

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Human Services to which was referred House Bill No.
3 663 entitled “An act relating to expanding access to contraceptives”
4 respectfully reports that it has considered the same and recommends that the
5 bill be amended by striking out all after the enacting clause and inserting in
6 lieu thereof the following:

7 Sec. 1. 8 V.S.A. § 4099c is amended to read:

8 § 4099c. REPRODUCTIVE HEALTH EQUITY IN HEALTH INSURANCE
9 COVERAGE

10 (a) As used in this section, “health insurance plan” means any individual or
11 group health insurance policy, any hospital or medical service corporation or
12 health maintenance organization subscriber contract, or any other health
13 benefit plan offered, issued, or renewed for any person in this State by a health
14 insurer, as defined by 18 V.S.A. § 9402, or by a pharmacy benefit manager on
15 behalf of a health insurer. The term shall not include benefit plans providing
16 coverage for a specific disease or other limited benefit coverage.

17 (b) A health insurance plan shall provide coverage for outpatient
18 contraceptive services including sterilizations, and shall provide coverage for
19 the purchase of all prescription contraceptives and prescription contraceptive
20 devices approved by the federal Food and Drug Administration, except that a
21 health insurance plan that does not provide coverage of prescription drugs is

1 not required to provide coverage of prescription contraceptives and
2 prescription contraceptive devices. A health insurance plan providing
3 coverage required under this section shall not establish any rate, term, or
4 condition that places a greater financial burden on an insured or beneficiary for
5 access to contraceptive services, prescription contraceptives, and prescription
6 contraceptive devices than for access to treatment, prescriptions, or devices for
7 any other health condition.

8 (c) A health insurance plan shall provide coverage without any deductible,
9 coinsurance, co-payment, or other cost-sharing requirement **for at least one**
10 **drug, device, or other product** within each method of contraception for
11 women identified by the U.S. Food and Drug Administration (FDA) and
12 prescribed by an insured's health care provider.

13 (1) The coverage provided pursuant to this subsection shall include
14 patient education and counseling by the patient's health care provider
15 regarding the appropriate use of the contraceptive method prescribed.

16 (2)(A) If there is a therapeutic equivalent of a drug, device, or other
17 product for an FDA-approved contraceptive method, a health insurance plan
18 may provide coverage for more than one drug, device, or other product and
19 may impose cost-sharing requirements as long as at least one drug, device, or
20 other product for that method is available without cost-sharing.

1 (B) If an insured’s health care provider recommends a particular
2 service or FDA-approved drug, device, or other product for the insured based
3 on a determination of medical necessity, the health insurance plan shall defer
4 to the provider’s determination and judgment and shall provide coverage
5 without cost-sharing for the drug, device, or product prescribed by the provider
6 for the insured.

7 (d) A health insurance plan shall provide coverage for voluntary
8 sterilization procedures for men and women without any deductible,
9 coinsurance, co-payment, or other cost-sharing requirement, except to the
10 extent that such coverage would disqualify a high-deductible health plan from
11 eligibility for a health savings account pursuant to 26 U.S.C. § 223.

12 **(e) A health insurance plan shall provide coverage without any**
13 **deductible, coinsurance, co-payment, or other cost-sharing requirement**
14 **for clinical services associated with providing the drugs, devices, products,**
15 **and procedures covered under this section and related follow-up services,**
16 **including management of side effects, counseling for continued adherence,**
17 **and device insertion and removal.**

18 (f)(1) A health insurance plan shall provide coverage for a supply of
19 prescribed contraceptives intended to last over a 12-month duration, which
20 may be furnished or dispensed all at once or over the course of the 12 months
21 at the discretion of the health care provider. The health insurance plan shall

1 reimburse a health care provider or dispensing entity per unit for furnishing or
2 dispensing a supply of contraceptives intended to last for 12 months.

3 (2) This subsection shall apply to Medicaid and any other public health
4 care assistance program offered or administered by the State or by any
5 subdivision or instrumentality of the State.

6 (g) Benefits provided to an insured under this section shall be the same for
7 the insured's covered spouse and other covered dependents.

8 (h) The coverage requirements of this section shall apply to self-
9 administered hormonal contraceptives dispensed by a pharmacist to an insured
10 without a prescription in accordance with 26 V.S.A. § 2024. (from H.752)

11 Sec. 2. 16 V.S.A. § 132 is added to read:

12 § 132. SECONDARY SCHOOLS; PROVISION OF CONTRACEPTIVES

13 In order to prevent or reduce unintended pregnancies, each school
14 district shall coordinate with the Department of Health to distribute and
15 make available to all students in its secondary schools, free of charge,
16 over-the-counter contraceptive devices and products.

17 *Option #1 (Dept. of Health/Agency of Education – flexible implementation):*

18 In order to prevent or reduce unintended pregnancies and sexually
19 transmitted diseases, each school district shall make available to all
20 students in its secondary schools, free of charge, over-the-counter barrier
21 method contraceptives. School district administrative teams, in

1 **consultation with school district nursing staff, shall determine the best**
2 **manner in which to make the contraceptives available to students.**

3 *Option #2 (Dept. of Health/Agency of Education – clear directive):*

4 **In order to prevent or reduce unintended pregnancies and sexually**
5 **transmitted diseases, each school district shall make available to all**
6 **students in grades X through 12, free of charge, condoms and [other over-**
7 **the-counter barrier method contraceptives?]. Condoms shall be placed in**
8 **locations that are safe and readily accessible to students, including the**
9 **school nurse’s office.**

10 Sec. 3. 18 V.S.A. § 12 is added to read:

11 § 12. PROVISION OF **INFORMATION REGARDING**
12 **CONTRACEPTIVES**

13 **In order to prevent or reduce unintended pregnancies, the Department**
14 **of Health shall coordinate with health care providers, school districts,**
15 **public and private colleges and universities, and other stakeholders to**
16 **distribute and make available, free of charge, over the counter**
17 **contraceptive devices and products to individuals in a variety of settings**
18 **statewide.**

19 **In order to prevent or reduce unintended pregnancies and sexually**
20 **transmitted diseases, the Department of Health, in partnership with**
21 **health care providers and health insurers, shall communicate to**

1 **adolescents and other individuals of reproductive age information**
2 **regarding contraceptive access and coverage.**

3 Sec. 4. 33 V.S.A. § 4913 is amended to read:

4 § 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL
5 ACTION

6 (a) A mandated reporter is any:

7 * * *

8 (2) individual who is employed by a school district or an approved or
9 recognized independent school, or who is contracted and paid by a school
10 district or an approved or recognized independent school to provide student
11 services, including any:

12 (A) school superintendent;

13 (B) headmaster of an approved or recognized independent school as
14 defined in 16 V.S.A. § 11;

15 (C) school teacher;

16 (D) student teacher;

17 (E) school librarian;

18 (F) school principal; and

19 (G) school guidance counselor;

20 * * *

1 (l) A mandated reporter as described in subdivision (a)(2) of this section
2 shall not be deemed to have violated the requirements of this section solely on
3 the basis of distributing or making available over-the-counter contraceptive
4 devices and products to secondary school students in accordance with 16
5 V.S.A. § 132 or 18 V.S.A. § 12, or both.

6 Sec. 5. 26 V.S.A. § 2022 is amended to read: **(from H.752)**

7 § 2022. DEFINITIONS

8 As used in this chapter:

9 * * *

10 (15)(A) “Practice of pharmacy” means:

11 * * *

12 (vii) optimizing drug therapy through the practice of clinical
13 pharmacy; and

14 (viii) dispensing self-administered hormonal contraceptives in
15 accordance with section 2024 of this chapter; and

16 (ix) performing or offering to perform those acts, services,
17 operations, or transactions necessary in the conduct, operation, management,
18 and control of pharmacy.

19 * * *

20 (21) “Self-administered hormonal contraceptive” means a contraceptive
21 medication or device approved by the U.S. Food and Drug Administration that

1 prevents pregnancy by using hormones to regulate or prevent ovulation and
2 that uses an oral, transdermal, vaginal, or depot injection route of
3 administration.

4 Sec. 6. 26 V.S.A. § 2024 is added to read: **(from H.752)**

5 § 2024. DISPENSING CONTRACEPTIVES WITHOUT A PRESCRIPTION

6 (a) A licensed pharmacist who meets the requirements of the rules adopted
7 by the Board pursuant to this section may dispense self-administered hormonal
8 contraceptives to a patient without a prescription.

9 (b) The Board of Pharmacy, in consultation with the Board of Medical
10 Practice and other interested health professional associations and stakeholders,
11 shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing the conditions
12 under which a pharmacist may dispense self-administered hormonal
13 contraceptives to a patient without a prescription and the standard procedures
14 that a pharmacist shall use to select the appropriate contraceptive for a patient
15 or to refer the patient to a primary care provider or reproductive health care
16 provider for treatment. The Board's rules shall require the pharmacist to:

17 (1) complete an educational training program accredited by the
18 Accreditation Council for Pharmacy Education relating to hormonal
19 contraceptives, unless the pharmacist has already undergone this training as
20 part of the pharmacist's formal educational program;

1 (2) comply with the most current U.S. Medical Eligibility Criteria for
2 Contraceptive Use as adopted by the Centers for Disease Control and
3 Prevention;

4 (3) provide a self-screening risk assessment tool that a patient must use
5 before a pharmacist may dispense hormonal contraceptives to the patient
6 without a prescription;

7 (4) follow other standard procedures established by the Board; and

8 (5) after dispensing hormonal contraceptives to a patient without a
9 prescription;

10 (A) refer the patient for additional care to the patient’s primary care
11 provider or reproductive health care provider or, if the patient does not have a
12 primary care or reproductive health care provider, to a family planning
13 provider or licensed clinician who provides reproductive health care services;

14 (B) provide the patient with:

15 (i) a written record of the contraceptives dispensed; and

16 (ii) written information about the importance of seeing the
17 patient’s primary care provider or reproductive health care provider to obtain
18 recommended tests and screenings;

19 (C) record the dispensing of the contraceptives in any electronic
20 health record maintained on the patient by the pharmacist; and

1 (D) provide the patient with a copy of the record of the encounter that
2 includes the patient’s completed self-assessment tool and the contraceptive
3 dispensed or, if applicable, the basis for not dispensing the contraceptive.

4 Sec. 7. BOARD OF PHARMACY; RULEMAKING **(from H.752)**

5 The Board of Pharmacy, in consultation with the Board of Medical Practice
6 and other interested health professional associations and stakeholders, shall
7 adopt rules pursuant to 3 V.S.A. chapter 25 to enable pharmacists to dispense
8 self-administered hormonal contraceptives to patients without a prescription as
9 set forth in 26 V.S.A. § 2024, as added by Sec. 2 of this act. The Board shall
10 proceed expeditiously with the rulemaking process in order to ensure that the
11 rules will be in effect to enable licensed pharmacists to begin dispensing self-
12 administered hormonal contraceptives to patients without a prescription on
13 January 1, 2021.

14 Sec. 8. EFFECTIVE DATES

15 (a) Sec. 1 (8 V.S.A. § 4099c) shall take effect on January 1, 2021 and shall
16 apply to **group** health insurance plans issued on and after January 1, 2021 on
17 such date as a health insurer offers, issues, or renews the plan, but in no event
18 later than January 1, 2022.

19 (b) Secs. 5 (26 V.S.A. § 2022) and 6 (26 V.S.A. § 2024) shall take effect
20 on January 1, 2021. **(from H.752)**

21 (c) The remainder of this act shall take effect on **passage** July 1, 2020.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE