
A BILL FOR AN ACT

RELATING TO CONTRACEPTIVE SUPPLIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that many reproductive
2 health experts have long sought to make prescription
3 contraceptives more readily accessible. Research indicates
4 women are more likely to use prescription contraceptives and
5 less likely to have unintended pregnancies when barriers are
6 lifted to contraceptive access. Furthermore, studies have also
7 indicated it is safe for women to obtain contraceptive supplies
8 without a physician and that women can accurately identify
9 conditions that make it appropriate to use certain
10 contraceptives by using a simple checklist.

11 The legislature further finds that under the federal
12 Patient Protection and Affordable Care Act of 2010,
13 contraceptives are required to be covered at a \$0 copayment,
14 thus removing financial barriers for patients and ensuring that
15 patients have better opportunities to receive contraceptive
16 care.



1 The legislature additionally finds that some states are
2 also taking steps to ensure greater access to contraceptive
3 supplies. For example, recent legislation in California and
4 Oregon will soon expand access to prescription contraceptives
5 for millions of women. Beginning in 2016, the California and
6 Oregon laws will permit women to obtain contraceptive supplies
7 from pharmacists without first having to visit a primary care
8 provider for a prescription. The legislature concludes that
9 Hawaii should adopt similar legislation, which will increase
10 access to prescription contraceptive supplies and decrease
11 barriers regarding reproductive health care.

12 The purpose of this Act is to expand access to prescription
13 contraceptives by:

- 14 (1) Authorizing pharmacists to prescribe and dispense
15 self-administered hormonal contraceptive supplies to
16 persons eighteen years of age or older;
- 17 (2) Specifying requirements pharmacists must meet prior to
18 prescribing and dispensing contraceptive supplies; and
- 19 (3) Requiring all insurers in the State, including health
20 benefits plans under chapter 87A, Hawaii Revised
21 Statutes, and medicaid managed care programs, to



1 reimburse pharmacists who prescribe and dispense
2 contraceptive supplies.

3 SECTION 2. Chapter 461, Hawaii Revised Statutes, is
4 amended by adding a new section to be appropriately designated
5 and to read as follows:

6 "§461- Contraceptive supplies; authority to prescribe
7 and dispense; requirements. (a) A pharmacist may prescribe and
8 dispense contraceptive supplies to a patient who is at least
9 eighteen years of age, regardless of whether the patient has
10 evidence of a previous prescription for contraceptive supplies
11 from a licensed physician, advanced practice registered nurse,
12 or other primary care provider authorized to prescribe
13 contraceptive supplies.

14 (b) A pharmacist who prescribes contraceptive supplies
15 pursuant to subsection (a) shall:

16 (1) Complete an Accreditation Council for Pharmacy
17 Education program approved by the board related to
18 prescribing contraceptive supplies;

19 (2) Provide a self-screening risk assessment tool that a
20 patient shall complete before the pharmacist
21 prescribes any contraceptive supplies; provided that



1 the self-screening risk assessment tool shall be based
2 on the current version of the United States Medical
3 Eligibility Criteria for Contraceptive Use developed
4 by the federal Centers for Disease Control and
5 Prevention;

6 (3) Refer the patient to the patient's primary care
7 provider upon prescribing and dispensing the
8 contraceptive supplies; provided that if the patient
9 does not have a primary care provider, the pharmacist
10 shall advise the patient to consult a licensed
11 physician, advanced practice registered nurse, or
12 other primary care provider of the patient's choice;

13 (4) Provide the patient with a written record of the
14 contraceptive supplies prescribed and dispensed and
15 advise the patient to consult with a primary care
16 provider of the patient's choice; and

17 (5) Dispense the contraceptive supplies to the patient as
18 soon as practicable after the pharmacist issues the
19 prescription.

20 (c) A pharmacist who prescribes contraceptive supplies
21 pursuant to subsection (a) shall not:



- 1 (1) Require a patient to schedule an appointment with the
2 pharmacist for the prescribing or dispensing of
3 contraceptive supplies; or
- 4 (2) Prescribe and dispense contraceptive supplies to a
5 patient who has not provided evidence of a clinical
6 visit for women's health within three years
7 immediately following the initial prescription and
8 dispensation of contraceptive supplies by a pharmacist
9 to the patient."

10 SECTION 3. Section 431:10A-116.6, Hawaii Revised Statutes,
11 is amended to read as follows:

12 "§431:10A-116.6 Contraceptive services. (a)
13 Notwithstanding any provision of law to the contrary, each
14 employer group accident and health or sickness policy, contract,
15 plan, or agreement issued or renewed in this State on or after
16 January 1, 2000, shall cease to exclude contraceptive services
17 or supplies for the subscriber or any dependent of the
18 subscriber who is covered by the policy, subject to the
19 exclusion under section 431:10A-116.7[-] and the exclusion under
20 section 431:10A-102.5.



1 (b) Except as provided in subsection (c), all policies,
 2 contracts, plans, or agreements under subsection (a), that
 3 provide contraceptive services or supplies, or prescription drug
 4 coverage, shall not exclude any prescription contraceptive
 5 supplies or impose any unusual copayment, charge, or waiting
 6 requirement for such supplies.

7 (c) Coverage for oral contraceptives shall include at
 8 least one brand from the monophasic, multiphasic, and the
 9 progestin-only categories. A member shall receive coverage for
 10 any other oral contraceptive only if:

11 (1) Use of brands covered has resulted in an adverse drug
 12 reaction; or

13 (2) The member has not used the brands covered and, based
 14 on the member's past medical history, the prescribing
 15 health care provider believes that use of the brands
 16 covered would result in an adverse reaction.

17 (d) Coverage required by this section shall include
 18 reimbursement to a prescribing and dispensing pharmacist who
 19 prescribes and dispenses contraceptive supplies pursuant to
 20 section 461- .

21 [~~d~~] (e) For purposes of this section:



1 "Contraceptive services" means physician-delivered,
 2 physician-supervised, physician assistant-delivered, [~~nurse~~
 3 ~~practitioner-delivered,~~] advanced practice registered nurse-
 4 delivered, certified nurse midwife-delivered, nurse-delivered,
 5 or pharmacist-delivered medical services intended to promote the
 6 effective use of contraceptive supplies or devices to prevent
 7 unwanted pregnancy.

8 "Contraceptive supplies" means all United States Food and
 9 Drug Administration-approved contraceptive drugs or devices used
 10 to prevent unwanted pregnancy.

11 [~~(e)~~] (f) Nothing in this section shall be construed to
 12 extend the practice or privileges of any health care provider
 13 beyond that provided in the laws governing the provider's
 14 practice and privileges."

15 SECTION 4. Section 432:1-604.5, Hawaii Revised Statutes,
 16 is amended to read as follows:

17 "§432:1-604.5 Contraceptive services. (a)
 18 Notwithstanding any provision of law to the contrary, each
 19 employer group health policy, contract, plan, or agreement
 20 issued or renewed in this State on or after January 1, 2000,
 21 shall cease to exclude contraceptive services or supplies, and



1 contraceptive prescription drug coverage for the subscriber or
2 any dependent of the subscriber who is covered by the policy,
3 subject to the exclusion under section 431:10A-116.7.

4 (b) Except as provided in subsection (c), all policies,
5 contracts, plans, or agreements under subsection (a), that
6 provide contraceptive services or supplies, or prescription drug
7 coverage, shall not exclude any prescription contraceptive
8 supplies or impose any unusual copayment, charge, or waiting
9 requirement for such drug or device.

10 (c) Coverage for contraceptives shall include at least one
11 brand from the monophasic, multiphasic, and the progestin-only
12 categories. A member shall receive coverage for any other oral
13 contraceptive only if:

14 (1) Use of brands covered has resulted in an adverse drug
15 reaction; or

16 (2) The member has not used the brands covered and, based
17 on the member's past medical history, the prescribing
18 health care provider believes that use of the brands
19 covered would result in an adverse reaction.

20 (d) Coverage required by this section shall include
21 reimbursement to a prescribing and dispensing pharmacist who



1 prescribes and dispenses contraceptive supplies pursuant to
2 section 461- .

3 [~~(d)~~] (e) For purposes of this section:

4 "Contraceptive services" means physician-delivered,
5 physician-supervised, physician assistant-delivered, [~~nurse~~
6 ~~practitioner-delivered,~~] advanced practice registered nurse-
7 delivered, certified nurse midwife-delivered, or nurse-delivered
8 medical services intended to promote the effective use of
9 contraceptive supplies or devices to prevent unwanted pregnancy.

10 "Contraceptive supplies" means all Food and Drug
11 Administration-approved contraceptive drugs or devices used to
12 prevent unwanted pregnancy.

13 [~~(e)~~] (f) Nothing in this section shall be construed to
14 extend the practice or privileges of any health care provider
15 beyond that provided in the laws governing the provider's
16 practice and privileges."

17 SECTION 5. Section 461-1, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By adding two new definitions to be appropriately
20 inserted and to read:



1 "Advanced practice registered nurse" means a person
2 licensed pursuant to section 457-8.5 and granted prescriptive
3 authority pursuant to section 457-8.6.

4 "Contraceptive supplies" means United States Food and Drug
5 Administration-approved self-administered hormonal
6 contraceptives."

7 2. By amending the definition of "practice of pharmacy" to
8 read:

9 "Practice of pharmacy" means:

- 10 (1) The interpretation and evaluation of prescription
11 orders; the compounding, dispensing, and labeling of
12 drugs and devices (except labeling by a manufacturer,
13 packer, or distributor of nonprescription drugs and
14 commercially legend drugs and devices); the
15 participation in drug selection and drug utilization
16 reviews; the proper and safe storage of drugs and
17 devices and the maintenance of proper records
18 therefor; the responsibility for advising when
19 necessary or where regulated, of therapeutic values,
20 content, hazards, and use of drugs and devices;



- 1 (2) Performing the following procedures or functions as
2 part of the care provided by and in concurrence with a
3 "health care facility" and "health care service" as
4 defined in section 323D-2, or a "pharmacy" or a
5 licensed physician, or a "managed care plan" as
6 defined in section 432E-1, in accordance with
7 policies, procedures, or protocols developed
8 collaboratively by health professionals, including
9 physicians and surgeons, pharmacists, and registered
10 nurses, and for which a pharmacist has received
11 appropriate training required by these policies,
12 procedures, or protocols:
- 13 (A) Ordering or performing routine drug therapy
14 related patient assessment procedures;
- 15 (B) Ordering drug therapy related laboratory tests;
- 16 (C) Initiating emergency contraception oral drug
17 therapy in accordance with a written
18 collaborative agreement approved by the board,
19 between a licensed physician and a pharmacist who
20 has received appropriate training that includes
21 programs approved by the American Council of



1 Pharmaceutical Education (ACPE), curriculum-based
2 programs from an ACPE-accredited college of
3 pharmacy, state or local health department
4 programs, or programs recognized by the board of
5 pharmacy;

6 (D) Administering drugs orally, topically, by
7 intranasal delivery, or by injection, pursuant to
8 the patient's licensed physician's order, by a
9 pharmacist having appropriate training that
10 includes programs approved by the ACPE,
11 curriculum-based programs from an ACPE-accredited
12 college of pharmacy, state or local health
13 department programs, or programs recognized by
14 the board of pharmacy;

15 (E) Administering:
16 (i) Immunizations orally, by injection, or by
17 intranasal delivery, to persons eighteen
18 years of age or older by a pharmacist having
19 appropriate training that includes programs
20 approved by the ACPE, curriculum-based
21 programs from an ACPE-accredited college of



1 pharmacy, state or local health department
2 programs, or programs recognized by the
3 board of pharmacy; and

4 (ii) Vaccines to persons between fourteen and
5 seventeen years of age pursuant to section
6 461-11.4;

7 (F) As authorized by a licensed physician's written
8 instructions, initiating or adjusting the drug
9 regimen of a patient pursuant to an order or
10 authorization made by the patient's licensed
11 physician and related to the condition for which
12 the patient has been seen by the licensed
13 physician; provided that the pharmacist shall
14 issue written notification to the patient's
15 licensed physician or enter the appropriate
16 information in an electronic patient record
17 system shared by the licensed physician, within
18 twenty-four hours;

19 (G) Transmitting a valid prescription to another
20 pharmacist for the purpose of filling or
21 dispensing; or



1 (H) Providing consultation, information, or education
2 to patients and health care professionals based
3 on the pharmacist's training and for which no
4 other licensure is required; [and]

5 (3) The offering or performing of those acts, services,
6 operations, or transactions necessary in the conduct,
7 operation, management, and control of pharmacy[-]; and

8 (4) Prescribing and dispensing contraceptive supplies to
9 persons eighteen years of age and older pursuant to
10 section 461- ."

11 SECTION 6. Section 461-8, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§461-8 Renewal of licenses; continuing education
14 requirement. (a) All licenses issued by the board, except
15 temporary licenses issued under section 461-7, shall be renewed
16 biennially on or before December 31 of each odd-numbered year.
17 Failure to pay the biennial fee and, beginning with the renewal
18 for the licensing biennium commencing on January 1, 2008, to
19 satisfy the continuing education requirement on or before
20 December 31 of each odd-numbered year, shall constitute a
21 forfeiture of the license as of the date of expiration.



1 (b) Any license forfeited pursuant to subsection (a) may
2 be restored within three years upon payment of any penalty fee,
3 the current biennial fees, and the renewal fee for the next
4 biennium, if applicable, upon submission of proof of compliance
5 with the continuing education requirement for the prior
6 biennium, and upon meeting any other requirements specified in
7 rules adopted pursuant to chapter 91.

8 (c) In the event that the pharmacist has not engaged in
9 the practice of pharmacy in this State or in another state or
10 territory of the United States within the past five years, the
11 board may require the pharmacist to satisfy additional
12 requirements, as specified in rules adopted pursuant to chapter
13 91, to demonstrate that the pharmacist is competent to practice
14 in this State.

15 (d) Beginning with the renewal for the licensing biennium
16 commencing on January 1, 2008, and every biennial renewal
17 thereafter, each licensee shall have completed thirty credit
18 hours in continuing education courses within the two-year period
19 preceding the renewal date, regardless of the licensee's initial
20 date of licensure; provided that a licensee who has graduated
21 from an accredited pharmacy school within one year of the



1 licensee's first license renewal period shall not be subject to
2 the continuing education requirement for the first license
3 renewal. The board may extend the deadline for compliance with
4 the continuing education requirement based on any of the
5 following:

- 6 (1) Illness, as certified by a physician or osteopathic
7 physician licensed under chapter 453 or licensed in
8 the jurisdiction in which the licensee was treated;
 - 9 (2) Military service under extended active duty with the
10 armed forces of the United States;
 - 11 (3) Lack of access to continuing education courses due to
12 the practice of pharmacy in geographically isolated
13 areas; and
 - 14 (4) Inability to undertake continuing education due to
15 incapacity, undue hardship, or other extenuating
16 circumstances.
- 17 (e) A pharmacist who administers any vaccine to persons
18 between the ages of fourteen and seventeen years pursuant to
19 section 461-11.4 shall complete a training program approved by
20 the board within every other biennial renewal period and submit
21 proof of successful completion of the training program to the



1 board; provided that the pharmacist shall meet these
2 requirements prior to administering any vaccine to persons
3 between the ages of fourteen and seventeen years.

4 (f) A pharmacist who prescribes and dispenses
5 contraceptive supplies to persons eighteen years of age or older
6 pursuant to section 461- shall complete an Accreditation
7 Council for Pharmacy Education program approved by the board
8 within every other biennial renewal period and submit proof of
9 successful completion of the continuing education program to the
10 board.

11 [~~(f)~~] (g) Each licensee shall maintain the licensee's
12 continuing education records. At the time of renewal, each
13 licensee shall certify under oath that the licensee has complied
14 with the continuing education requirement of this section. The
15 board may require a licensee to submit, in addition to the
16 certification, evidence satisfactory to the board that
17 demonstrates compliance with the continuing education
18 requirement of this section.

19 [~~(g)~~] (h) The board may conduct random audits to determine
20 compliance with the continuing education requirement. The board
21 shall provide written notice of an audit to a licensee randomly



1 selected for audit. Within sixty days of notification, the
2 licensee shall provide the board with documentation verifying
3 compliance with the continuing education requirement."

4 SECTION 7. Section 461-21, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) In addition to any other actions authorized by law,
7 the board may deny, revoke, or suspend any license or permit
8 applied for or issued by the board, in accordance with this
9 chapter, and fine or otherwise discipline a licensee or permit
10 holder for any cause authorized by law, including but not
11 limited to the following:

- 12 (1) Procuring a license through fraud, misrepresentation,
13 or deceit;
- 14 (2) Professional misconduct, gross carelessness, or
15 manifest incapacity;
- 16 (3) Permitting an unlicensed person to perform activities
17 that require a license under this chapter;
- 18 (4) Violation of any of the provisions of this chapter or
19 the rules adopted pursuant thereto;
- 20 (5) Violation of any state or federal drug, controlled
21 substance, or poison law;



- 1 (6) False, fraudulent, or deceptive advertising;
- 2 (7) Any other conduct constituting fraudulent or dishonest
- 3 dealings;
- 4 (8) Failure to comply with a board order;
- 5 (9) Making a false statement on any document submitted or
- 6 required to be filed by this chapter, including a
- 7 false certification of compliance with the continuing
- 8 education requirement;
- 9 (10) Habitual intemperance or addiction to the use of
- 10 habit-forming drugs; [~~e~~]
- 11 (11) Administering a vaccine to a person between fourteen
- 12 and seventeen years of age without complying with
- 13 section 461-11.4[-]; or
- 14 (12) Prescribing or dispensing contraceptive supplies to a
- 15 person eighteen years of age or older without
- 16 complying with section 461- ."

17 SECTION 8. Notwithstanding any other law to the contrary,
 18 the reimbursement for prescription contraceptive supplies
 19 required under sections 3 and 4 of this Act shall apply to all
 20 health benefits plans under chapter 87A, Hawaii Revised



1 Statutes, issued, renewed, modified, altered, or amended on or
2 after the effective date of this Act.

3 SECTION 9. The reimbursement for prescription
4 contraceptive supplies required under sections 3 and 4 of this
5 Act shall apply to all plans under medicaid managed care
6 programs in the State.

7 SECTION 10. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 11. This Act shall take effect on July 1, 2112;
10 provided that section 9 shall take effect upon approval of the
11 Hawaii medicaid state plan by the Centers for Medicare and
12 Medicaid Services.



Report Title:

Prescription Contraceptives; Contraceptive Supplies; Health Insurance; Reimbursement

Description:

Authorizes pharmacists to prescribe and dispense self-administered hormonal contraceptive supplies to patients eighteen years of age or older, regardless of a previous prescription from an authorized prescriber. Specifies requirements pharmacists must meet prior to prescribing and dispensing contraceptive supplies. Requires all insurers in the State, including health benefits plans under chapter 87A, Hawaii Revised Statutes, and medicaid managed care programs, to reimburse pharmacists who prescribe and dispense contraceptive supplies. (SB2320 HD1)

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