURT WHITESIDE COUNTY
DATE 4/8/05
CLERK
Sheila J. Seligson

MORR-FITZ, INC., an Illinois corporation,
D/B/A FITZGERALD PHARMACY,
Licensed and Practicing in the State of Illinois
as a Pharmacy,

Plaintiff,

v.

ROD R. BLAGOJEVICH, Governor, State
of Illinois; FERNANDO E. GRILLO, Secretary,
Illinois Department of Financial and Professional
Regulation; DANIEL E. BLUTHARDT, Acting
Director, Division of Professional Regulation; and
the STATE BOARD OF PHARMACY, in their
official capacities,

Defendants.

Case No. 05-MR 47

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

NOW COMES Plaintiff, MORR-FITZ, INC., D/B/A FITZGERALD PHARMACY, by and through their attorneys, Mailee R. Smith, Americans United for Life, Chicago, Illinois, and Edward R. Martin, Jr., and for its Verified Complaint for Declaratory and Injunctive Relief against Defendants states and alleges as follows:

VENUE

1. The "Emergency Rule" codified at 68 Ill. Adm. Code § 1330.91(j) that is the subject of this action will be enforced by Defendants Blagojevich, Grillo, Bluthardt, and the State Board of Pharmacy (hereinafter collectively "Government Defendants") throughout the State of Illinois, including within Whiteside County.
2. Plaintiff Morr-Fitz, Inc., an Illinois corporation D/B/A Fitzgerald Pharmacy (hereinafter "Fitzgerald Pharmacy") does business in Whiteside County, Illinois.

3. Venue is therefore proper in the Circuit Court of the Fourteenth Judicial Circuit, Whiteside County.

PARTIES

4. **Plaintiff Fitzgerald Pharmacy**, an Illinois corporation, operates two Division I Pharmacies licensed and registered by the State of Illinois Division of Professional Regulation. The two pharmacies are in Whiteside County: one in Morrison, Illinois (State License #054-013706) and another in Prophetstown, Illinois (State License #054-014623). Plaintiff employed fifteen (15) or more persons within Illinois during 20 or more calendar weeks of the year preceding the Government Defendants' actions.
5. **Defendant Rod R. Blagojevich**, an elected official of the State of Illinois, is the Governor of the State of Illinois (hereinafter "Governor"). The Governor filed, promulgated, and/or created the "Emergency Rule" that is the subject of this action. The Governor is sued in his official capacity.
6. **Defendant Fernando E. Grillo** is the Secretary of the Illinois Department of Financial and Professional Regulation, the agency charged with regulating and licensing Illinois pharmacists and pharmacies and with administering disciplinary action against pharmacists and pharmacies charged with violating the Illinois Pharmacy Practices Act of 1987, 225 ILCS § 85 *et seq.* Defendant Grillo is sued in his official capacity.
7. **Defendant Daniel E. Bluthardt** is the Acting Director of the Division of Professional Regulation, the division of the Illinois Department of Financial and Professional Regulation charged with regulating and licensing Illinois pharmacists and pharmacies and with conducting disciplinary proceedings against pharmacists and pharmacies. Defendant Bluthardt is sued in his official capacity.

8. **Defendant State Board of Pharmacy** is a regulatory agency and advisory board within the Division of Professional Regulation responsible for advising the Director of the Division of Professional Regulation concerning standards of professional conduct and licensing of pharmacists and pharmacies.

FACTUAL ALLEGATIONS

9. Plaintiff Fitzgerald Pharmacy is a “c” corporation with one shareholder, Luke D. Vander Bleek.
10. Plaintiff Fitzgerald Pharmacy operates two pharmacies at 124 East Main Street, Morrison, Illinois 61270 and 316 Washington St., Prophetstown, Illinois 61277.
11. Vander Bleek resides at 504 Portland Avenue, Morrison, Illinois 61270. He was raised in Fulton, Illinois as the 3rd son of 12 children and is a lifelong Catholic.
12. Vander Bleek is a graduate of the University of Illinois (1986) with a bachelor of science degree in pharmacy with a concentration in medical chemistry and drug design.
13. Vander Bleek is also the chief pharmacist at the Morrison pharmacy (Pharmacist license #051-036456).
14. Vander Bleek is a practicing Catholic who, through prayerful reflection and consideration, informed his beliefs and conscience upon which he relies and which holds that life begins at conception and therefore does not allow him to dispense the morning-after pill and/or “Plan B” because of their abortifacient mechanism of action.
15. Vander Bleek has also formed a professional opinion about teratogenic or abortifacient drugs and their destruction of what he considers is human life.

16. Based on Vander Bleek's conscience and belief, Fitzgerald Pharmacy forbids the sale or dispensing of drugs suspected to have teratogenic or abortifacient qualities such as the morning-after pill and/or "Plan B." See Exhibit A.
17. Vander Bleek does not believe, based on his moral religious beliefs, that Fitzgerald Pharmacy can cooperate in the sale or dispensing of drugs like the morning-after pill and "Plan B" and has therefore conscientiously objected on behalf of this corporation.
18. In specific instances over the past few years when presented with prescriptions for drugs as described in the preceding paragraph, Vander Bleek has affirmed the policy for Plaintiff Fitzgerald Pharmacy.
19. On or about April 1, 2005, the Governor filed an "Emergency Rule" that reads in pertinent part:

(j) Duty of Division I Pharmacy to Dispense Contraceptives

- 1) Upon receipt of a valid, lawful prescription for a contraceptive, a pharmacy must dispense the contraceptive, or a suitable alternative permitted by the prescriber, to the patient or the patient's agent without delay. If the contraceptive, or a suitable alternative, is not in stock, the pharmacy must obtain the contraceptive under the pharmacy's standard procedures for ordering contraceptive drugs not in stock, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. However, if the patient prefers, the prescription must either be transferred to a local pharmacy of the patient's choice or returned to the patient, as the patient directs.
- 2) For the purposes of this subsection (j), the term "contraceptive" shall refer to all FDA-approved drugs or devices that prevent pregnancy.

68 Ill. Adm. Code § 1330.91(j).

20. This “Emergency Rule” includes drugs and devices known as the “morning-after pill” and “Plan B,” which Plaintiff contends are designed to act with an abortifacient mechanism of action.
21. Prior to promulgating this emergency rule, neither the Governor nor any of the Government Defendants or their agencies, departments, or divisions held any public hearing on the regulation or provided for any public notice and comment thereon.
22. On information and belief, the State Board of Pharmacy did not review, approve of, or authorize the subject rule as required by the Pharmacy Practice Act of 1987. *See* 225 ILCS § 85/11.
23. No “threat to the public interest, safety, or welfare” exists sufficient to permit the Government Defendants to enact the subject “Emergency Rule” without a hearing or opportunity for public notice and comment concerning the weighty issues of freedom of conscience and patient health raised by the subject rule.
24. The “Emergency Rule” is in direct conflict with the Illinois Health Care Right of Conscience Act, 745 ILCS 70/1 *et seq.*; the Illinois Administrative Procedures Act, 5 ILCS 100/5-5 *et seq.*; the Illinois Pharmacy Practices Act, 225 ILCS 85/1 *et seq.*; the Illinois Human Rights Act, 775 ILCS 1/1-101 *et seq.*; and the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 *et seq.*
25. The emergent nature of this matter is underscored by the fact that, upon information and belief, on Monday, April 1, 2005, the Governor issued a warning that Illinois pharmacists who violate the April 1, 2005 “Emergency Rule” face “significant penalties,” ranging from fines to the loss of professional licenses.

26. By demanding that Division I Pharmacies fill any prescription for “contraceptives,” including the “morning-after pill” and “Plan B,” the Emergency Rule requires the Plaintiff to act against the collective conscience of its corporate control group and against the policies of its pharmacies.
27. All acts of the Government Defendants, their agents, employees, and assigns herein alleged were performed in their official capacities.
28. Absent injunctive relief from this Court, the Government Defendants will continue to violate Plaintiff’s rights under state and federal law and Plaintiff could be commanded by any patient to fill a prescription that violates its religious and moral conscience or otherwise jeopardize its Division I Pharmacy license. In addition, Plaintiff could be commanded to violate the rights of its employees. This would be intolerable to Plaintiff.
29. The promulgation by the Government Defendants of the referenced “Emergency Rule” has caused and will continue to cause irreparable harm to the Plaintiff, for which it has no adequate remedy at law.

COUNT I

Violation of the Illinois Health Care Right of Conscience Act, 745 ILCS 70/1 *et seq.*

30. Plaintiff incorporates by reference herein all preceding paragraphs.
31. The Health Care Right of Conscience Act states the following:

It is the public policy of the State of Illinois to respect and protect the right of conscience of all persons who refuse to obtain, receive, or accept, or who are engaged in, the delivery of, arrangement for, or payment of health care services and medical care whether acting individually, corporately, or in association with other persons; and to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such persons or entities by reason of their refusing to act contrary to their conscience or conscientious convictions in refusing to obtain, receive, accept, deliver, pay for, or arrange for the payment of health care services and medical care.

745 ILCS 70/2 (emphasis added).

32. Under the Act, “health care” is defined as “any phase of patient care, including but not limited to, ... instructions; family planning, counseling, referrals, or any other advice in connection with the use or procurement of contraceptives and sterilization or abortion procedures; [or] medication....” 745 ILCS 70/3.

33. In addition, “health care professional” is defined as “any nurse, nurse’s aide, medical school student, professional, paraprofessional or any other person who furnishes, or assists in the furnishing of, health care services.” *Id.*

34. “Conscience” is defined as “a sincerely held set of moral convictions arising from belief in and relation to God, or which, though not so derived, arises from a place in the life of its possessor parallel to that filled by God among adherents to religious faiths.” *Id.*

35. Section 5 of the Act states the following:

It shall be unlawful for any person, public or private institution, or public official to discriminate against any person in any manner, including but not limited to, licensing, hiring, promotion, transfer, staff appointment, hospital, managed care entity, or any other privileges, because of such person’s conscientious refusal to receive, obtain, accept, perform, assist, counsel, suggest, recommend, refer or participate in any way in any particular form of health care services contrary to his or her conscience.

745 ILCS 70/5.

36. Section 7 of the Act states that it is unlawful for any public or private employer, entity, or agency to “... orally question about, to impose any burdens in terms or conditions of employment on, or otherwise discriminate against any applicant, in terms of employment” or to “discriminate in relation thereto, in any other manner” on account of the applicant’s refusal to “perform, counsel, suggest, recommend, refer, assist, or

participate in any way in any forms of health care services contrary to his or her conscience.” 745 ILCS 70/7.

37. Section 9 of the Act states the following:

No person, association, or corporation, which owns, operates, supervises, or manages a health care facility shall be civilly or criminally liable to any person, estate, or public or private entity by reason of refusal of the health care facility to permit or provide any particular form of health care service which violates the facility’s conscience as documented in its ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other governing documents.

745 ILCS 70/9. See Exhibit A.

38. Section 12 of the Act provides that “[a]ny person ... injured by any public or private person, association, agency, entity, or corporation by reason of any action prohibited by this Act may commence a suit therefore....” 745 ILCS 70/12.

39. Section 14 of the Act states, “This Act shall supersede all other Acts or parts of Acts to the extent that any Acts or parts of Acts are inconsistent with the terms or operation of this Act.” 745 ILCS 70/14.

40. By requiring Plaintiff to fill prescriptions for post-coital contraceptives like “Plan B,” despite its or its employees religious or conscientious objectives, and by requiring Plaintiff to either demand that its employees fill such prescriptions or hire on the basis of the willingness to fill such prescriptions, the “Emergency Rule,” on its face and as applied, is in direct and clear conflict with the Health Care Right of Conscience Act and is thus null, void, and unenforceable.

COUNT II

Violation of the Illinois Administrative Procedures Act, 5 ILCS 100/5-5 *et seq.*

41. Plaintiff incorporates by reference herein all preceding paragraphs.

42. Section 5.45(b) of the Illinois Administrative Procedures Act permits an agency, upon finding that an emergency exists, to adopt an emergency rule without prior notice or hearing. 5 ILCS 100/5-35(b). An “emergency means the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare.” 5 ILCS 100/5-45(a).
43. Upon information and belief, the facts as known by the Defendants did not rise to the level of an “emergency.”
44. Because the “Emergency Rule” was filed by the Governor rather than the Department of Financial and Professional Regulation or the Division of Professional Regulation, it violates 5 ILCS 100/5-35. In addition, the promulgation of the “Emergency Rule” was arbitrary, capricious, and unreasonable.

COUNT III

Violation of the Illinois Pharmacy Practice Act of 1987, 225 ILCS 85/1 *et seq.*

45. Plaintiff incorporates by reference herein all preceding paragraphs.
46. The Pharmacy Practice Act of 1987 states the following in pertinent part:
- [T]he following powers and duties shall be exercised only upon action and report in writing of a majority of the Board of Pharmacy to take such action:
- (a) Formulate such rules, not inconsistent with law and subject to the Illinois Administrative Procedures Act, as may be necessary to carry out the purposes and enforce the provisions of this Act.”
- 225 ILCS 85/11.
47. By filing and enforcing the “Emergency Rule” without first obtaining a report in writing of a majority of the Board of Pharmacy authorizing such action, the Government Defendants have acted *ultra vires* and in violation of the Pharmacy Practice Act of 1987.

COUNT IV

Violation of the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq.

48. Plaintiff incorporates by reference herein all preceding paragraphs.

49. The Illinois Human Rights Act prohibits discrimination against applicants and employees based upon their religious beliefs. 775 ILCS 5/1-102. It also requires employers to make reasonable accommodations of an employee's religious beliefs and practices. *Id.*

50. In addition, the Act states the following:

It is a civil rights violation:

(A) Employers. For any employer to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment on the basis of unlawful discrimination or citizenship status.

775 ILCS 5/2-102.

51. It is also a civil rights violation for a person to conspire to compel or coerce a person to commit any violation of this Act. 775 ILCS 5/6-101.

52. Plaintiff is an "employer" under the Act because it employed 15 or more employees within Illinois during 20 or more calendar weeks within the calendar year preceding the Government Defendants' actions.

53. By imposing upon all Division I Pharmacies the obligation to dispense all FDA-approved drugs or devices that prevent pregnancy without allowing for reasonable accommodation of an individual employee's right to request a religious accommodation, the "Emergency Rule" is in direct conflict with the Illinois Human Rights Act. In addition, the rule compels and coerces Plaintiff to commit a violation of the Illinois Human Rights Act. For these reasons, the "Emergency Rule" is null, void, and unenforceable.

COUNT V

Violation of the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 *et seq.*

54. Plaintiff incorporates by reference herein all preceding paragraphs.
55. The “Emergency Rule” requires that the Plaintiff violate its sincerely held religious beliefs as a condition of maintaining its license to practice pharmacy in the State of Illinois.
56. The Illinois Religious Freedom Restoration Act prohibits the government from substantially burdening a person’s exercise of religion unless it demonstrates that the application of the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *775 ILCS 35/1 et seq.*
57. While “person” is not defined under the Act, “person” includes an individual or an organization under the Illinois Commercial Code. 810 ILCS 5/1-201(30).
58. Under the Illinois Commercial Code, “organization” includes a corporation, partnership or association, or “any other legal or commercial entity.” 810 ILCS 5/1-201(28).
59. Plaintiff is a business incorporated in the State of Illinois and therefore qualifies for protection under the Religious Freedom Restoration Act.
60. The “Emergency Rule” substantially burdens Plaintiff’s exercise of religion, does not further a compelling governmental interest, and is not the least restrictive means to further any such purported interest.
61. The “Emergency Rule” thus violates the Illinois Religious Freedom Restoration Act and is null, void, and unenforceable.

COUNT VI

Emergency Rule is in conflict with Title VII, Civil Rights Act of 1964, 42 U.S.C. § 2000e(j)

62. Plaintiff incorporates by reference herein all preceding paragraphs.

63. The Civil Rights Act of 1964, 42 U.S.C. § 2000e-2, states:

It shall be an unlawful employment practice for an employer--

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

64. The Civil Rights Act of 1964, 42 U.S.C. § 2000e(j), states:

The term "religion" includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

65. Plaintiff is an "employer" within the definition of 42 U.S.C. § 2000e(b) since Plaintiff employed fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.

66. Plaintiff could reasonably accommodate his employees' religious beliefs without undue hardship on the conduct of his business.

67. Therefore, by 42 U.S.C. § 2000e-2, Plaintiff employer is required to accommodate his employees' religious and conscientious objections to filling prescriptions for "Plan B".

68. 68 Ill. Adm. Code 1330.92(j), however, requires Plaintiff employer to make filling prescriptions for "Plan B" a term or condition of employment, and to deprive individuals of employment opportunities, in contravention of 42 U.S.C. § 2000e-2.

69. The Civil Rights Act of 1964, 42 U.S.C. § 2000e-7, states:

Nothing in this title shall be deemed to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of any State or political subdivision of a State, other than any such law which purports to require or permit the doing of any act which would be an unlawful employment practice under this title.

70. The Illinois Emergency Rule requires Plaintiff employer to violate the employment standards set out in Title VII.

71. According to the Supremacy Clause of the United States Constitution, when a state statute conflicts with federal law, the state statute is pre-empted.

72. The Illinois Emergency Rule is therefore null, void, and unenforceable.

WHEREFORE, the Plaintiff respectfully requests that:

A) This Court render a Declaratory Judgment, adjudging and declaring that:

1) the April 1, 2005 “Emergency Rule,” codified at 68 Ill. Adm. Code § 1330.91(j), violates the Illinois Health Care Right of Conscience Act, 745 ILCS 70/1 *et seq.*, and is therefore null and void and without legal effect;

2) the April 1, 2005 “Emergency Rule,” codified at 68 Ill. Adm. Code § 1330.91(j), violates the Illinois Administrative Procedures Act, 5 ILCS 100/5-5 *et seq.*, and is therefore null and void and without legal effect;

3) the April 1, 2005 “Emergency Rule,” codified at 68 Ill. Adm. Code § 1330.91(j), violates the Illinois Pharmacy Practice Act of 1987, 225 ILCS 85/1 *et seq.*, and is therefore null and void and without legal effect;

4) the April 1, 2005 “Emergency Rule,” codified at 68 Ill. Adm. Code § 1330.91(j), violates the Illinois Human Rights Act, 775 ILCS 5/101 *et seq.*, and is therefore null and void and without legal effect; and

5) the April 1, 2005 “Emergency Rule,” codified at 68 Ill. Adm. Code § 1330.91(j), violates the Illinois Religious Freedom Restoration Act, 775 ILCS 35/1 *et seq.*, and is therefore null and void and without legal effect; and

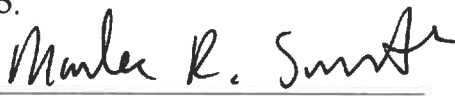
6) the April 1, 2005 "Emergency Rule," codified at 68 Ill. Adm. Code § 1330.91(j), violates Title VII, Civil Rights Act of 1964, 42 U.S.C. § 2000e(j) and is therefore preempted by federal law.

B) This Court issue a preliminary and permanent injunction prohibiting the Government Defendants from enforcing the April 1, 2005 "Emergency Rule," codified at 68 Ill. Adm. Code § 1330.91(j).

C) This Court award plaintiff the costs of this action and the attorney fees and costs against the Government Defendants pursuant to Section 12 of the Illinois Right of Conscience Act and Section 20 of the Illinois Religious Freedom Restoration Act.

D) This Court award such other and further relief as it deems equitable and just.

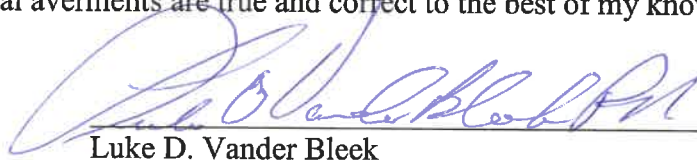
Respectfully submitted this 8 day of June, 2005.

By: 
Mailee R. Smith (IL Bar No. 6280167)
AMERICANS UNITED FOR LIFE
310 S. Peoria St., Suite 300
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Edward R. Martin (MO Bar No. 50282)
(*Pro Hac Vice* Admission pending)
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VERIFICATION

I, Luke D. Vander Bleek, a citizen of the United States and a resident of the State of Illinois, have read the foregoing Verified Complaint for Declaratory and Injunctive Relief and declare under penalty of perjury under the laws of the United States of America that the foregoing factual averments are true and correct to the best of my knowledge and belief.



Luke D. Vander Bleek

CERTIFICATE OF SERVICE

I, _____, certify under Code of Civil Procedure sec. 1-109 that I served a copy of this notice and the attachments upon each of the persons on the service list by facsimile on 6/8/2005.

SERVICE LIST

Morr-Fitz, Inc. v. Rod R. Blagojevich *et al.*

Rod R. Blagojevich, Governor, State of Illinois, in his official capacity
Office of the Governor
207 State House
Springfield, IL 62706
Fax: (217) 524-4049

Fernando E. Grillo, Secretary, Illinois Department of Financial and Professional Regulation, in his official capacity
320 W. Washington Street
Springfield, IL 62786
Fax: (217) 782-7645

Daniel E. Bluthardt, Acting Director, Division of Professional Regulation, in his official capacity
320 W. Washington Street
Springfield, IL 62786
Fax: (217) 782-7645

Members of the Illinois State Board of Pharmacy
320 W. Washington Street
Springfield, IL 62786
Fax: (217) 782-7645

Luke Vander Bleek

From: "Luke Vander Bleek-Fitzgerald Pharmacy" <lvande@fitzgeraldpharmacy.com>
To: "Mark Pettinger" <genoarx@atcyber.net>; "Michelle Langheim" <mlangh@fitzgeraldpharmacy.com>;
 "Tom O'Shea" <eggrx@tbcnet.com>; "will eden" <edenwmch@yahoo.com>; "Lynette Mikesch"
 <mikeshl@mercyhealth.com>; "Dave Hook" <dhook1@fitzgeraldpharmacy.com>
Cc: "Steve Vanosdol" <svanos@fitzgeraldpharmacy.com>
Sent: Monday, June 06, 2005 10:19 PM
Attach: ATT00019.htm
Subject: VanderBleekPolicyMay2005Rewrite.doc

June 7, 2005

Luke Vander Bleek, R.Ph.
 President
 Morr-Fitz, Inc.
 L. Doyle, Inc.

Dear Pharmacist,

Please accept this letter and the accompanying statement as an articulation of the long-standing policy of Morr-Fitz, Inc. and L. Doyle, Inc. as it pertains to our pharmacies.

I have found it necessary to clarify and re-affirm our long-standing policy due to the recent actions of the Governor of Illinois, Rod Blagojevich. As I have come to understand the April 1, 2005 rule he enacted, I have realized that our pharmacies are directly threatened.

Here is an excerpt from a State of Illinois press release dated April 1, 2005 concerning the rule:

"Today, Gov. Blagojevich filed an emergency rule that requires pharmacies that sell contraceptives to fill prescriptions for birth control without delay. If the contraceptive, or a suitable alternative, is not in stock, the pharmacy must order or obtain the contraceptive or, if the patient prefers, transfer the prescription to another local pharmacy of the patient's choice or return it to the patient."

Although the wording of the rule and subsequent public comment by the Governor and his staff is not completely clear to me, what is clear is that under this rule the Governor is mandating that pharmacies that engage in the practice of dispensing contraceptives must engage in dispensing any and all types of contraception. As a pharmacist and as a pharmacy owner, I emphasize that I recognize significant differences between certain types of contraceptive therapy and other newer so-called "emergency contraceptives." Because some of these when taken as approved and as directed have abortifacient qualities, I have made it our policy to not stock or dispense these drugs. This decision is made as one of my conscience.

It is important to note that the Governor's rule names "pharmacies" and not "pharmacists" in clarifying the duty to dispense all forms of contraceptives. Therefore, since I own and control the pharmacies, I am solely responsible to comply with this new rule. I will at all times protect the integrity of our pharmacies and of our pharmacists as professional health care providers.

In all of our professional activities, I have promoted the value of compassionate care to our patients. Each of our patients has great value as human beings. No one in our pharmacies should condemn patients even when we disagree with their judgment. Indeed, I believe that on a daily basis, our patients benefit and are well served by our professional and personal judgment in the work place.

Because I regard that complicity in making available products that are intended for the termination of human

Exhibit A.1

6/8/2005

life to be immoral, I will not stock or have dispensed these therapies in my pharmacies. If the Governor forces our pharmacies to comply, I will not be able - in good conscience - to continue to run a pharmacy.

Attached you will find a one-page statement that is the articulation (in print) of the long-standing policy of our pharmacies. I ask you to please read and sign this and return it to me. Please contact me if you have any questions.

Sincerely,

Luke D. Vander Bleek, R.Ph.

Emergency Contraceptive Policy

So as to respectfully and confidentially react to requests for emergency contraceptives, and to properly communicate company policy, this page is a clear description of what has been and what will continue to be the policy of Fitzgerald's Pharmacies and Eggleston's Pharmacies

In the event a prescription for an emergency contraceptive is presented for execution to the prescription department, the pharmacist on duty must immediately return the prescription to the patient. The pharmacist on duty, while using good professional judgment will communicate in a confidential environment that company policy does not allow the product to be procured, stocked, or dispensed.

Lecturing or consultation involving moral judgment is not appropriate.

Nothing in this policy should be construed to mean that a pharmacist has been barred from consultation or discussion at the request of the patient.

Pharmacy Staff Member Printed Name Signature Date

Exhibit A.2

6/8/2005