

Legislative Analysis



PHARMACIST PRESCRIPTION OF CONTRACEPTIVES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5435 (H-1) as reported from committee
Sponsor: Rep. Stephanie A. Young

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5436 (H-2) as reported from committee
Sponsor: Rep. Kara Hope

Committee: Health Policy
Complete to 11-13-24

SUMMARY:

House Bills 5435 and 5436 would amend the Insurance Code and the Public Health Code, respectively, to add provisions related to the prescription of certain contraceptives by a pharmacist. House Bill 5436 would authorize pharmacists to prescribe and dispense certain hormonal and emergency contraceptives, and House Bill 5435 would require health insurance policies to cover prescriptions for those hormonal (but not emergency) contraceptives at in-network pharmacies. House Bill 5435 would take effect December 31, 2025. Neither bill could take effect unless both were enacted.

House Bill 5436 would authorize a pharmacist to issue a prescription for a *hormonal contraceptive patch*, *self-administered hormonal contraceptive*, *emergency contraceptive*, or vaginal ring hormonal contraceptive to an individual. This authorization would be subject to the rules developed and issued by the Department of Licensing and Regulation (LARA) as described below. The pharmacist could prescribe the contraceptive regardless of the individual's age and regardless of whether they have evidence of a previous prescription from a prescriber for a contraceptive described above.

Hormonal contraceptive patch would mean a transdermal patch applied to the skin of an individual that releases a drug composed of a combination of hormones that is approved by the Food and Drug Administration (FDA) to prevent pregnancy.

Self-administered hormonal contraceptive would mean a drug composed of a single hormone or combination of hormones that is approved by the FDA to prevent pregnancy and that the individual the drug is prescribed to may take orally, inject, or otherwise self-administer.

Emergency contraceptive would mean a drug approved by the FDA to prevent pregnancy as soon as possible following unprotected sexual intercourse or a known or suspected contraceptive failure.

A pharmacist also could dispense a contraceptive pursuant to a prescription issued under the above provisions.

Rules and self-screening risk assessment

The bill would require LARA, in consultation with the Michigan Board of Pharmacy, to develop and issue rules to implement the bill. The rules would have to be issued by 18 months after the bill's effective date. The rules would have to establish a standard procedure for issuing

a prescription for a contraceptive as described above, including prohibiting a pharmacist from issuing a prescription for a contraceptive as described above to an individual who has not completed the self-screening risk assessment tool described below. The rules also would have to require that a pharmacist comply with all of the following:

- Complete a training program approved by the board for issuing a prescription as described above.
- Before issuing a prescription as described above, provide the self-screening risk assessment tool described below to the individual and obtain a completed risk assessment from them.
- Upon issuing a prescription and dispensing the contraceptive, refer the individual to their primary care physician or, if they do not have a primary care physician, to another licensed health professional that the pharmacist considers appropriate.
- Provide the individual with a written record of the prescribed contraceptive and advise them to consult with a physician or other licensed health professional.
- After issuing a prescription, refer the individual to their primary care provider for a physical examination if they have not had a physical exam in the previous 12 months.
- Dispense the contraceptive as soon as practicable after issuing the prescription, or transmit the prescription to another pharmacy of the individual's choice if authorized by these rules.

LARA, by rule and in consultation with the Michigan Board of Pharmacy, would have to develop a self-screening risk assessment tool to be used by an individual who is seeking a prescription under these provisions.

Other amendments

The bill would amend the code's definition of the *practice of pharmacy* to include issuing prescriptions for hormonal contraceptive patches, self-administered hormonal contraceptives, emergency contraceptives, and vaginal ring hormonal contraceptives under the bill. The bill also would define an order issued by a pharmacist to dispense any of those contraceptives as a *prescription* for purposes of Part 177 (Pharmacy Practice and Drug Control) of the code.

The code now prohibits a pharmacist from knowingly dispensing a drug or device under a prescription if either the prescriber or the patient has died. The bill would remove the prohibition against dispensing under a prescription when the prescriber has died.

Finally, the code requires a receipt to be provided for the purchase of a prescription drug that, in addition to other required information, includes the name of the prescriber. The bill would require the receipt to include the name of the pharmacist issuing the prescription in the case of prescriptions issued under the bill.

MCL 333.17703 et seq. and proposed MCL 333.17744g

House Bill 5435 would require an insurer that delivers, issues for delivery, or renews in Michigan a health insurance policy that provides coverage for prescription drugs to provide coverage for a hormonal contraception patch, self-administered hormonal contraception, or vaginal ring hormonal contraceptive that is covered under an insured's health insurance policy and is prescribed and dispensed by a pharmacist as provided in House Bill 5436, at a pharmacy in the insurer's network. (This would be in addition to any other coverage requirements under

state or federal law.) In addition, an insurer described above would have to provide coverage for consultation.

Coverage required under the bill would have to be consistent with coverage of other prescription drugs under the insured's health insurance policy.

Proposed MCL 500.3406tt

FISCAL IMPACT:

House Bill 5435 would not have a fiscal impact on the state or on local units of government.

House Bill 5436 would have a minimal fiscal impact on the Department of Licensing and Regulatory Affairs. LARA would be required to promulgate rules and may incur administrative costs under the bill, but these costs would likely be nominal.

POSITIONS:

Representatives of the following entities testified in support of the bills (3-5-24):

- Michigan Pharmacists Association
- Planned Parenthood of Michigan
- East Lansing Free Emergency Contraceptives

The following entities indicated support for the bills:

- ACLU of Michigan (3-5-24)
- American Association of University Women of Michigan (4-18-24)
- American College of Obstetricians and Gynecologists (4-18-24)
- Authority Health (4-18-24)
- Michigan Academy of Family Physicians (3-5-24)
- Michigan Affiliate of the American College of Nurse-Midwives (3-5-24)
- Michigan Council for Maternal and Child Health (3-5-24)
- Michigan Nurses Association (4-18-24)
- Michigan Retailers Association (3-5-24)
- Michigan State Medical Society (4-18-24)
- Michigan Unitarian Universalist Social Justice Network (4-18-24)
- Planned Parenthood Advocates of Michigan (3-5-24)
- YWCA Kalamazoo (4-18-24)

The Pharmaceutical Care management Association indicated support for HB 5435. (3-5-24)

The Michigan Association of Health Plans indicated opposition to HB 5435. (3-5-24)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.