

Section 4:

Methods and Tips for Approaching Your Board

Prepare before approaching your board by building coalitions, gathering evidence, developing your arguments, and creating a media strategy.

Before approaching the board on the issue of refusals, it is important to prepare. You should build a broad coalition of advocates and allies, gather evidence of refusal incidents in the state, marshal your arguments, and think about how you can use the media to push your case. Most importantly, remember that this should not be an adversarial process. Rather, you should try to work with the board to address a problem that falls under its purview. Do not assume that board members will be hostile to the issue. Try not to put them in a defensive position. Instead, approach them in as non-confrontational a way as possible.

Tips on Building a Broad Coalition in Your State

If you are contemplating approaching the pharmacy board about refusals, it helps to build a broad coalition first. Obviously, you should get traditional reproductive rights and women's rights groups on your side. But think about non-traditional partners, who will recognize that refusals are bad not just for women, but for public health generally.

Find Non-traditional Partners

Think of other groups who represent individuals that might be affected by refusals. The press has mentioned refusals not only in the context of birth control, but also for HIV/AIDS drugs, drugs to treat attention deficit disorder, and cancer drugs. For example, in Wyoming, the AIDS Coalition joined reproductive and women's rights advocates in fighting against a permissive refusal policy. More voices broaden the scope of the problem. These other groups also might carry more weight with the board and have contacts that you do not have.

Partner with Pharmacist and Pharmacy Associations

You should reach out to the state pharmacist or pharmacy association. It is likely that the association already has a good working relationship with the board and can facilitate your introduction. For example, in New York, the executive director of the Pharmacists Society of the State of New York introduced Family Planning Advocates of New York State to the executive secretary of the New York State Board of Pharmacy, which began their ongoing relationship.

The importance of reaching out to state pharmacy or pharmacist associations cannot be overstated. These associations often are very influential with the state board of pharmacy. They may play an active role in selecting pharmacy board members, influencing state policy, and shaping the views of members on a particular topic. For example, before taking on the topic of refusals, the Washington state pharmacy board asked the state pharmacy association for its views. Later, they formed part of a working group that developed the rule finally accepted by the board. The influence of these associations with the board means that having them on your side on this issue can greatly increase your ability to get the pharmacy board's attention and action.

It is therefore a good idea to learn about the state pharmacists or pharmacy association just as you looked into the state board of pharmacy. As with the board, you should learn about the executive staff. You should also check the association's website. You can frequently find a link to these associations on the state pharmacy board website.

Try to figure out whether the association has taken a position on the refusal issue; some already have. For example, the Minnesota Pharmacists Association has an Issue Brief on the topic of refusals, which lays out a position supporting a pharmacist's ability to refuse while at the same time protecting patient access to legally valid prescriptions.⁵⁰

You also might be able to find out the position of the state pharmacist or pharmacy association in the press. Just as reporters seek statements from pharmacy board members or staff when a refusal incident or fight in the legislature over the issue occurs, they also often turn to these associations for comment. For example, the executive director of the Maryland Pharmacists Association explained to a reporter that the association adopted a resolution in 1999 saying that pharmacists should not be forced to fill prescriptions that conflict with their personal beliefs, but that all legal prescriptions should be filled. He explained that pharmacists with strong objections to dispensing EC "should try to work someplace where it won't be an issue, like a Catholic hospital or nursing home," rather than in a community pharmacy.⁵¹

TIP:

Partnerships with state pharmacy associations can be useful beyond the specific issue of approaching a board to work on refusals. For example, the Southwest Women's Law Center has established a good working relationship with the New Mexico Pharmacists Association. Recently, both groups served on an advisory committee to the New Mexico Health Policy Commission to study the availability of emergency contraception throughout New Mexico and make recommendations for the legislature to increase access.

Reach Out to Other State Health Professional Groups

Look beyond the state pharmacist association to see if there are other associations or groups of health professionals who would be interested in advocacy on this issue. Physician groups in particular are likely to be receptive, since refusals can interfere with the physician-patient relationship. For example, in Wyoming, reproductive rights advocates were able to secure the interest of the Wyoming Medical Society, which helped broaden the coalition's voice of authority.

TIP:

Encourage physician groups to be respectful and not belittle pharmacists or the practice of pharmacy.

Think about State Administrative Bodies that Could Weigh In

Think about other state agencies that could weigh in to help put pressure on the pharmacy board. Advocates in Washington encouraged the Washington State Human Rights Commission to explain its views on the subject to the board of pharmacy. The Commission sent a letter to the Director of the Board of Pharmacy explaining that allowing refusals is discriminatory, unlawful, and against good public policy and the public interest.⁵² Once the board proposed a draft rule allowing refusals, the Commission sent another letter explaining that the proposed rule violated the Washington Law Against Discrimination and outlining the dangers that it posed to the public health and human rights.⁵³ Check to see if your state has a similar organization. Also think about contacting your state's women's commission.

Reach Out to Pharmacy Schools

Partner with pharmacy schools in your state. Encourage students there to lobby the pharmacy boards for policies that protect the rights and health of patients. Students may have an impact on the board since they are the future of the pharmacy profession. See Appendix D for a website where you can find a list of pharmacy schools in your state.

Bring in National Groups

State advocates report that it can be helpful to ask a national organization, such as the National Women's Law Center, to weigh in with the board. National groups often are seen by state pharmacy boards as neutral experts on this issue. They can provide information about the scope of the problem nationwide, as well as describe pharmacy board action in other states. National groups also can help if you think the process might turn hostile and are worried about damaging your relationship with the board.

Tips on Bringing Proof of a Refusal Problem to the Board

TIP:

Find women with stories of refusals before approaching the board. Boards often say, "This is not a problem." Without actual incidents, it will be difficult to persuade the board otherwise. If you have refusal victims, you can call upon them to testify before the board or file complaints.

Pharmacy boards may be resistant to taking action on the issue of refusals in the pharmacy if there is no evidence that this is a problem in the state. You can gather evidence in a number of ways:

- **Gather stories of women who have faced refusals.** You can do this by searching for refusal incidents in the local press, asking providers or friendly pharmacists if they know of any refusal incidents, or putting the word out via your website or listservs that you are looking to gather stories of women who have been refused contraception at the pharmacy.
- **Survey individual pharmacies.** You should try to find out if pharmacies: (1) stock EC in their pharmacy; (2) permit pharmacists to refuse to dispense drugs, including EC; (3) have a policy on ensuring that prescriptions are filled and drugs are dispensed in general.
- **Check for prior complaints to the board.** Use your state's public records system to see if the board has received complaints about pharmacist refusals in the past.

TIP:

Sample surveys are available from multiple sources. MergerWatch's toolkit on refusals in the pharmacy has a sample survey. You also can find one in the report NARAL Pro-Choice North Carolina released about access to EC in pharmacies in their state. See Appendix D for these and other resources.

Once you have evidence of refusing pharmacists or stories of individuals who have been refused, you can use that to file complaints, encourage the board on rulemaking, or bring media attention to the problem.

Tips on Making Arguments to the Board

When asking the state pharmacy board to take action on the issue of refusals, you should ensure that you have the strongest arguments ready and at your disposal. Some arguments found to be persuasive are listed below:

- **The pharmacy board should regulate the profession with respect to refusals.** Focus on the board's mission and its responsibility to regulate the practice of pharmacy. Appeal to the board that it—not the legislature—should take ownership

of the issue of refusals in the pharmacy.

- **Refusals are bad for public health.** Refusals to provide medication mean that individuals are denied access to prescriptions for which they have an immediate legitimate medical need. This could include contraception, HIV medication, or diabetes supplies. Transfers to other pharmacies can be burdensome, especially for low-income and rural consumers. If your state has many rural areas, it is important to point out that traveling from one pharmacy to another in search of medication may not be possible. Nor does transfer to another pharmacy provide an adequate remedy if that pharmacy is closed, does not accept the patient's insurance, or the patient cannot find transportation. In terms of contraception, refusals deny women basic health care. For some women, pregnancy can entail great health risks and even life-endangerment. And contraception is used to treat medical conditions such as endometriosis, amenorrhea, and dysmenorrhea.
- **Protecting against refusals is consistent with existing pharmacy law in the state.** As explained above, you will have already done searches into existing laws and regulations in your state that could be used to argue for a rule or policy on refusals. Such laws could include prohibitions against sex discrimination, pharmacy patient's bills of rights, unprofessional conduct, and mandatory transfer provisions. The application of these laws to refusals and examples are detailed in the National Women's Law Center's legal guide, *Don't Take "No" For an Answer*, available at www.nwlc.org.

TIP:

It is better to talk about refusals based on "personal" beliefs, rather than refusals based on "religious" beliefs.

- **The trend in states is to protect patients' access to medication at the pharmacy.** Encourage the board to look to measures in other states where pharmacy boards have taken steps to prohibit or limit pharmacist refusals. See Appendix A for a full description of other states' actions thus far.
- **Major pharmacy chains are protecting consumers' access to medication.** Most national pharmacy chains, including Walgreens, Wal-Mart, Rite Aid, and CVS, ensure that patients can access medication in their stores, on demand and without discrimination or delay. A rule or guidance from the pharmacy board protecting patient access to medication would be consistent with these existing policies.
- **Guidance can reduce conflict between employers and employees and the public.** By spelling out the rights and responsibilities of all parties, this will help reduce litigation and unfavorable publicity for the profession.
- **Public opinion is squarely opposed to pharmacist refusals.** Use public opinion polls to show that there is broad support for prohibiting pharmacist refusals and requiring pharmacies to dispense all drugs, including EC.
 - ◊ In a national opinion survey released in July 2007, which was conducted for the National Women's Law Center and Planned Parenthood Federation of America by Peter D. Hart Research Associates, 71% of voters said that pharmacists should not be allowed to refuse to fill prescriptions on moral or religious grounds, including majorities of every voter demographic such as Republicans (56%), Catholics (73%), and evangelical Christians (53%). Even more respondents (73% overall) supported requiring pharmacies to dispense contraception to patients without discrimination or delay.
 - ◊ A poll conducted in May 2007 by Lake Research Partners found that 82% of adults and registered voters believed that "pharmacies should be required to dispense birth control to patients without discrimination or delay."
- **National health care organizations support patient access.** The American Pharmacists Association, National Association of Boards of Pharmacy, American Medical Association, American Pharmacists Association, National Boards of Pharmacy, American Women's Medical Association, and American Public Health Association have issued guidance protective of the patient's right to receive medication.
- **Refusals discriminate against women.** There are strong arguments to be made that refusals constitute sex discrimination. See the Washington Human Rights Commission letters referenced above or the National Women's Law Center's factsheet on this topic (www.nwlc.org).

Tips on Using Media to Influence the Board

Getting media attention to the problem of pharmacist refusals can be a very useful strategy to influence the board. Before approaching the press, however, you should think through when and how to use media attention.

The pharmacy board might want to avoid negative press so it might make sense to wait to approach the media until after you have approached the board. For example, Family Planning Advocates of New York State found that negative national media on refusals in the pharmacy spurred the New York State Board of Pharmacy to work more closely with them, as the board did not want that type of negative press in New York.

TIP:

Think about how media attention will play in your state. Will it help or hurt your cause?

If you think media attention will help, try to get press on the issue of refusals. Approach reporters about doing a story on the issue—note that you will have much better luck if you have a refusal victim whose story they can tell or know of a refusing pharmacist they can interview. You also can encourage media to do surveys, on-line polls, or undercover work to find out pharmacy policies on refusals. The *Coloradoan*, for example, called 21 stores in Fort Collins to see what they would say when asked about EC. The paper then reported the results, as well as quotes from local advocates on the issue.⁵⁴

TIP:

Letters to the editor are another way to keep the issue alive in the press.

Press may spur action by the pharmacy board. In Rhode Island, the press contacted the executive director of the state pharmacy board about a refusal situation. The executive director said that although no complaint was filed regarding the incident, the board would investigate the matter.⁵⁵

You also can approach the editorial board of your local paper. In New Hampshire, for example, the editorial board of the *Concord Monitor* published a story calling for the board of pharmacy to investigate a refusal. The editorial cites patient-protective language in state law and says the board should impose discipline if the pharmacist failed to refer the woman.⁵⁶

Things to Remember When Contacting the Board:

- * Talk by phone with pharmacy board staff rather than using impersonal e-mail.
- * Avoid initiating too many duplicative calls on the same topics.
- * Ask for the executive director or other top-level administrator. If contacts with him/her prove difficult, try dealing with other staff.
- * Treat all staff respectfully and accept information from anyone who is knowledgeable about your issue(s).
- * Before making a call to the pharmacy board office, make a list of specific questions you want to ask. Take detailed notes.
- * Follow up on any pharmacy board actions: e.g., send thank-you notes, check in regarding pending issues, etc.

