

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 * * * Purpose * * *

8 Sec. 1. PURPOSE **(NEW)**

9 Vermont has taken many steps to improve access to effective methods of
10 contraception, including requiring health insurance to cover at least one drug,
11 device, or product in each of the 18 methods of contraception for women
12 without cost-sharing, as well as covering voluntary sterilizations for men and
13 women without cost sharing and allowing a patient to have a 12-month supply
14 of oral contraceptives dispensed all at once, as codified at 8 V.S.A. § 4099c,
15 and directing Medicaid reimbursement policies that encourage the use of long-
16 acting reversible contraceptives, as found in 2015 Acts and Resolves No. 120,
17 Sec. 2 and in 33 V.S.A. § 1901j. The General Assembly finds, however, that
18 some of these initiatives have not been implemented consistently across the
19 State. In addition to a request that the Department of Financial Regulation
20 investigate compliance with existing State and federal laws regarding access to
21 contraceptives and take appropriate enforcement action as needed, this bill

1 seeks to provide further opportunities for Vermonters to learn about and obtain
2 contraceptives in order to prevent or reduce unintended pregnancies and
3 sexually transmitted diseases in this State.

4 * * * Expanding Access to Contraceptives * * *

5 Sec. 2. 8 V.S.A. § 4099c is amended to read:

6 § 4099c. REPRODUCTIVE HEALTH EQUITY IN HEALTH INSURANCE
7 COVERAGE

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

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

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

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

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

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

19 (B) If an insured's health care provider recommends a particular
20 service or FDA-approved drug, device, or other product for the insured based
21 on a determination of medical necessity, the health insurance plan shall defer

1 to the provider’s determination and judgment and shall provide coverage
2 without cost-sharing for the drug, device, or product prescribed by the provider
3 for the insured.

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

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

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

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

4 (g) Benefits provided to an insured under this section shall be the same for
5 the insured’s covered spouse and other covered dependents.

6 (h) The coverage requirements of this section shall apply to self-
7 administered hormonal contraceptives **dispensed prescribed for an insured**
8 by a pharmacist **to an insured without a prescription** in accordance with
9 26 V.S.A. § 2023.

10 Sec. 3. 16 V.S.A. § 131 is amended to read:

11 § 131. **DEFINITIONS** **DEFINITION**

12 ~~For purposes of~~ As used in this subchapter title, “comprehensive health
13 education” means a systematic and extensive elementary and secondary
14 educational program designed to provide a variety of learning experiences
15 based upon knowledge of the human organism as it functions within its
16 environment. The term includes the study of:

17 (1) Body structure and function, including the physical, psychosocial,
18 and psychological basis of human development, sexuality, and reproduction.

19 (2) Community health to include environmental health, pollution, public
20 health, and world health.

21 (3) Safety, including:

1 (A) first aid, disaster prevention, and accident prevention; and
2 (B) information regarding and practice of compression-only
3 cardiopulmonary resuscitation and the use of automated external defibrillators.

4 (4) Disease, such as HIV infection, other sexually transmitted diseases,
5 as well as other communicable diseases, and the prevention of disease.

6 (5) Family health and mental health, including instruction that promotes
7 the development of responsible personal behavior involving decision making
8 about sexual activity, including abstinence; skills that strengthen existing
9 family ties involving communication, cooperation, and interaction between
10 parents and students; and instruction to aid in the establishment of strong
11 family life in the future, thereby contributing to the enrichment of the
12 community; and which promotes an understanding of depression and the signs
13 of suicide risk in a family member or fellow student that includes how to
14 respond appropriately and seek help and provides an awareness of the available
15 school and community resources such as the local suicide crisis hotline.

16 (6) Personal health habits, including dental health.

17 (7) Consumer health, including health careers, health costs, and utilizing
18 health services.

19 (8) Human growth and development, including understanding the
20 physical, emotional, and social elements of individual development and
21 interpersonal relationships, including instruction in parenting methods and

1 styles. This shall include information regarding the possible outcomes of
2 premature sexual activity, contraceptives, adolescent pregnancy, childbirth,
3 adoption, and abortion.

4 (9) Drugs, including education about alcohol, caffeine, nicotine, and
5 prescribed drugs.

6 (10) Nutrition.

7 (11) How to recognize and prevent sexual abuse and sexual violence,
8 including developmentally appropriate instruction about promoting healthy and
9 respectful relationships, developing and maintaining effective communication
10 with trusted adults, recognizing sexually offending behaviors, and gaining
11 awareness of available school and community resources. An employee of the
12 school shall be in the room during the provision of all instruction or
13 information presented under this subdivision.

14 Sec. 4. 16 V.S.A. § 132 is added to read:

15 § 132. SECONDARY SCHOOLS; PROVISION OF CONTRACEPTIVES

16 In order to prevent or reduce unintended pregnancies and sexually
17 transmitted diseases, each school district shall make condoms available to all
18 students in its secondary schools, free of charge. School district administrative
19 teams, in consultation with school district nursing staff, shall determine the
20 best manner in which to make condoms available to students. At a minimum,

1 condoms shall be placed in locations that are safe and readily accessible to
2 students, including the school nurse’s office.

3 Sec. 5. 18 V.S.A. § 12 is added to read:

4 § 12. PROVISION OF INFORMATION REGARDING CONTRACEPTIVES

5 In order to prevent or reduce unintended pregnancies and sexually
6 transmitted diseases, the Department of Health, in partnership with health care
7 providers and health insurers, shall communicate to adolescents and other
8 individuals of reproductive age information regarding contraceptive access and
9 coverage.

10 * * * Exception to Mandatory Reporting for School Employees

11 Providing Condoms * * *

12 Sec. 6. 33 V.S.A. § 4913 is amended to read:

13 § 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL
14 ACTION

15 (a) A mandated reporter is any:

16 * * *

17 (2) individual who is employed by a school district or an approved or
18 recognized independent school, or who is contracted and paid by a school
19 district or an approved or recognized independent school to provide student
20 services, including any:

21 (A) school superintendent;

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

3 (C) school teacher;

4 (D) student teacher;

5 (E) school librarian;

6 (F) school principal; and

7 (G) school guidance counselor;

8 * * *

9 (I) A mandated reporter as described in subdivision (a)(2) of this section
10 shall not be deemed to have violated the requirements of this section solely on
11 the basis of **distributing or** making condoms available to a secondary school
12 student in accordance with 16 V.S.A. § 132.

13 * * * Pharmacists Prescribing Self-Administered

14 Hormonal Contraceptives * * *

15 Sec. 7. 26 V.S.A. § 2022 is amended to read: **(revised to reflect OPR bill)**

16 § 2022. DEFINITIONS

17 As used in this chapter:

18 * * *

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

20 * * *

1 Sec. 8. 26 V.S.A. § 2023 is amended to read: **(revised to reflect OPR bill)**

2 § 2023. CLINICAL PHARMACY; PHARMACISTS PRESCRIBING
3 CONTRACEPTIVES

4 (a) In accordance with rules adopted by the Board, a pharmacist may
5 engage in the practice of clinical pharmacy, including prescribing self-
6 administered hormonal contraceptives as set forth in subsection (b) of this
7 section.

8 (b)(1) A pharmacist may prescribe self-administered hormonal
9 contraceptives in a manner consistent with a valid State protocol approved by
10 the Commissioner of Health after consultation with the Director of
11 Professional Regulation and the Board and the ability for public comment.

12 (2)(A) A State protocol shall be valid if signed by the Commissioner of
13 Health and the Director of Professional Regulation, and the Board of Pharmacy
14 shall feature the active protocol conspicuously on its website.

15 (B) The Commissioner of Health may invalidate a protocol if the
16 Commissioner finds that the protocol's continued operation would pose an
17 undue risk to the public health, safety, or welfare and signs a declaration to that
18 effect. Upon such a declaration, the Director shall remove the invalidated
19 protocol from the Board website and shall cause electronic notice of the
20 protocol's discontinuation to be transmitted to all Vermont drug outlets.

1 (3)(A) A pharmacist may extend a previous prescription for a self-
2 administered hormonal contraceptive on a short-term basis in the absence of a
3 State protocol as long as the pharmacist provides only a sufficient quantity to
4 the patient until the patient is able to consult with a practitioner, not to exceed
5 a five-day supply or the smallest available unit, and takes all reasonable
6 measures to notify the patient’s primary care practitioner of record or the
7 appropriate original prescriber, if the original prescriber is different from the
8 primary care practitioner of record.

9 (B) A short-term extension of a previous prescription shall be
10 provided on a one-time basis.

11 (4) A prescribing practitioner licensed pursuant to this title may
12 authorize a pharmacist to substitute a self-administered hormonal contraceptive
13 with another self-administered hormonal contraceptive in the same therapeutic
14 class that would, in the opinion of the pharmacist, have substantially equivalent
15 therapeutic effect even though the substitute hormonal contraceptive is not a
16 therapeutic equivalent of the prescribed hormonal contraceptive, provided:

17 (A) the prescribing practitioner has clearly indicated that substitution
18 is permissible by indicating “therapeutic substitution allowed” or similar
19 designation;

20 (B) the substitution is intended to ensure formulary compliance with
21 the patient’s health insurance plan or otherwise to minimize cost to the patient;

1 (C) the patient’s voluntary, informed consent is obtained in writing;

2 and

3 (D) the pharmacist or designee notifies the prescribing practitioner
4 which self-administered hormonal contraceptive was dispensed as a substitute
5 within five days following the dispensing.

6 (c) The Board’s rules shall:

7 (1) prohibit conflicts of interest and inappropriate commercial incentives
8 related to prescribing, such as reimbursement based on brands or numbers of
9 prescriptions filled, renewing prescriptions without request by a patient,
10 steering patients to particular brands or selections of products based on any
11 commercial relationships, or acceptance of gifts offered or provided by a
12 manufacturer of prescribed products in violation of 18 V.S.A. § 4631a;

13 (2) define appropriate bounds of short-term extension prescribing; and

14 (3) establish minimum standards for patient privacy in clinical
15 consultation.

16 Sec. 9. PROTOCOL IMPLEMENTATION; RULEMAKING **revised to**
17 **reflect OPR bill)**

18 (a) On or before January 1, 2021, the Commissioner of Health shall
19 approve a State protocol for pharmacists to prescribe self-administered
20 hormonal contraceptives in accordance with 26 V.S.A. § 2023(b) as set forth in
21 Sec. 8 of this act.

1

2 (Committee vote: _____)

3

4

Representative _____

5

FOR THE COMMITTEE