

Bill as
Introduced

HB 1822-FN - AS AMENDED BY THE HOUSE

22Mar2018... 1118h

2018 SESSION

18-3030
01/04

HOUSE BILL **1822-FN**

AN ACT making hormonal contraceptives available directly from pharmacists by means of a standing order.

SPONSORS: Rep. M. MacKay, Hills. 30; Rep. Knirk, Carr. 3; Rep. P. Schmidt, Straf. 19; Rep. J. MacKay, Merr. 14; Rep. Hinch, Hills. 21; Rep. LeBrun, Hills. 32; Rep. L. Ober, Hills. 37; Rep. W. Marsh, Carr. 8; Sen. Soucy, Dist 18; Sen. Reagan, Dist 17

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill allows pharmacists to dispense hormonal contraceptives pursuant to a standing order entered into by health care providers.

This bill is the result of the commission established pursuant to 2017, 23.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT making hormonal contraceptives available directly from pharmacists by means of a standing order.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Pharmacies; Definitions. Amend RSA 318:1, VI-f to read as follows:

2 VI-f. ***"Hormonal contraceptives" means pills, patches, and rings which the United***
3 ***States Food and Drug Administration (FDA) classifies as available by prescription for the***
4 ***purpose of contraception or emergency contraception. It does not include similar items***
5 ***classified as "over the counter" by the FDA, intrauterine devices, shots, or intradermal***
6 ***implants.***

7 VI-g. "Law enforcement officer" means any officer of the state or political subdivision of the
8 state who is empowered by law to conduct investigations of or to make arrests for offenses
9 enumerated in this chapter.

10 2 New Section; Hormonal Contraceptives; Dispensing. Amend RSA 318 by inserting after
11 section 47-k the following new section:

12 318:47-1 Hormonal Contraceptives; Dispensing.

13 I. In this section, "standing order" means a written and signed protocol authored by one or
14 more physicians licensed under RSA 329:12 or one or more advanced practice registered nurses
15 licensed under RSA 326-B:18. Such agreement shall specify a protocol allowing the pharmacist
16 licensed under RSA 318-B:18 to dispense hormonal contraceptives under the delegated prescriptive
17 authority of the physician or APRN, specify a mechanism to document screening performed and the
18 prescription in the patient's medical record, and include a plan for evaluating and treating adverse
19 events. Any such prescription shall be regarded as being issued for a legitimate medical purpose in
20 the usual course of professional practice.

21 II. Licensed pharmacists following standing orders may dispense hormonal contraceptives
22 to persons in this state without a prior prescription.

23 III. A pharmacist, pharmacy, physician, or APRN issuing or following standing orders shall
24 be prohibited from seeking personal financial benefit by participating in any incentive-based
25 program or accepting any inducement that influences or encourages therapeutic or product changes
26 or the ordering of tests or services.

27 IV. Prior to dispensing hormonal contraceptives under this section, a pharmacist shall
28 complete an Accreditation Council for Pharmacy Education (ACPE) accredited educational training
29 program related to hormonal contraceptives. In addition, pharmacists shall comply with the most
30 current United States Medical Eligibility Criteria (USMEC) for Contraceptive Use as adopted by the

1 Centers for Disease Control and Prevention.

2 V. The pharmacist shall provide each recipient of hormonal contraceptives pursuant to this
3 section with a standardized information sheet written in plain language, which shall include, but is
4 not limited to, the indication for the use of the hormonal contraceptive, the importance of follow-up
5 care, and health care referral information.

6 VI. The board shall adopt rules, pursuant to RSA 541-A, relative to:

7 (a) Education and training required under paragraph IV.

8 (b) Content and format of the information sheet required under paragraph V, in
9 consultation with the commissioner of the department of health and human services.

10 (c) A model statewide protocol, with the consent of the board of medicine, the board of
11 nursing, and the department of health and human services to be used for the purposes of paragraph
12 I.

13 (d) Other matters necessary to the proper administration of this section.

14 VII. The board of medicine shall not deny, revoke, suspend, or otherwise take disciplinary
15 action against a physician based on a pharmacist's failure to follow standing orders provided the
16 provisions of this section and the rules adopted under this section are satisfied. The board of
17 nursing shall not deny, revoke, suspend, or otherwise take disciplinary action against an APRN
18 based on a pharmacist's failure to follow standing orders provided the provisions of this section and
19 the rules adopted under this section are satisfied. The board of pharmacy shall not deny, revoke,
20 suspend, or otherwise take disciplinary action against a pharmacist who follows standing orders
21 based on a defect in those standing orders provided the provisions of this section and the rules
22 adopted under this section are satisfied.

23 3 New Paragraph; Pharmacists; Rulemaking. Amend RSA 318:5-a by inserting after paragraph
24 XVIII the following new paragraph:

25 XIX. Dispensing hormonal contraceptives in accordance with RSA 318:47-1.

26 4 Insurance; Group; Coverage for Prescription Contraceptive Drugs and Prescription
27 Contraceptive Devices and for Contraceptive Services. Amend RSA 415:18-i to read as follows:

28 415:18-i Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices
29 and for Contraceptive Services. Each insurer that issues or renews any group policy of accident or
30 health insurance providing benefits for medical or hospital expenses, which provides coverage for
31 outpatient services shall provide to each group, or to the portion of each group comprised of
32 certificate holders of such insurance who are residents of this state, coverage for outpatient
33 contraceptive services under the same terms and conditions as for other outpatient services.
34 "Outpatient contraceptive services" means consultations, examinations, and medical services,
35 provided on an outpatient basis, *including the initial screening provided through a*
36 *pharmacy pursuant to RSA 318:47-1 at a rate established by contract between the*
37 *pharmacy and the insurer or its pharmacy benefits manager*, and related to the use of
38 contraceptive methods to prevent pregnancy which has been approved by the U.S. Food and Drug

HB 1822-FN - AS AMENDED BY THE HOUSE

- Page 3 -

1 Administration. Each insurer that issues or renews any policy of group accident or health
2 insurance providing benefits for medical or hospital expenses which provides a prescription rider
3 shall cover all prescription contraceptive drugs and prescription contraceptive devices approved by
4 the U.S. Food and Drug Administration under the same terms and conditions as other prescription
5 drugs. Nothing in this section shall be construed as altering the terms and conditions of a contract
6 relating to prescription drugs and outpatient services.

7 5 Insurance; Health Service Corporations; Coverage for Prescription Contraceptive Drugs and
8 Prescription Contraceptive Devices and for Contraceptive Services. Amend RSA 420-A:17-c to read
9 as follows:

10 420-A:17-c Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive
11 Devices and for Contraceptive Services. Every health service corporation and every other similar
12 corporation licensed under the laws of another state that issues or renews any policy of group
13 accident or health insurance providing benefits for medical or hospital expenses, which provides
14 coverage for outpatient services shall provide to each group, or to the portion of each group
15 comprised of certificate holders of such insurance who are residents of this state, coverage for
16 outpatient contraceptive services under the same terms and conditions as for other outpatient
17 services. "Outpatient contraceptive services" means consultations, examinations, and medical
18 services, provided on an outpatient basis, *including the initial screening provided through a*
19 *pharmacy pursuant to RSA 318:47-1 at a rate established by contract between the*
20 *pharmacy and the insurer or its pharmacy benefits manager*, and related to the use of
21 contraceptive methods to prevent pregnancy which has been approved by the U.S. Food and Drug
22 Administration. Each health service corporation and every other similar corporation licensed under
23 the laws of a different state that issues or renews any group policy of accident or health insurance
24 providing benefits for medical or hospital expenses which provides a prescription rider shall cover
25 all prescription contraceptive drugs and prescription contraceptive devices approved by the U.S.
26 Food and Drug Administration under the same terms and conditions as other prescription drugs.
27 Nothing in this section shall be construed as altering the terms and conditions of a contract relating
28 to prescription drugs and outpatient services.

29 6 Insurance; Health Maintenance Organizations; Coverage for Prescription Contraceptive
30 Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Amend RSA 420-
31 B:8-gg to read as follows:

32 420-B:8-gg Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive
33 Devices and for Contraceptive Services. Every health maintenance organization and every other
34 similar corporation licensed under the laws of another state that issues or renews any policy of
35 group health insurance providing benefits for medical or hospital expenses, which provides coverage
36 for outpatient services shall provide to each group, or to the portion of each group comprised of
37 certificate holders of such insurance who are residents of this state, coverage for outpatient
38 contraceptive services under the same terms and conditions as for other outpatient services.

1 "Outpatient contraceptive services" means consultations, examinations, and medical services,
 2 provided on an outpatient basis, *including the initial screening provided through a*
 3 *pharmacy pursuant to RSA 318:47-1 at a rate established by contract between the*
 4 *pharmacy and the insurer or its pharmacy benefits manager*, and related to the use of
 5 contraceptive methods to prevent pregnancy which has been approved by the U.S. Food and Drug
 6 Administration. Each health maintenance organization and every other similar corporation
 7 licensed under the laws of another state that issues or renews any group health insurance providing
 8 benefits for medical or hospital expenses which provides a prescription rider shall cover all
 9 prescription contraceptive drugs and prescription contraceptive devices approved by the U.S. Food
 10 and Drug Administration under the same terms and conditions as other prescription drugs.
 11 Nothing in this section shall be construed as altering the terms and conditions of a contract relating
 12 to prescription drugs and outpatient services.

13 7 New Section; Insurance; Individual; Coverage for Prescription Contraceptive Drugs and
 14 Prescription Contraceptive Devices and for Contraceptive Services. Amend RSA 415 by inserting
 15 after section 6-u the following new section:

16 415:6-v Coverage for Prescription Contraceptive Drugs and Prescription Contraceptive Devices
 17 and for Contraceptive Services. Each insurer that issues or renews any individual policy, plan, or
 18 contract of accident or health insurance providing benefits for medical or hospital expenses, which
 19 provides coverage for outpatient services shall provide to persons covered by such insurance who
 20 are residents of this state coverage for outpatient contraceptive services under the same terms and
 21 conditions as for other outpatient services. "Outpatient contraceptive services" means
 22 consultations, examinations, and medical services, provided on an outpatient basis, including the
 23 initial screening provided through a pharmacy pursuant to RSA 318:47-1 at a rate established by
 24 contract between the pharmacy and the insurer or its pharmacy benefits manager, and related to
 25 the use of contraceptive methods to prevent pregnancy which has been approved by the U.S. Food
 26 and Drug Administration. Each insurer that issues or renews any individual policy of accident or
 27 health insurance providing benefits for medical or hospital expenses which provides a prescription
 28 rider shall cover all prescription contraceptive drugs and prescription contraceptive devices
 29 approved by the U.S. Food and Drug Administration under the same terms and conditions as other
 30 prescription drugs. Nothing in this section shall be construed as altering the terms and conditions
 31 of a contract relating to prescription drugs and outpatient services.

32 8 Effective Date.

33 I. Sections 4-7 of this act shall take effect January 1, 2019.

34 II. The remainder of this act shall take effect 60 days after its passage.

HB 1822-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2018-1118h)

AN ACT making hormonal contraceptives available directly from pharmacists by means of a standing order.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2019	FY 2020	FY 2021	FY 2022
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

LOCAL:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill allows pharmacists with a standing order authored by one or more licensed physicians or advanced practice registered nurses to dispense hormonal contraceptives without a prior prescription and with specific dispensing guidelines. The bill also adds initial screenings provided through a pharmacy at contracted rates to the definition of outpatient contraceptive services for health insurance prescription coverage.

The Office of Professional Licensure and Certification indicates the bill will create additional need for board and staff time to draft rules and will create more work for pharmacy inspectors. Additional staff will most likely be unnecessary, but such need is indeterminable at this time.

The Department of Administrative Services indicates the State Employee and Retiree Health Benefit Plan (HBP) is not subject to the requirements of the Insurance Department and/or the managed care law as a self-insured government plan. However, the HBP's third party benefits manager (PBM) will be subject to these requirements for its fully-insured clients, and therefore may be indirectly impacted by these changes.

The Insurance Department states the bill may result in the provision of services by lower cost providers, which may in turn lead to an increase in utilization. However, any impact on health insurance premiums, and any resulting impact on premium tax revenues is indeterminable.

AGENCIES CONTACTED:

Office of Professional Licensure and Certification, Department of Administrative Services, and Insurance Department

Committee Minutes

- Giving people access to birth control over the counter is a good idea to increase access.
- Access to birth control is a very real issue in New Hampshire.
- Commission included Planned Parenthood, medical doctors, DHHS, 3 nurses, 5 pharmacists and 4 legislators.
- 4 out of 10 pregnancies are unplanned in New Hampshire, better access to contraceptives will be safe and affordable alternative.
- All contraceptives are covered under insurance.
- Women should have affordable options available to them to make informed choices about their own bodies.

Senator Donna Soucy – Senate District 19

- The commission where this legislation was derived was a very good group of experts in the field.
- Committee worked hard to ensure that we provide greater access to contraception.
- Went through each type to ensure we focus on safest products.

Paula Rogers – Anthem

- There are some concerns with the bill but the carriers were pleased to see accommodation made for them.
- Initial screening provided through a pharmacy was an accommodation made that made everyone feel better.
- Because insurance plans do not contract separately with pharmacies, it makes it hard to cover what pharmacists have to do because of the standing order. The accommodation helps remedy that.

Patricia Tilley – DHHS

- We support this bill and will work to get any rules needed established.
- No major concerns, any problems have had efficient solutions.

Sara Kellogg Meade – NH Nurses Association.

- Women with unplanned pregnancy have increased risk of cigarette use, alcohol use, domestic violence, depression and late entry to prenatal care.
- Unplanned pregnancy can cause low birth weights and premature children.
- Unplanned pregnancies have been cited to cost tax payers \$11.1 billion dollars each year.
- Risks associated with the use of oral contraceptives are low and similar to risks associated with pregnancy.
- When using the same checklists women are often able to self assess their health better than clinicians and are often take a more conservative approach to screening.
- This commission has reviewed many different studies and heard from all of the

stakeholders to develop the final product being heard today.

- Increasing access to contraceptives will reduce the number of unplanned pregnancies have a positive effect on population health.

Chris Lopez – NH Pharmacist Association

- Strongly support the legislation.
- Commission worked very hard and was successful in producing the bill we are hearing today.
- Happy to continue working with the Senate to address any concerns or questions.

Summary of testimony presented in opposition: None

Neutral Information Presented: None

Future Action: Ought to Pass

KRB

Date Hearing Report completed: April 3, 2018

Speakers

Senate Health and Human Services Committee

SIGN-IN SHEET

Date: 4/03/2018 Time: 2:00 p.m.

HB 1822- AN ACT making hormonal contraceptives available directly from pharmacists by means of a
FN standing order.

Name/Representing (please print neatly)

	Support	Oppose	Speaking?	Yes	No	
Rep Dick Hinch / Hills 21	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	✓
New Hampshire Medical Society	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	✓
Rep Mark Pearson Rock 34	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	✓
Rep Polly Campbell Bradford 12	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	✓
PAULA ROGERS Auburn ^{Greenland}	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>	✓
Dr Deborah Warner Littleton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	✓
Rep. Wm. Mirish	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking? <small>with Rep. Mackay</small>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	✓
Rep Mark Kocumsky	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>	✓
Sen Donna Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	✓
James Potter NH Medical Society	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	✓
Rep. Marilyn J. Mackay Hills 30	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	✓
Fluiter Murchan NHHospAssoc	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	✓
Rep. Marilyn J. Mackay	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	✓
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>	
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	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>	

Senate Health and Human Services Committee

SIGN-IN SHEET

Date: 4/03/2018 Time: 2:00 p.m.

HB 1822- AN ACT making hormonal contraceptives available directly from pharmacists by means of a
 FN standing order.

Name/Representing (please print neatly)

	Support	Oppose	Speaking?	Yes	No
Jean C Widmer NH Nurses Assoc	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Stuart Trachy Coalition of NH Chain Drug Stores	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PRICIA TILLEY DHH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Elizabeth Sargent, NH Pharmacists	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Elizabeth Sargent, NH Society Health ASSOC	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sara Kellough Mendel NH Nurses Assoc System Pharmacists	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kayla Montgomery Planned Parenthood	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	Speaking?	<input type="checkbox"/>	<input type="checkbox"/>

if needs

Testimony

April 3, 2018

Senate Health and Human Services Committee

Senator Jeb Bradley, Chair

Senator Kevin Avard, Vice Chair

Senator James Gray, Member

Senator Martha Fuller Clark, Member

Senator Martha Hennessey, Member

Good Afternoon, I am Rep. Mariellen MacKay, representing Hillsborough 30, Nashua Ward 3 and I am the Prime Sponsor of HB 1822 and the Chair of the Commission to study the dispensing of Oral Contraceptives by Pharmacists through a Standing Order. Rep. Bill Marsh, representing Carrol 08, Co-Sponsor is here with me also; Rep. Marsh has lent his expertise in the field of Medicine to ensure that this Bill has remained technically accurate. He is with me to offer his knowledge and experience to the Committee.

The Commission voted unanimously on a roll call vote to support this legislation.

HB 1822 was passed on a Voice Vote by the Full House on February 8, 2018 as OTP. It was referred to the House Commerce Committee where it was amended and passed 10-6. It then was re-introduced in the House on March 21, 2018 and passed on a Voice Vote and was then sent to the Senate.

HB1822 takes into consideration the following facts:

- Access to birth control is a very real issue for many women in NH today.
- The House voted to convene a commission to study this issue and the commission included 5 doctors, DHHS, Planned Parenthood, 3 Nurses, 5 Pharmacists and 4 Legislators. The Medical Society, the Pharmacists Board and the Board of Nurses were all represented on this Commission and all members voted in a roll call vote to unanimously pass this legislation.
- In NH today 4 out of every 10 pregnancies are unplanned and that better access for women to contraceptives will provide a much more cost effective and safer alternative.
- Today all contraceptives are covered under insurance plans.
- Women should have all affordable options available to them for them to make informed choices about their own bodies.

Pharmacy, DHHS Public Health, Nurses among others are in the room with us today and available to speak and to answer your questions.

Thank you for your kind consideration of all the hard work of this Commission.

Respectfully Submitted,

Representative Mariellen J. MacKay

Chair, Commission to study hormonal contraceptives

Representative William Marsh

Vice Chair, Commission to study hormonal contraceptives



Bill Title: HB 1822 making hormonal contraceptives available directly from pharmacists by means of a standing order
Committee: Senate Commerce Committee
Date: April 3, 2018
Position: Support with Concerns

Background:

During the 2017 legislative session, HB 264, established a commission to study allowing pharmacists to prescribe or make available via protocol oral contraceptives and certain related medications. A representative from Planned Parenthood of Northern New England actively participated in the commission which met over the fall of 2017. This bill, along with an additional legislation (SB 421), came out of this commission. Both bills had unanimous support from the commission to move forward in the 2018 session.

Position:

For 100 years, Planned Parenthood has been committed to expanding access to birth control information and services. Planned Parenthood of Northern New England supports any effort to expand access to birth control which ensures safety and affordability, and that includes supporting efforts to make some forms of birth control available over the counter. Leading women's health experts, providers and associations, including the American College of Obstetricians and Gynecologists (ACOG) agree that by removing the need to obtain a prescription, OTC status would eliminate one potential barrier to contraceptive use and thereby increase access.

Since over-the-counter access can only be authorized at the federal level by the FDA, HB 1822 establishes a framework for creating a new path, short of over the counter status, to contraceptive access for New Hampshire women in participating pharmacies. While we are hopeful about the potential this program offers, we are also aware that implementation of similar programs in other states has been met with several challenges including low participation rates by pharmacists and high pharmacy fees which put the access out of reach for many of the desired beneficiaries of the new law.

Planned Parenthood's concerns raised during the HB 264 Commission included: 1) ensuring adequate education and training for pharmacists, 2) requiring participating pharmacists to give women referral information for follow up medical care and identify nearby low or no cost community health providers, and 3) ensuring that any new program not put new costs or out of pocket fees in place which would create a barrier to the desired access for lower income or uninsured consumers.

While HB 1822 pays some attention to these concerns, recent research released in the December 2017 study "Tracking the Implementation of a California Law Allowing Pharmacists to Dispense Contraception" (See attached) validates many of the above concerns and provides this Committee and those advancing this initiative with important lessons and feedback.

We urge the committee to review the legislation with these concerns in mind in hopes of avoiding persistent barriers to availability of birth control based on cost, education, availability, geography, or other factors as this program proceeds.

Truly increasing access to contraception requires a multi-faceted approach to meet the needs of all women throughout their reproductive lives and HB 1822, if implemented adequately, should add to women's options.

While state level policies like HB 1822 are under consideration, we continue to support the pending FDA application. We believe that a full and robust review process at the FDA to establish an appropriate avenue to ensure that efforts to expand access to birth control, by making it available over the counter, is the necessary way to achieve balance safety and affordability with improved access. Planned Parenthood Federation of America has a seat on a working commission studying this at a national level.

Until and before this option becomes available, we support state-level programs like HB 1822 with appropriate attention to our outlined concerns.

For more information contact:

Kayla Montgomery, Director of Advocacy and Organizing, [603.674.8372](tel:603.674.8372), kayla.montgomery@ppnne.org

TRACKING THE IMPLEMENTATION OF A CALIFORNIA LAW ALLOWING PHARMACISTS TO PRESCRIBE BIRTH CONTROL

by Anu Manchikanti Gómez, University of California, Berkeley

“Easier-to-get birth control: It’s here, it’s accessible, get used to it,” proclaimed *Glamour* magazine in May 2016 on the heels of new measures in California and Oregon authorizing pharmacists to prescribe birth control. But is it actually here? And is it accessible? My colleagues and I are examining the implementation of the California law that authorizes pharmacists to prescribe certain types of contraception. Similar measures are being implemented in Oregon, Colorado, and New Mexico, and have passed or are under consideration in other states. But no research has yet documented the availability of pharmacist-prescribed contraception – and news reports suggest pharmacies are not widely offering this service in California. Our study examined the situation in California one year after implementation of this new policy first started.

Increased Access Improves Women's Ability to Use Contraception

The common birth control methods covered by the California law are very important to women’s reproductive health. One in five U.S. women of childbearing age use short-term, hormonal contraceptive methods like birth control pills, rings, patches, or injections. Typically, women must obtain prescriptions for these methods and regularly check back with health providers. But scheduling and keeping appointments can be difficult, interfering with their ability to use contraception consistently and prevent unwanted pregnancies.

Ease of access to contraception matters. For example, one study found that publicly insured women in California who received twelve-month supplies of birth control pills had 30 percent lower odds of becoming pregnant compared to women who received just one or three months’ worth of supplies. Such research suggests that removing barriers to continuing use of shorter-term contraceptive methods can help women more successfully prevent unwanted pregnancy.

Being able to obtain birth control from a pharmacist could make access easier. California’s Senate Bill 493, passed in 2013, addressed the shortage of healthcare providers by allowing pharmacists to prescribe hormonal contraception and several other medications. Pharmacists have been authorized to prescribe birth control since April 2016 – but are not required to do so. And there is no direct financial incentive for prescribing birth control, because insurers that pay for birth control itself are not required to reimburse pharmacies for providing these services.

Few California Pharmacies are Offering This Service

Between February and April 2017, my research team called 1008 pharmacies across the state to see if they had pharmacists who could prescribe birth control, as allowed by law. California has more than 7000 pharmacies, including some that are not full service, some that are specialized for certain conditions or types of medications, and others that are located in healthcare institutions and universities. After narrowing the list to 5291 community-based retail pharmacies,

we selected a random sample to call so that we could develop an accurate picture of the availability of contraceptive services in this type of pharmacy across the state. Trained research assistants from my team posed as mystery shoppers and – usually speaking with a pharmacist – said, "I heard that you can get birth control from a pharmacy without a prescription from your doctor. Can I do that at your pharmacy?"

Our results revealed that contraception services were available in 11 percent of community-based pharmacies. Availability did not differ regardless of whether a pharmacy was located in an urban versus non-urban setting, or was part of a chain versus independent. When we found pharmacies that did prescribe birth control, we posed several follow-up questions to understand how these services were being delivered. Service fees were charged by most pharmacies (68 percent) offering this service, with 86 percent of chain pharmacies charging fees compared to 33 percent of independents. The typical fee was \$45. When we asked what kinds of birth control were offered, most pharmacies (78 percent) mentioned the pill. Fewer pharmacies said we could get birth control rings (40 percent), patches (38 percent), or shots (9 percent).

The Promise of Better Access is Not Fully Realized

Clearly, not very many pharmacies were offering pharmacist-prescribed birth control one year after California enabled them to do so. Although U.S. women, pharmacists, and other healthcare providers voice general support for easier contraception access, pharmacies may lack immediate incentives and resources to prescribe these medications directly to their patients. Last winter, we also conducted interviews with 36 California pharmacists working in independent pharmacies to understand barriers to offering this service. Though these pharmacists felt that prescribing contraception is an important community service, they expressed concerns about liability, lack of reimbursement, low patient demand, and limited time for counseling.

Our study found that this newly legalized service is actually not widely *available* in California. And these findings also indicate that even if more pharmacies start offering the service, many women may not be able to take advantage of it. Non-urban pharmacies, we found, were no more likely to furnish contraception than their urban counterparts. Chain pharmacies – which are the majority in the state – were more likely than independents to charge fees for this service. Pharmacist-prescribed contraception may therefore be especially inaccessible for underserved women. The fact that most national chain pharmacies are not readily offering contraception prescriptions suggests challenges for other states that adopt laws similar to California's.

Even if pharmacies were to move toward making pharmacist-prescribed contraception widely available, the service fees they directly charge consumers create additional barriers to access. A second California bill authorized its Medicaid program to reimburse pharmacies for these services, with full implementation mandated by 2021. Nevertheless, even when public insurance coverage improves, most California women are not eligible for Medicaid and may still have to pay out-of-pocket for service fees required by pharmacies. This may mean that pharmacy access alone is not enough to ensure affordable, easily obtained contraception for all. Building on my team's study of pharmacist-prescribed contraception, future research should continue to measure precisely if and when the promise of full access is realized for all groups of women – and the impact on their health and well-being.

Read more in Anu Manchikanti Gómez, "Availability of Pharmacist-Prescribed Contraception in California, 2017." *JAMA: The Journal of the American Medical Association* (2017).



NEW HAMPSHIRE NURSES' ASSOCIATION

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Testimony: April 3, 2018 – Senate Health and Human Services Committee

House Bill 1822: An Act making hormonal contraceptives available directly from pharmacists by means of a standing order

My name is Sara Kellogg Meade. I am representing New Hampshire Nurses' Association, in support of House Bill 1822. I am a registered nurse with 40 years of experience in Women's and Children's Services; 35 of these years have been here in New Hampshire.

Women with unplanned pregnancy have increased risk of cigarette use, alcohol use, domestic violence, depression and late entry to prenatal care. Due to these pregnancy risks, unplanned pregnancy results in higher rates of low birth weight and premature babies.

The American College of Obstetricians and Gynecologists (ACOG) cites a national rate of unintended pregnancy as "unacceptably high, accounting for 50% of all pregnancies." They go on to cite the national cost to taxpayers at \$11.1 billion dollars each year. The national March of Dimes organization cites similar numbers for the cost of preterm birth and newborn intensive care. Newborn intensive care is labor intensive and expensive.

When risks are cited about the use of oral contraceptives, we compare them to the same risks in pregnancy. For example, ACOG cites the risks of thromboembolism (blood clots) as rare in the use of oral contraceptives, higher in pregnancy, and higher still in post-partum.

When comparing a woman's ability to self-screen for risk factors prior to starting oral contraceptives, ACOG cites studies that compare a women's ability to self-screen with clinician screening. These studies demonstrate that when using the same check list, women often take a more conservative approach to self-screening than clinicians do.

Here in New Hampshire, between September and November, 2017, I served on the Commission to study allowing pharmacists to prescribe or make available via protocol oral contraceptives and certain related medications. Studies were reviewed, other state's experience were examined. The outcome of that commission's work is House Bill 1822. It received unanimous endorsement from the Commission's 19 participants, including representatives of the NH Nurses Association, the NH Nurse Practitioner Association, the Board of Nursing, the NH Pharmacists Association, the NH Board of Pharmacy, The American College of Obstetricians and Gynecologists, the NH Medical Society and Planned Parenthood of Northern New England. Throughout our work we all remained committed to a process of review, discussion and vote. We are committed to and believe in House Bill 1822 as a means to improve birth control access and therefore reduce numbers of unplanned pregnancies.

A vote to support House Bill 1822 is a vote to improve the likelihood that every pregnancy is a planned pregnancy. Better access, improved outcomes, lower costs.

New Hampshire Nurses' Association supports HB 1822. I ask that you support it. Thank you.



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES
BUREAU OF POPULATION HEALTH AND COMMUNITY SERVICES

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Testimony for 1822-FN
An Act – making hormonal contraceptives available directly from pharmacists
by means of a standing order.
Senate Health and Human Services
April 3, 2018

Good morning members of the committee. My name is Patricia Tilley and I am the Deputy Director for the Division of Public Health Services within the Department of Health and Human Services. I am here to speak on HB 1822, an act making hormonal contraceptives available directly from pharmacists by means of a standing order.

Contraception is an essential and fundamental part of women's health care. Delaying or spacing babies allows individuals to follow education and career goals that may be interrupted by having children, empowering both men and women. The NH Department of Health and Human Services supports innovative strategies to support women as they take control of their own reproductive health. As the American College of Obstetricians and Gynecologists (ACOG) asserts, hormonal contraceptives are safe for the vast majority of women, in fact, they can be considered safer than many other medications that are easily purchased without a prescription at pharmacies, grocery stores and retail stores. Some advocates that suggest that hormonal contraception should also be available over the counter, but until and unless the Food and Drug Administration (FDA) permits these pills or devices to be sold without a prescription, this is impossible.

The Division of Public Health Services was proud to participate on the Commission to Study Allowing Pharmacists to Prescribe or Make Available via Protocol Oral Contraceptives and Certain Related Medications. The Commission thoroughly vetted and discussed several options to increase access to hormonal contraception for women regardless of their insurance status.

DPHS supports the final recommendation of the Commission to assist in the development of a statewide protocol that would enable medical providers and pharmacists to work together to eliminate barriers to accessing birth control. If HB 1822 were enacted, medical providers could set up standing orders with pharmacists that would enable the pharmacists to dispense hormonal contraception directly to women. Pharmacists would assess the woman for contra-indications, provide brief education and dispense the desired method of contraception in one easy trip to the pharmacy. Pharmacists could also play an essential role in making referrals to safety-net health care providers and family planning centers where low and no-cost care is available, for those women that need these low to no cost services.

DHHS also agrees to work in partnership with the Boards of Nursing, Medicine and Pharmacy to establish and endorse a common protocol for these standing orders in order to help establish the standard of care and minimize liability for medical providers thereby increasing the likelihood providers would agree to participate in these partnerships. We look forward to working together with medical providers, pharmacists and others to expand access to this critically important aspect of women's health care.