

ACT 67

S.B. NO. 513

A Bill for an Act Relating to Contraceptive Supplies.

Be It Enacted by the Legislature of the State of Hawaii:

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

The legislature further finds that under the federal Patient Protection and Affordable Care Act of 2010, contraceptives are required to be covered at a \$0

copayment, thus removing financial barriers for patients and ensuring that patients have better opportunities to receive contraceptive care.

The legislature additionally finds that some states are also taking steps to ensure greater access to contraceptive supplies. For example, recent legislation in California and Oregon has expanded access to prescription contraceptives for millions of women. The California and Oregon laws, enacted in 2016, permit women to obtain contraceptive supplies from pharmacists without first having to visit a primary care provider for a prescription. The legislature concludes that Hawaii should adopt similar legislation, which will increase access to prescription contraceptive supplies and decrease barriers regarding reproductive health care.

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

- (1) Authorizing pharmacists to prescribe and dispense self-administered hormonal contraceptive supplies; and
- (2) Specifying requirements pharmacists must meet prior to prescribing and dispensing contraceptive supplies.

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

“§461- Contraceptive supplies; authority to prescribe and dispense; requirements. (a) A pharmacist may prescribe and dispense contraceptive supplies to a patient regardless of whether the patient has evidence of a previous prescription for contraceptive supplies from a licensed physician, advanced practice registered nurse, or other primary care provider authorized to prescribe contraceptive supplies.

(b) A pharmacist who prescribes and dispenses contraceptive supplies pursuant to subsection (a) shall:

- (1) Complete an Accreditation Council for Pharmacy Education program approved by the board related to prescribing contraceptive supplies;
- (2) Provide a self-screening risk assessment tool that a patient shall complete before the pharmacist prescribes any contraceptive supplies; provided that the self-screening risk assessment tool shall be based on the current version of the United States Medical Eligibility Criteria for Contraceptive Use developed by the federal Centers for Disease Control and Prevention;
- (3) Refer the patient to the patient’s primary care provider upon prescribing and dispensing the contraceptive supplies; provided that if the patient does not have a primary care provider, the pharmacist shall advise the patient to consult a licensed physician, advanced practice registered nurse, or other primary care provider of the patient’s choice;
- (4) Provide the patient with a written record of the contraceptive supplies prescribed and dispensed and advise the patient to consult with a primary care provider of the patient’s choice; and
- (5) Dispense the contraceptive supplies to the patient as soon as practicable after the pharmacist issues the prescription.

(c) A pharmacist who prescribes and dispenses contraceptive supplies pursuant to subsection (a) shall not require a patient to schedule an appointment with the pharmacist for the prescribing or dispensing of contraceptive supplies.”

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

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

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

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

- (1) Use of brands covered has resulted in an adverse drug reaction; or
- (2) The member has not used the brands covered and, based on the member's past medical history, the prescribing health care provider believes that use of the brands covered would result in an adverse reaction.

(d) Coverage required by this section shall include reimbursement to a prescribing health care provider or dispensing entity for prescription contraceptive supplies intended to last for up to a twelve-month period for an insured.

(e) Coverage required by this section shall include reimbursement to a prescribing and dispensing pharmacist who prescribes and dispenses contraceptive supplies pursuant to section 461-

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

“Contraceptive services” means physician-delivered, physician-supervised, physician assistant-delivered, advanced practice registered nurse-delivered, nurse-delivered, or pharmacist-delivered medical services intended to promote the effective use of contraceptive supplies or devices to prevent unwanted pregnancy.

“Contraceptive supplies” means all United States Food and Drug Administration-approved contraceptive drugs or devices used to prevent unwanted pregnancy.

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

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

“§432:1-604.5 Contraceptive services. (a) Notwithstanding any provision of law to the contrary, each employer group health policy, contract, plan, or agreement issued or renewed in this State on or after January 1, 2000, shall cease to exclude contraceptive services or supplies, and contraceptive prescription drug coverage for the subscriber or any dependent of the subscriber who is covered by the policy, subject to the exclusion under section 431:10A-116.7.

(b) Except as provided in subsection (c), all policies, contracts, plans, or agreements under subsection (a), that provide contraceptive services or supplies, or prescription drug coverage, shall not exclude any prescription contraceptive

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supplies or impose any unusual copayment, charge, or waiting requirement for such drug or device.

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

- (1) Use of brands covered has resulted in an adverse drug reaction; or
- (2) The member has not used the brands covered and, based on the member's past medical history, the prescribing health care provider believes that use of the brands covered would result in an adverse reaction.

(d) Coverage required by this section shall include reimbursement to a prescribing health care provider or dispensing entity for prescription contraceptive supplies intended to last for up to a twelve-month period for a member.

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"Contraceptive services" means physician-delivered, physician-supervised, physician assistant-delivered, advanced practice registered nurse-delivered, nurse-delivered, or pharmacist-delivered medical services intended to promote the effective use of contraceptive supplies or devices to prevent unwanted pregnancy.

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

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

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

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

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

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

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

"Practice of pharmacy" means:

- (1) The interpretation and evaluation of prescription orders; the compounding, dispensing, and labeling of drugs and devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially legend drugs and devices); the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records therefor; the responsibility for advising when necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and devices;
- (2) Performing the following procedures or functions as part of the care provided by and in concurrence with a "health care facility" and "health care service" as defined in section 323D-2, or a "pharmacy" or a licensed physician or a licensed advanced practice registered nurse with prescriptive authority, or a "managed care plan" as defined in section 432E-1, in accordance with policies, procedures, or

protocols developed collaboratively by health professionals, including physicians and surgeons, pharmacists, and registered nurses, and for which a pharmacist has received appropriate training required by these policies, procedures, or protocols:

- (A) Ordering or performing routine drug therapy related patient assessment procedures;
- (B) Ordering drug therapy related laboratory tests;
- (C) Initiating emergency contraception oral drug therapy in accordance with a written collaborative agreement approved by the board, between a licensed physician or advanced practice registered nurse with prescriptive authority and a pharmacist who has received appropriate training that includes programs approved by the American Council of Pharmaceutical Education (ACPE), curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy;
- (D) Administering drugs orally, topically, by intranasal delivery, or by injection, pursuant to the order of the patient's licensed physician or advanced practice registered nurse with prescriptive authority, by a pharmacist having appropriate training that includes programs approved by the ACPE, curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy;
- (E) Administering:
 - (i) Immunizations orally, by injection, or by intranasal delivery, to persons eighteen years of age or older by a pharmacist having appropriate training that includes programs approved by the ACPE, curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board of pharmacy; and
 - (ii) Vaccines to persons between fourteen and seventeen years of age pursuant to section 461-11.4;
- (F) As authorized by the written instructions of a licensed physician or advanced practice registered nurse with prescriptive authority, initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's licensed physician or advanced practice registered nurse with prescriptive authority and related to the condition for which the patient has been seen by the licensed physician or advanced practice registered nurse with prescriptive authority; provided that the pharmacist shall issue written notification to the patient's licensed physician or advanced practice registered nurse with prescriptive authority or enter the appropriate information in an electronic patient record system shared by the licensed physician or advanced practice registered nurse with prescriptive authority, within twenty-four hours;
- (G) Transmitting a valid prescription to another pharmacist for the purpose of filling or dispensing;
- (H) Providing consultation, information, or education to patients and health care professionals based on the pharmacist's training and for which no other licensure is required; or

- (I) Dispensing an opioid antagonist in accordance with a written collaborative agreement approved by the board, between a licensed physician and a pharmacist who has received appropriate training that includes programs approved by the American Council on Pharmaceutical Education (ACPE), curriculum-based programs from an ACPE-accredited college of pharmacy, state or local health department programs, or programs recognized by the board; ~~and~~
- (3) The offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy[-]; and
- (4) Prescribing and dispensing contraceptive supplies pursuant to section 461- .”

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

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

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

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

(d) Beginning with the renewal for the licensing biennium commencing on January 1, 2008, and every biennial renewal thereafter, each licensee shall have completed thirty credit hours in continuing education courses within the two-year period preceding the renewal date, regardless of the licensee’s initial date of licensure; provided that a licensee who has graduated from an accredited pharmacy school within one year of the licensee’s first license renewal period shall not be subject to the continuing education requirement for the first license renewal. The board may extend the deadline for compliance with the continuing education requirement based on any of the following:

- (1) Illness, as certified by a physician or osteopathic physician licensed under chapter 453 or licensed in the jurisdiction in which the licensee was treated;
- (2) Military service under extended active duty with the armed forces of the United States;
- (3) Lack of access to continuing education courses due to the practice of pharmacy in geographically isolated areas; and
- (4) Inability to undertake continuing education due to incapacity, undue hardship, or other extenuating circumstances.

(e) A pharmacist who administers any vaccine to persons between the ages of fourteen and seventeen years pursuant to section 461-11.4 shall complete a training program approved by the board within every other biennial renewal period and submit proof of successful completion of the training program to the board; provided that the pharmacist shall meet these requirements prior to administering any vaccine to persons between the ages of fourteen and seventeen years.

(f) A pharmacist who prescribes and dispenses contraceptive supplies pursuant to section 461- shall complete an Accreditation Council for Pharmacy Education program approved by the board within every other biennial renewal period and submit proof of successful completion of the continuing education program to the board.

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

~~(g)~~ (h) The board may conduct random audits to determine compliance with the continuing education requirement. The board shall provide written notice of an audit to a licensee randomly selected for audit. Within sixty days of notification, the licensee shall provide the board with documentation verifying compliance with the continuing education requirement.”

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

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

- (1) Procuring a license through fraud, misrepresentation, or deceit;
- (2) Professional misconduct, gross carelessness, or manifest incapacity;
- (3) Permitting an unlicensed person to perform activities that require a license under this chapter;
- (4) Violation of any of the provisions of this chapter or the rules adopted pursuant thereto;
- (5) Violation of any state or federal drug, controlled substance, or poison law;
- (6) False, fraudulent, or deceptive advertising;
- (7) Any other conduct constituting fraudulent or dishonest dealings;
- (8) Failure to comply with a board order;
- (9) Making a false statement on any document submitted or required to be filed by this chapter, including a false certification of compliance with the continuing education requirement;
- (10) Habitual intemperance or addiction to the use of habit-forming drugs; ~~[or]~~
- (11) Administering a vaccine to a person between fourteen and seventeen years of age without complying with section 461-11.4~~[-]; or~~
- (12) Prescribing or dispensing contraceptive supplies without complying with section 461- .”

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

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SECTION 9. This Act shall take effect on July 1, 2017.
(Approved July 3, 2017.)

Note

1. Edited pursuant to HRS §23G-16.5.