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BILL ANALYSIS



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House Bill 5435 (Substitute H-1 as passed by the House)
House Bill 5436 (Substitute H-3 as passed by the House)
Sponsor: Representative Stephanie A. Young (H.B. 5435)
Representative Kara Hope (H.B. 5436)
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 12-10-24

CONTENT

House Bill 5435 (H-1) would amend Chapter 34 (Disability Insurance Policies) of the Insurance Code to require an insurer to cover a hormonal contraception patch, self-administered hormonal contraception, or vaginal ring hormonal contraceptive that was covered under an insured's health insurance policy and that was prescribed and dispensed by a pharmacist as provided in **House Bill 5436 (H-3)**, at a pharmacy in the insurer's network.

House Bill 5436 (H-3) would amend Part 177 (Pharmacy Practice and Drug Control) of the Public Health Code to do the following:

- Allow a pharmacist to issue a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive (all referred to as a contraceptive throughout the rest of the summary).
- Require the Department of Licensing and Regulatory Affairs (LARA) in consultation with the Michigan Board of Pharmacy (Board) to promulgate specified rules to implement the bill within 18 months of the bill's effective date.
- Require LARA, in consultation with the Board, to develop a self-screening risk assessment tool to be used by an individual who was seeking a prescription for a contraceptive.
- Require a pharmacist who issued a prescription for a contraceptive to furnish the purchaser a receipt with the name of the pharmacist issuing the prescription.

The bills are tie-barred. House Bill 5435 would apply to health insurance policies delivered, executed, issued, amended, adjusted, or renewed in Michigan, or outside of Michigan if covering residents of Michigan, after December 31, 2025.

House Bill 5435 (H-1)

In addition to any coverage requirements under State or Federal law, an insurer that delivered, issued for delivery, or renewed in Michigan a health insurance policy that provided coverage for prescription drugs would have to provide coverage for a contraceptive that was covered under an insured health insurance policy and that was prescribed and dispensed by a pharmacist as provided in **House Bill 5436 (H-3)**, at a pharmacy in the insurer's network. An insurer also would have to provide coverage for consultation. Coverage would have to be consistent with coverage of other prescription drugs under the insured's health insurance policy.

House Bill 5436 (H-3)

Definitions

"Emergency contraceptive" would mean a drug approved by the United States Food and Drug Administration (FDA) to prevent pregnancy as soon as possible following unprotected sexual intercourse or a known or suspected contraceptive failure.

"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 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 to whom the drug is prescribed may take orally, inject, or otherwise self-administer.

Currently, "practice of pharmacy" means a health service, the clinical application of which includes the encouragement of safety and efficacy in the prescribing, dispensing, administering, and use of drugs and related articles for the prevention of illness, and the maintenance and management of health. Practice of pharmacy includes the direct or indirect provision of professional functions and services associated with the practice of pharmacy. Under the bill, a professional function associated with the practice of pharmacy would include issuing prescriptions for a contraceptive in accordance with provisions described in Pharmacist Authority to Prescribe Contraceptives.

Currently, "prescription" means an order by a prescriber to fill, compound, or dispense a drug or device written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication. Under the bill, the term also would include an order to dispense a contraceptive issued by a pharmacist under Pharmacist Authority to Prescribe Contraceptives.

Pharmacist Authority to Prescribe Contraceptives

Under the bill, subject to the rules promulgated by LARA and the Board, a pharmacist could issue a prescription for a contraceptive to an individual, regardless of the individual's age and regardless of whether the individual had evidence of a previous prescription for a contraceptive.

Within 18 months after the bill's effective date, LARA, in consultation with the Board, would have to promulgate rules to implement the bill's requirements. The rules would have to establish a standard procedure for issuing a prescription for a contraceptive. The rules also would have to prohibit a pharmacist from issuing a prescription for a contraceptive if the individual had not completed the self-screening risk assessment tool described below and require that a pharmacist comply with all the following:

- Complete a training program that was approved by the Board for issuing a contraceptive.
- Provide the self-screening risk assessment tool that was developed below to an individual described above before issuing a contraceptive to the individual.
- Upon issuing a prescription for a contraceptive to an individual, refer the individual to the individual's primary care physician, or if the individual did not have a primary care physician, to another licensed health professional that the pharmacist considered appropriate.

- Provide an individual with a written record of the contraceptive for which the individual was issued the prescription and advise the individual to consult with a physician or other licensed health professional.
- If an individual had not had a physical examination in the previous 12 months, refer the individual to the individual's primary care provider for a physical examination after issuing a prescription for the contraceptive to the individual.
- Dispense the contraceptive to an individual as soon as practicable after issuing the prescription for the contraceptive, or transmit the prescription to another pharmacy of the individual's choice if authorized under rules promulgated by LARA.

Under the bill, LARA, in consultation with the Board, would have to develop by rule a self-screening risk assessment tool to be used by an individual who was seeking a prescription for a contraceptive.

A pharmacist who issued a prescription for a contraceptive would have to furnish the purchaser of the prescription drug at the time the drug was delivered to the purchaser a receipt with the name of the pharmacist issuing the prescription.

Proposed MCL 500.3406tt (H.B. 5435)
MCL 333.17703 et al. (H.B.5436)

Legislative Analyst: Alex Krabill

FISCAL IMPACT

The bill would have a small negative fiscal impact on LARA and no impact on local units of government. The additional responsibilities that would be assigned to LARA by the bill likely would result in small increased administrative costs for LARA and these would likely be sufficiently funded by existing appropriations.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.