

JAN 22 2016

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# 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 recent legislation in  
12 California and Oregon will soon expand access to prescription  
13 contraceptives for millions of women. Beginning in 2016, the  
14 California and Oregon laws will permit women to obtain  
15 contraceptive supplies from pharmacists without first having to  
16 visit a primary care provider for a prescription. The  
17 legislature concludes that Hawaii should adopt similar



1 legislation, which will increase access to prescription  
2 contraceptive supplies and decrease barriers regarding  
3 reproductive health care.

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

6 (1) Authorizing pharmacists to prescribe and dispense  
7 contraceptive supplies to persons eighteen years of  
8 age or older;

9 (2) Specifying requirements pharmacists must meet prior to  
10 prescribing and dispensing contraceptive supplies; and

11 (3) Requiring all insurers in the State, including health  
12 benefits plans under chapter 87A, Hawaii Revised  
13 Statutes, and medicaid managed care programs, to  
14 reimburse pharmacists who prescribe and dispense  
15 contraceptive supplies.

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

19 "§461- Contraceptive supplies; authority to prescribe  
20 and dispense; requirements. (a) A pharmacist may prescribe and  
21 dispense contraceptive supplies to a patient who is at least



1 eighteen years of age, regardless of whether the patient has  
2 evidence of a previous prescription for contraceptive supplies  
3 from a licensed physician, advanced practice registered nurse,  
4 or other primary care provider authorized to prescribe  
5 contraceptive supplies.

6 (b) A pharmacist who prescribes contraceptive supplies  
7 pursuant to subsection (a) shall:

8 (1) Complete a continuing education program approved by  
9 the board related to prescribing contraceptive  
10 supplies;

11 (2) Provide a self-screening risk assessment tool that a  
12 patient shall complete before the pharmacist  
13 prescribes any contraceptive supplies; provided that  
14 the self-screening risk assessment tool shall be based  
15 on the current version of the United States Medical  
16 Eligibility Criteria for Contraceptive Use developed  
17 by the federal Centers for Disease Control and  
18 Prevention;

19 (3) Refer the patient to the patient's primary care  
20 provider upon prescribing and dispensing the  
21 contraceptive supplies; provided that if the patient



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1           does not have a primary care provider, the pharmacist  
2           shall advise the patient to consult a licensed  
3           physician, advanced practice registered nurse, or  
4           other primary care provider of the patient's choice;

5           (4) Provide the patient with a written record of the  
6           contraceptive supplies prescribed and dispensed and  
7           advise the patient to consult with a primary care  
8           provider of the patient's choice; and

9           (5) Dispense the contraceptive supplies to the patient as  
10           soon as practicable after the pharmacist issues the  
11           prescription.

12           (c) No pharmacist who prescribes contraceptive supplies  
13 pursuant to subsection (a) shall:

14           (1) Require a patient to schedule an appointment with the  
15           pharmacist for the prescribing or dispensing of  
16           contraceptive supplies; or

17           (2) Prescribe and dispense contraceptive supplies to a  
18           patient who does not provide evidence of a clinical  
19           visit for women's health within three years  
20           immediately following the initial prescription and



1           dispensation of contraceptive supplies by a pharmacist  
2           to the patient."

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

5           "§431:10A-116.6 Contraceptive services. (a)  
6 Notwithstanding any provision of law to the contrary, each  
7 employer group accident and health or sickness policy, contract,  
8 plan, or agreement issued or renewed in this State on or after  
9 January 1, 2000, shall cease to exclude contraceptive services  
10 or supplies for the subscriber or any dependent of the  
11 subscriber who is covered by the policy, subject to the  
12 exclusion under section 431:10A-116.7.

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

19           (c) Coverage for oral contraceptives shall include at  
20 least one brand from the monophasic, multiphasic, and the



1 progestin-only categories. A member shall receive coverage for  
2 any other oral contraceptive only if:

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

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

9 (d) Coverage required by this section shall include  
10 reimbursement to a prescribing and dispensing pharmacist who  
11 prescribes and dispenses contraceptive supplies pursuant to  
12 section 461- .

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

14 "Contraceptive services" means physician-delivered,  
15 physician-supervised, physician assistant-delivered, [~~nurse~~  
16 ~~practitioner-delivered,~~] advanced practice registered nurse-  
17 delivered, certified nurse midwife-delivered, nurse-delivered,  
18 or pharmacist-delivered medical services intended to promote the  
19 effective use of contraceptive supplies or devices to prevent  
20 unwanted pregnancy.



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

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

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

10 "§432:1-604.5 Contraceptive services. (a)

11 Notwithstanding any provision of law to the contrary, each  
12 employer group health policy, contract, plan, or agreement  
13 issued or renewed in this State on or after January 1, 2000,  
14 shall cease to exclude contraceptive services or supplies, and  
15 contraceptive prescription drug coverage for the subscriber or  
16 any dependent of the subscriber who is covered by the policy,  
17 subject to the exclusion under section 431:10A-116.7.

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



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

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

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

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

13 (d) Coverage required by this section shall include  
14 reimbursement to a prescribing and dispensing pharmacist who  
15 prescribes and dispenses contraceptive supplies pursuant to  
16 section 461- .

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

18 "Contraceptive services" means physician-delivered,  
19 physician-supervised, physician assistant-delivered, [~~nurse~~  
20 ~~practitioner delivered,~~] advanced practice registered nurse-  
21 delivered, certified nurse midwife-delivered, or nurse-delivered





1 medical services intended to promote the effective use of  
2 contraceptive supplies or devices to prevent unwanted pregnancy.

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

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

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

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

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

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

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



1        "Practice of pharmacy" means:

2        (1) The interpretation and evaluation of prescription

3           orders; the compounding, dispensing, and labeling of

4           drugs and devices (except labeling by a manufacturer,

5           packer, or distributor of nonprescription drugs and

6           commercially legend drugs and devices); the

7           participation in drug selection and drug utilization

8           reviews; the proper and safe storage of drugs and

9           devices and the maintenance of proper records

10          therefor; the responsibility for advising when

11          necessary or where regulated, of therapeutic values,

12          content, hazards, and use of drugs and devices;

13        (2) Performing the following procedures or functions as

14          part of the care provided by and in concurrence with a

15          "health care facility" and "health care service" as

16          defined in section 323D-2, or a "pharmacy" or a

17          licensed physician, or a "managed care plan" as

18          defined in section 432E-1, in accordance with

19          policies, procedures, or protocols developed

20          collaboratively by health professionals, including

21          physicians and surgeons, pharmacists, and registered



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- 1 nurses, and for which a pharmacist has received  
2 appropriate training required by these policies,  
3 procedures, or protocols:
- 4 (A) Ordering or performing routine drug therapy  
5 related patient assessment procedures;
  - 6 (B) Ordering drug therapy related laboratory tests;
  - 7 (C) Initiating emergency contraception oral drug  
8 therapy in accordance with a written  
9 collaborative agreement approved by the board,  
10 between a licensed physician and a pharmacist who  
11 has received appropriate training that includes  
12 programs approved by the American Council of  
13 Pharmaceutical Education (ACPE), curriculum-based  
14 programs from an ACPE-accredited college of  
15 pharmacy, state or local health department  
16 programs, or programs recognized by the board of  
17 pharmacy;
  - 18 (D) Administering drugs orally, topically, by  
19 intranasal delivery, or by injection, pursuant to  
20 the patient's licensed physician's order, by a  
21 pharmacist having appropriate training that



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

6 (E) Administering:

7 (i) Immunizations orally, by injection, or by  
8 intranasal delivery, to persons eighteen  
9 years of age or older by a pharmacist having  
10 appropriate training that includes programs  
11 approved by the ACPE, curriculum-based  
12 programs from an ACPE-accredited college of  
13 pharmacy, state or local health department  
14 programs, or programs recognized by the  
15 board of pharmacy; and

16 (ii) Vaccines to persons between fourteen and  
17 seventeen years of age pursuant to section  
18 461-11.4;

19 (F) Prescribing and dispensing contraceptive supplies  
20 to persons eighteen years of age and older  
21 pursuant to section 461- ;



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

13          ~~(G)~~ (H) Transmitting a valid prescription to another  
14          pharmacist for the purpose of filling or  
15          dispensing; or

16          ~~(H)~~ (I) Providing consultation, information, or  
17          education to patients and health care  
18          professionals based on the pharmacist's training  
19          and for which no other licensure is required; and



1           (3) The offering or performing of those acts, services,  
2                   operations, or transactions necessary in the conduct,  
3                   operation, management, and control of pharmacy."

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

6           "§461-8 Renewal of licenses; continuing education  
7 requirement. (a) All licenses issued by the board, except  
8 temporary licenses issued under section 461-7, shall be renewed  
9 biennially on or before December 31 of each odd-numbered year.  
10 Failure to pay the biennial fee and, beginning with the renewal  
11 for the licensing biennium commencing on January 1, 2008, to  
12 satisfy the continuing education requirement on or before  
13 December 31 of each odd-numbered year, shall constitute a  
14 forfeiture of the license as of the date of expiration.

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



1           (c) In the event that the pharmacist has not engaged in  
2 the practice of pharmacy in this State or in another state or  
3 territory of the United States within the past five years, the  
4 board may require the pharmacist to satisfy additional  
5 requirements, as specified in rules adopted pursuant to chapter  
6 91, to demonstrate that the pharmacist is competent to practice  
7 in this State.

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



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

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

20          (f) A pharmacist who prescribes and dispenses  
21 contraceptive supplies to persons eighteen years of age or older





1 pursuant to section 461- shall complete a continuing  
2 education program approved by the board within every other  
3 biennial renewal period and submit proof of successful  
4 completion of the continuing education program to the board;  
5 provided that the board shall develop the continuing education  
6 program within six months of the effective date of this Act and  
7 make the continuing education program available for pharmacists  
8 to complete prior to prescribing and dispensing any  
9 contraceptive supplies to persons eighteen years of age or  
10 older.

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;



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- 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; [~~ex~~]
- 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



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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, 2016;  
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.

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**Report Title:**

Pharmacists; Prescriptive Authority; Contraceptive Supplies;  
Requirements; Health Insurance; Reimbursement

**Description:**

Authorizes pharmacists to prescribe and dispense contraceptive supplies to persons eighteen years of age or older. 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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

