

H.663

An act relating to expanding access to contraceptives

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Purpose * * *

Sec. 1. PURPOSE

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

* * * Expanding Access to Contraceptives * * *

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

§ 4099c. REPRODUCTIVE HEALTH EQUITY IN HEALTH INSURANCE
COVERAGE

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

(b) A health insurance plan shall provide coverage for outpatient contraceptive services including sterilizations, and shall provide coverage for the purchase of all prescription contraceptives and prescription contraceptive devices approved by the federal Food and Drug Administration, except that a health insurance plan that does not provide coverage of prescription drugs is not required to provide coverage of prescription contraceptives and prescription contraceptive devices. A health insurance plan providing coverage required under this section shall not establish any rate, term, or condition that places a greater financial burden on an insured or beneficiary for access to contraceptive services, prescription contraceptives, and prescription

contraceptive devices than for access to treatment, prescriptions, or devices for any other health condition.

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

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

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

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

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

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

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

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

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

(h) The coverage requirements of this section shall apply to self-administered hormonal contraceptives prescribed for an insured by a pharmacist in accordance with 26 V.S.A. § 2023.

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

§ 131. ~~DEFINITIONS~~ DEFINITION

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

- (1) Body structure and function, including the physical, psychosocial, and psychological basis of human development, sexuality, and reproduction.
- (2) Community health to include environmental health, pollution, public health, and world health.
- (3) Safety, including:
 - (A) first aid, disaster prevention, and accident prevention; and
 - (B) information regarding and practice of compression-only cardiopulmonary resuscitation and the use of automated external defibrillators.

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

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

(6) Personal health habits, including dental health.

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

(8) Human growth and development, including understanding the physical, emotional, and social elements of individual development and interpersonal relationships, including instruction in parenting methods and styles. This shall include information regarding the possible outcomes of premature sexual activity, contraceptives, adolescent pregnancy, childbirth, adoption, and abortion.

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

(10) Nutrition.

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

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

§ 132. SECONDARY SCHOOLS; PROVISION OF CONTRACEPTIVES

In order to prevent or reduce unintended pregnancies and sexually transmitted diseases, each school district shall make condoms available to all students in its secondary schools, free of charge. School district administrative teams, in consultation with school district nursing staff, shall determine the best manner in which to make condoms available to students. At a minimum, condoms shall be placed in locations that are safe and readily accessible to students, including the school nurse's office.

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

§ 12. PROVISION OF INFORMATION REGARDING CONTRACEPTIVES

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

* * * Exception to Mandatory Reporting for School Employees

Providing Condoms * * *

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

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL
ACTION

(a) A mandated reporter is any:

* * *

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

(A) school superintendent;

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

- (C) school teacher;
- (D) student teacher;
- (E) school librarian;
- (F) school principal; and
- (G) school guidance counselor;

* * *

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

* * * Pharmacists Prescribing Self-Administered

Hormonal Contraceptives * * *

Sec. 7. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(15)(A) “Practice of pharmacy” means:

* * *

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

* * *

(B) “Practice of clinical pharmacy” or “clinical pharmacy” means:

(i) the health science discipline in which, in conjunction with the patient’s other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient’s health and wellness;

(ii) providing patient care services within the pharmacist’s authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; ~~or~~

(iii) practicing pharmacy pursuant to a collaborative practice agreement; or

(iv) prescribing self-administered hormonal contraceptives as provided under section 2023 of this subchapter.

* * *

(21) “Self-administered hormonal contraceptive” means a contraceptive medication or device approved by the U.S. Food and Drug Administration that prevents pregnancy by using hormones to regulate or prevent ovulation and that uses an oral, transdermal, or vaginal route of administration.

Sec. 8. 26 V.S.A. § 2023 is amended to read:

§ 2023. CLINICAL PHARMACY; PHARMACISTS PRESCRIBING
CONTRACEPTIVES

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

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

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

(c) The Board's rules shall:

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

(2) establish minimum standards for patient privacy in clinical consultation.

Sec. 9. PROTOCOL IMPLEMENTATION; RULEMAKING

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

(b) On or before January 1, 2021, the Board of Pharmacy shall adopt rules consistent with the provisions of 26 V.S.A. § 2023(c) as set forth in Sec. 8 of this act. If the Board is unable to adopt rules by that date, the Board shall adopt an emergency rule until such time as it completes the rulemaking process.

Sec. 10. COMPREHENSIVE HEALTH EDUCATION; REPORT

On or before January 15, 2021, the Agency of Education and Department of Health shall report to the House Committees on Human Services and on Education and the Senate Committees on Health and Welfare and on Education regarding their continued efforts to support schools and school districts in providing comprehensive health education to Vermont students, as required by 16 V.S.A. § 906(b)(3) and as defined in 16 V.S.A. § 131, including sexual health and safety.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

(a) Secs. 1 (8 V.S.A. § 4099c), 7 (26 V.S.A. § 2022), and 8 (26 V.S.A. § 2023) shall take effect on January 1, 2021.

(b) The remainder of this act shall take effect on July 1, 2020.