

## **CASE #2: RELIGION IN THE WORKPLACE**

*The “faith” part of the Faith at Work movement is highly diverse, comprising nearly all of the major religions, including Judaism, Christianity, Islam, Hinduism, Buddhism, and non-institutional forms of spirituality.*

David W. Miller

### **God at Work**

The average worker spends one-half of his or her waking hours in the workplace. Is this work a job, an occupation, career, or vocation? Does one work for money or meaning or both? What makes the workplace a desirable place to be? Can it allow for the expression of different faiths and nurture employees’ spiritual growth? The United States enjoys a diversity of religion that is unparalleled in any other developed country. While the U.S. workplace is the most religiously diverse, it is one of the most religiously devout.

### **Ethical Issues and Concerns**

Employers are generally required by law to make “reasonable accommodations” to employees with religious needs, just as they are required to do for the disabled. Title VII of the Civil Rights Act of 1964 offers broad protections to the religious. However, the courts have been equally strict about not allowing an employer or employee to create a hostile environment for others by harassing them about what they do or don’t believe (*Business Week*, 1999). Actual work-related incidents are described below to raise different issues about what is ethically or legally acceptable in the workplace. *Remember, you are being asked to judge these cases on the basis of the ethical issues, not the legal issues.*

### **Scenario 1: A Case of Conscientious Refusal: Rights and Responsibilities**

#### **A Pharmacist Refuses to Fill a Prescription for Birth Control**

On July 6, 2000, a University of Wisconsin-Stout student, went to the K-Mart in Menomonie, Wisconsin, to fill her prescription for oral contraceptives, birth control pills. The only pharmacist on duty, Neil Noesen, asked if she intended to use the prescription for contraception. When she replied in the affirmative, Noesen, a Roman Catholic, refused to fill the prescription, explaining that to do so would be against his religious beliefs. She thought that he was kidding.

But Noesen was very serious. As a devout Catholic, he had concluded that he could not dispense contraceptives. He also refused to transfer the prescription or tell her how or where she could get the prescription filled, all of which, he explained later, would, in his view, constitute participating in wrongful behavior. Significantly, prior to employment at K-Mart, Noesen had informed the district manager that he would not

dispense contraceptives; however, he did not mention that he would refuse to refer or to transfer prescriptions.

The woman filed a complaint with the Wisconsin Department of Regulation and Licensing's Pharmacy Examining Board. The administrative law judge who heard the complaint found that the ordinary standard of care "requires that a pharmacist who exercises a conscientious objection to dispensing a prescription must ensure that there is an alternative mechanism for the patient to receive his or her medication, including informing the patient of their options to obtain their prescription." Further, he found that Noesen's conduct constituted "a danger to the health, welfare, or safety of a patient and was practiced in a manner which substantially departs from the standard of care ordinarily exercised and which harmed or could have harmed a patient."

His ruling also limited Noesen's license, requiring him to notify any pharmacy where he worked of any practices he would refuse to perform and how he would ensure patient access to prescriptions that he declined to fill.

The issue facing us here is not contraception but conscience and the limits, if any, of its protection.

Conscientious refusal by a healthcare professional—here, a pharmacist—refers to the desire or intent to refuse, or to actual refusal of, a course of action requested by a patient or expected by the ordinary standard of care, both of which are in play here as the young woman possesses a valid prescription which, according to pharmacy practice, ought to be filled. The basis for a refusal based on conscience is a conflict with the professional's personal values or core moral beliefs. Such values and beliefs—whether grounded in religion, as in this case, or not—matter deeply to a person, forming an integral part of self-identity and personal integrity and, hence, deserve some degree of protection.

Professional standards across medical disciplines have supported the right to "step away" from providing a service that violates conscience. However, this is coupled with the responsibility to treat a patient with dignity and to ensure access to needed medical care. The right to refuse does not include a right to obstruct. The patient must be informed about the intent to refuse and alternative courses of action, otherwise it becomes a troubling imposition of personal beliefs on patients, notably female patients. The negative consequences of conscientious refusal in reproductive medicine fall disproportionately on women, as in the case here. When asked, the woman said she planned to use the medication for contraception but this prescription could easily have been for dysmenorrhea, menorrhagia, polycystic ovaries, and the like. By Margaret R. McClean. Excerpts eprinted with permission of the Markkula Center for Applied Ethics at Santa Clara University ([www.scu.edu/ethics](http://www.scu.edu/ethics)).

### **Questions: for Discussion:**

1. Does Noesen have a right to refuse to perform this legitimate professional service on the basis of conscience? On what ethical basis?
2. Does this young woman have a right to the professional service ordinarily provided by a pharmacy? On what ethical basis?
3. Is there any ethical resolution to satisfy both parties?

### ***Scenario 2: Religion in the Work Space and Lunchroom***

Like many high tech firms, the marketing reps are located in square cubicles (about 8 X 8 or 64 square ft. of enclosed space). It is their private space, as they like to say. The cubicles are open on one side and are 4.5 feet high. Wanting to give each employee the feeling of having their own personal space, they have the freedom to put on their cubical walls personal items that were of interest to them, i.e. pictures, toys, motivational writings, and yes, even religious verses, pictures and items that had importance to them. The items were there for everyone to view so offensive pictures, comments, or jokes were not permitted.

Susan, one of the marketing reps, was a devout Catholic and thus had her walls covered with religious “things.” She went to church on the way to work everyday. She knew the owner was a Presbyterian Christian and occasionally they would mention to one another certain outreach work that each was involved with in their respective churches. These moments were not held around Susan’s work area but in other locations in the office facility. However, because she was always ready to talk about her church activities or remark about the religious items on her cubical wall with other employees, management had made it a point to tell her that such discussions and/or religious commentary were not permitted in her office area or during working hours. During break time or on her own time she was free to discuss what she wanted to. During Holy Week Susan was having lunch in the break room and innocently asked another employee, Tom, also a known Catholic, if he was going to church on Good Friday. Tom, replied, “no,” saying he was going fishing with some friends. Susan, remarked to Tom that it was his Christian duty to go to Mass to honor the Crucifixion and death of Jesus Christ on this special day of Good Friday and to go fishing instead would result in committing a sin. There were other light hearted religious comments made between Susan and Tom and he soon left the break room.

Sitting in the break room and also eating lunch and hearing all this talk about Easter, Good Friday and Jesus Christ was a Jewish employee, Joe. Joe did not appreciate all this open talk about churches and Easter. When Tom left, Joe told Susan, in no uncertain terms, that he did not want to hear any conversation involving the Christian religion because he was a Jew and he had not talked about or pushed the recent Jewish Holiday of Passover on her or others. He finished by saying, her talk had upset him and now he had an upset stomach so he could not finish his lunch. Susan retorted that the

conversation was not directed at him and if he was upset by it he should go elsewhere or not listen to their conversation. This heated dialogue was going on in the presence of several other employees having their lunch in the same break room. Susan left in a huff while mumbling several offensive words towards Joe. Joe commented to the other employees that if she doesn't stop doing that he was going to report her to management.

Later in the afternoon, Susan called Joe on the interoffice phone line and gave him a piece of her mind concerning his performance in the lunch room, especially because he had berated her in front of her peers. Joe was furious with Susan's actions and phone call. He went to his management and demanded that action be taken against her harassment of him being a Jew.

Susan was brought into the manager's office and told to stop discussing religious issues in the work place and drop the matter between her and Joe.

Susan then returned to her cubical and called Joe to sarcastically "thank" him for getting her in trouble with management. Joe got up from his desk and announced to all those present that he was being harassed and was quitting at this moment. His colorful language used to make this announcement shocked the group. At this point the company's work production was virtually at a standstill for the rest of the day.

One month later the company was informed by the State Labor Board that Joe was bringing a harassment law suit against the company.

### **Questions for Discussion:**

1. Is there an ethical issue in this case? If so, what is the main issue? Secondary issues? What is the rationale for your answer? Cite an ethical principle.
2. Should businesses and other non-religious organizations allow the overt practice of faith in the workplace?
3. Does it make any difference ethically or legally whether the business is publicly or privately owned?
4. What would you have done if you were the manager of these employees?
5. If you were the owner or head of an organization, what would be your policy for the expression of religious beliefs or practices in the workplace.

### **Scenario 3: Forms of Dress, Personal Grooming, and the Right to Practice Religious Beliefs**

A Muslim woman who works as a hostess at a restaurant in Disneyland has filed a discrimination complaint against the world-renowned California theme park, saying officials at the park violated the law when they told her she could not appear in front of customers while wearing a religious head scarf. She claimed they ordered her to either remove her hijab or agree to work where customers couldn't see her at Storyteller's Café at the resort's Grand Californian Hotel & Spa. A Disney official stated that the theme

parks and resorts are the stage and the costumed cast members are part of the show (Fox News, 8/20/10).

**Question:** Explain how certain forms of dress and personal grooming based upon religious beliefs might raise ethical questions. For example, the wearing of a cross or crucifix, a yarmulke, a Sikh turban (or more difficult still the Sikh dagger required to be worn by all males). Your resolution?

#### **Scenario 4: *Diversity Training and Biblical Convictions***

The following summary is intended only to raise the issues for discussion, not to provide sufficient information to render legal judgment on the case.

What if a group of three Christian employees objects to your company's portion of diversity training dealing with gays and lesbians? To protest during the one day training, they silently read the Bible when the 60 minute session on homosexuality came up. They also refused to sign the new employee handbook acknowledging receipt and understanding of its content. Their refusal was based upon the language which said, "Each person is charged with the responsibility to fully recognize, respect, and value the differences among all of us." Even though the complainants explained that they would not discriminate, harass, or retaliate against any employee who happened to be gay, they could not claim to "value" homosexuality. (Source: Worker's Rites. *Conference Board Review*, Sept./Oct. 2007, Vol. XLIV, No. 5, pp.43-48).

**Question:** What are the issues in such a case? How might management and the three employees arrive at a reasonable accommodation?

Rev. 9-15-12 Mel Witmer and Glenn Neff (resource person for *Religion in the Work Space* case; revised 8/3/17 by Mel Witmer and Jeff Myers)