

Section 1:

Assessing Whether Your State Pharmacy Board is Likely to Take a Position on the Issue of Refusals in the Pharmacy

**Before approaching your pharmacy board,
“get to know” the board members, staff, and
board positions.**

Before approaching your pharmacy board about the issue of refusals in the pharmacy, you should “get to know” your board. Doing so will help you assess how likely the board is to take action on the issue and what form the action could take. You can get to know your board in different ways, including learning about board and staff members and looking for comments on the board website, in board newsletters, or in the press. Attempting to learn more about your state’s pharmacy board does not have to be a daunting task. This section will walk you through each of these steps.

Learning About Board Members

To get to know your board, start by learning about the board members.

The pharmacy board’s website is the best place to start. On most pharmacy board websites, there is a link for “Board Members.” There you should find the names of board members, their position, and their occupation. Some board websites also will provide background information on the members of the board, including their outside memberships/affiliations and activities and who appointed them, which can be helpful in determining how receptive they may be to the issue.

If information on pharmacy board membership is not available on the website, you should call the board office. Once you have the names of board members, you can try a basic internet search or ask others about their background and orientation.

Learning About Staff

In addition to learning about members of the board, it is important to have a sense of the professional staff working for the board. While background information for staff may not be readily available on the board website, it is worth trying to gather information, by performing a basic internet search or asking about them in the community. This is because staff are usually the ones handling the day-to-day operations of the board, such as drafting regulations or policies or assessing comments from the public about an issue. Legal counsel for the board are in a particularly important position when it comes to issuing interpretations of existing law or drafting new rules or regulations. Staff therefore may have an influence in where the board comes down on the issue of pharmacist refusals. For example, in Wyoming, a board member who read about a refusal incident wondered whether the board could discipline a refusing pharmacist. This prompted *staff* to draft a regulation governing refusals.² Similarly, in your state, it may be the staff with whom you would work on the issue—by bringing it to a staff member’s attention, suggesting or editing language for a regulation or policy, or urging staff to issue an interpretation of existing law.

Researching Board Positions that Relate to Refusals

You also should do research into board actions and positions that may relate to refusals. Look for:

- any information on the topic of refusals to provide drugs, whether it is contraception or any other drug
- information on any conduct that a pharmacist might engage in during a refusal, such as harassment or violations of confidentiality
- any duties pharmacists owe to the patient

Finding this information will help inform you about the board’s past positions on related conduct and give you insight into how the board could come out on the issue of refusing to provide contraception. It also can help bolster arguments to the board when asking it to act on the issue. For example, you could find that the board has developed guidelines for pharmacists on patient confidentiality. If you are filing a complaint about a refusing pharmacist who yelled at the woman or spoke loudly about emergency contraception and her need for it in front of other customers, you can refer to those guidelines when making a case that the pharmacist has violated the standard of practice.

Website

Start by looking at the board’s website. Look at all sections of the website, to see if anything relevant to the issue of refusals appears on any of the pages. For example, the North Carolina board of pharmacy posted its statement on “conscience clauses” under “Pharmacist FAQs” on its website.³

You also should try the site’s “search” function. Try searching with the words “refusal” (and variations like “refuse”), “conscience,” “EC” and “Plan B.” Those words should lead you to any position the board has taken on the issue of refusals in the pharmacy. Conducting that search on the Texas pharmacy board website, for example, yielded a statement about pharmacists refusing to provide Plan B®.⁴

In addition, try to think of other words that could come up in a refusal situation. Search for words like “transfer,” “confidentiality,” “harass” and “fraud” in order to find other guidelines or positions that could be useful.

If there is a way to search board meeting minutes on the website, you should do so. You might come across minutes from a pharmacy board meeting in which refusals or a related issue were discussed. For example, searches of the Maryland Board of Pharmacy minutes yielded a discussion on “conscience clauses” at its October 20, 1999 meeting, which illuminates the positions of various members of the

TIP:

A comprehensive list of all boards of pharmacy within the United States, complete with websites and contact information, can be found on the website of the National Association of Boards of Pharmacy, <http://www.nabp.net/>.

board on the topic.⁵ Such discussions can give insight into board members' positions on the subject and whether the board as a whole has made a decision about rulemaking or policy guidance development on the subject.

Newsletters

State board of pharmacy newsletters contain information for pharmacists about their state's pharmacy laws and regulations. In the newsletters, boards also publish reports of pharmacist or pharmacy discipline for rule violations. Boards also may use the newsletter to discuss "hot topics," like pharmacist refusals.

You should search the state board of pharmacy's newsletters for anything related to refusals to provide drugs. A few state boards of pharmacy have published information about refusals in their newsletters. For example, the Delaware pharmacy board published its 2006 policy guidance on refusals in its newsletter.⁶ Even if you do not find a direct policy guidance or statement on refusals, you might find another refusal-related discussion that can give you insight into the board's position. For example, the Arizona pharmacy board in its April 2006 newsletter explained its position on a refusal-related bill pending in the state legislature.⁷

TIP:

Newsletters are also the place you would find any reports of discipline of pharmacists for refusing to fill a prescription.

Just as you should search websites for information on conduct beyond actual refusals, such as harassment of customers or violations of confidentiality, you should search newsletters for the same types of things. Knowing where the board stands on this conduct can be helpful as you move forward on refusals to provide contraception. For example, the Alabama pharmacy board in May 2001 discussed a case in another state, in which a pharmacist was sued by a patient for refusing to fill prescriptions for drugs other than contraception. The Alabama pharmacy board took the case as an opportunity to outline points regarding refusals, such as the fact that "Refusals should never be based on bias or prejudice toward the patient . . ." and "It is always a drastic step to refuse medication to a patient. . . ."⁸ These kinds of statements can be very helpful in bolstering a request to the board to take action on the issue of refusals.

TIP:

You can find newsletters for most states at the National Association of Boards of Pharmacy website, <http://www.nabp.net/>. You also can search your state's board of pharmacy website or contact the board for copies of recent issues.

Press

You should conduct a general basic internet search, or if you can, a Lexis Nexis or Westlaw News search in order to see if you can find any quotes from board or staff members in the press on the subject of refusals. When something related to refusals happens in a state—such as a refusal incident or fight in the legislature over a bill—reporters often seek comment from the state pharmacy board members or staff.

Statements in the press may give an indication of where the board will come out on this issue if asked to put forward a rule or adjudicate a complaint. For example, after a refusal to dispense birth control happened in New Hampshire, the *Foster's Sunday Citizen* ran a story on the topic. The paper interviewed the executive director of the New Hampshire Board of Pharmacy, who explained that although pharmacists in that state can refuse to fill prescriptions, the pharmacist must refer the customer to another pharmacist or pharmacy that can help.⁹ Press reports also could indicate that the board may believe there is a need for a rule addressing the issue. One press report in Ohio quoted the executive director of the pharmacy board as saying that refusals based on personal beliefs are not spelled out in state law, and "this is the problem."¹⁰

TIP:

Attend board meetings. This can be a good way to get a sense of board member and staff positions on women's reproductive health.

TIP:

Try to establish and strengthen a relationship with members of the board in advance of a specific refusal problem.

