



Idaho State Board of Pharmacy

3380 Americana Terrace, Suite 320

P.O. Box 83720

Boise, Idaho 83720-0067

Telephone (208) 334-2356

FAX (208) 334-3536

January 20, 2011

JENNIFER YARBROUGH NP
PLANNED PARENTHOOD OF THE GREAT NORTHWEST
1109 MAIN ST STE 500
BOISE ID 83702

Dear Ms. Yarbrough,

The Idaho Board of Pharmacy (Board) has concluded our investigation of your complaint dated 11/17/2010, in which you state that "a complaint is in order for three reasons". These three reasons are summarized as a "breach (of) my patient's confidentiality", "the pharmacist wrongly applied the conscious protections outlined in Idaho Code 18-611", and "not filling a prescription could have placed my patient in grave danger". I will address each of these allegations separately.

You refer to several violations of the Health Insurance Portability and Accountability Act of 1996 (HIPPA), however the Board has no authority to enforce HIPPA. The Board is entitled to enforce the Idaho Pharmacy Act, which contains Section 54-1727, Idaho Code: Confidentiality of Prescriptions and Patient Communication, which states "No person in possession of such information shall release the information...". Your complaint involves a pharmacist requesting information, not releasing information. The Idaho Pharmacy Act and its corresponding rules do not address privacy matters concerning requesting patient information. Therefore, the pharmacist is not in violation of the Idaho Pharmacy Act.

The Board's investigation could not confirm all of the allegations contained within your complaint, but if your allegation that the pharmacist "wrongly applied the conscious protections outlined in Idaho Code 18-611" were to be validated, then it is true that the pharmacist would not receive the protections of being "administratively liable" as per Section 18-611, Idaho Code. Therefore, the Board would be free to initiate administrative proceedings for a violation of the Idaho Pharmacy Act, however, as in most states, there exists no provision within The Idaho Pharmacy Act that mandates that a pharmacist fill a prescription. By refusing to fill a prescription, a pharmacist is therefore not in violation of the Idaho Pharmacy Act.

During your last allegation, you write: "not filling the prescription could have placed my patient in grave danger". The Board's investigation confirmed that the patient received treatment elsewhere, and therefore no "grave danger" was realized. By your own account, the pharmacist was not presented with any information that would have reasonably led the pharmacist to believe that any type of emergency existed. Again, there exists no provision within the Idaho Practice act that mandates that a pharmacist fill a prescription, there the pharmacist is not in violation of the Idaho Pharmacy Act.

Executive Director: Mark Johnston, R.Ph.

The Board only enforces The Idaho Pharmacy Act, the Uniform Controlled Substance Act, and these two Act's administrative rules and may only initiate administrative proceedings for violations therein. If your allegations are proven true, the Board finds no such violations. Therefore, the Board has no basis to initiate administrative proceedings and will close our investigation without further action.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Mark Johnston', with a long horizontal flourish extending to the right.

Mark Johnston, R.Ph.
Executive Director
Idaho Board of Pharmacy