

CHAPTER 205  
HB 1822-FN - FINAL VERSION

22Mar2018... 1118h  
10May2018... 1947-EBA

2018 SESSION

18-3030  
01/04

HOUSE BILL        ***1822-FN***

AN ACT            making hormonal contraceptives available directly from pharmacists by means of a standing order.

SPONSORS:       Rep. M. MacKay, Hills. 30; Rep. Knirk, Carr. 3; Rep. P. Schmidt, Straf. 19; Rep. J. MacKay, Merr. 14; Rep. Hinch, Hills. 21; Rep. LeBrun, Hills. 32; Rep. L. Ober, Hills. 37; Rep. W. Marsh, Carr. 8; Sen. Soucy, Dist 18; Sen. Reagan, Dist 17

COMMITTEE:      Health, Human Services and Elderly Affairs

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ANALYSIS

This bill allows pharmacists to dispense hormonal contraceptives pursuant to a standing order entered into by health care providers.

This bill is the result of the commission established pursuant to 2017, 23.

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Explanation:     Matter added to current law appears in ***bold italics***.  
                     Matter removed from current law appears ~~[in brackets and struck through.]~~  
                     Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT            making hormonal contraceptives available directly from pharmacists by means of a standing order.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1            205:1 Pharmacies; Definitions. Amend RSA 318:1, VI-f to read as follows:

2            VI-f. ***"Hormonal contraceptives" means pills, patches, and rings which the United***  
3 ***States Food and Drug Administration (FDA) classifies as available by prescription for***  
4 ***the purpose of contraception or emergency contraception. It does not include similar***  
5 ***items classified as "over the counter" by the FDA, intrauterine devices, shots, or***  
6 ***intra dermal implants.***

7            VI-g. "Law enforcement officer" means any officer of the state or political  
8 subdivision of the state who is empowered by law to conduct investigations of or to  
9 make arrests for offenses enumerated in this chapter.

10          205:2 New Section; Hormonal Contraceptives; Dispensing. Amend RSA 318 by  
11 inserting after section 47-k the following new section:

12          318:47-1 Hormonal Contraceptives; Dispensing.

13          I. In this section, "standing order" means a written and signed protocol authored  
14 by one or more physicians licensed under RSA 329:12 or one or more advanced practice  
15 registered nurses licensed under RSA 326-B:18. Such agreement shall specify a protocol  
16 allowing the pharmacist licensed under RSA 318:18 to dispense hormonal contraceptives  
17 under the delegated prescriptive authority of the physician or APRN, specify a  
18 mechanism to document screening performed and the prescription in the patient's  
19 medical record, and include a plan for evaluating and treating adverse events. Any such  
20 prescription shall be regarded as being issued for a legitimate medical purpose in the  
21 usual course of professional practice.

22          II. Licensed pharmacists following standing orders may dispense hormonal  
23 contraceptives to persons in this state without a prior prescription.

24          III. A pharmacist, pharmacy, physician, or APRN issuing or following standing  
25 orders shall be prohibited from seeking personal financial benefit by participating in  
26 any incentive-based program or accepting any inducement that influences or  
27 encourages therapeutic or product changes or the ordering of tests or services.

28          IV. Prior to dispensing hormonal contraceptives under this section, a pharmacist  
29 shall complete an Accreditation Council for Pharmacy Education (ACPE) accredited

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1 educational training program related to hormonal contraceptives. In addition,  
2 pharmacists shall comply with the most current United States Medical Eligibility  
3 Criteria (USMEC) for Contraceptive Use as adopted by the Centers for Disease Control  
4 and Prevention.

5 V. The pharmacist shall provide each recipient of hormonal contraceptives  
6 pursuant to this section with a standardized information sheet written in plain  
7 language, which shall include, but is not limited to, the indication for the use of the  
8 hormonal contraceptive, the importance of follow-up care, and health care referral  
9 information.

10 VI. The board shall adopt rules, pursuant to RSA 541-A, relative to:

11 (a) Education and training required under paragraph IV.

12 (b) Content and format of the information sheet required under paragraph V,  
13 in consultation with the commissioner of the department of health and human services.

14 (c) A model statewide protocol, with the consent of the board of medicine, the  
15 board of nursing, and the department of health and human services to be used for the  
16 purposes of paragraph I.

17 (d) Other matters necessary to the proper administration of this section.

18 VII. The board of medicine shall not deny, revoke, suspend, or otherwise take  
19 disciplinary action against a physician based on a pharmacist's failure to follow  
20 standing orders provided the provisions of this section and the rules adopted under this  
21 section are satisfied. The board of nursing shall not deny, revoke, suspend, or otherwise  
22 take disciplinary action against an APRN based on a pharmacist's failure to follow  
23 standing orders provided the provisions of this section and the rules adopted under this  
24 section are satisfied. The board of pharmacy shall not deny, revoke, suspend, or  
25 otherwise take disciplinary action against a pharmacist who follows standing orders  
26 based on a defect in those standing orders provided the provisions of this section and  
27 the rules adopted under this section are satisfied.

28 205:3 New Paragraph; Pharmacists; Rulemaking. Amend RSA 318:5-a by inserting  
29 after paragraph XVIII the following new paragraph:

30 XIX. Dispensing hormonal contraceptives in accordance with RSA 318:47-1.

31 205:4 Insurance; Group; Coverage for Prescription Contraceptive Drugs and  
32 Prescription Contraceptive Devices and for Contraceptive Services. Amend RSA 415:18-i  
33 to read as follows:

34 415:18-i Coverage for Prescription Contraceptive Drugs and Prescription  
35 Contraceptive Devices and for Contraceptive Services. Each insurer that issues or  
36 renews any group policy of accident or health insurance providing benefits for medical  
37 or hospital expenses, which provides coverage for outpatient services shall provide to

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1 each group, or to the portion of each group comprised of certificate holders of such  
2 insurance who are residents of this state, coverage for outpatient contraceptive services  
3 under the same terms and conditions as for other outpatient services. "Outpatient  
4 contraceptive services" means consultations, examinations, and medical services,  
5 provided on an outpatient basis, ***including the initial screening provided through a***  
6 ***pharmacy pursuant to RSA 318:47-1 at a rate established by contract between the***  
7 ***pharmacy and the insurer or its pharmacy benefits manager***, and related to the use of  
8 contraceptive methods to prevent pregnancy which has been approved by the U.S. Food  
9 and Drug Administration. Each insurer that issues or renews any policy of group  
10 accident or health insurance providing benefits for medical or hospital expenses which  
11 provides a prescription rider shall cover all prescription contraceptive drugs and  
12 prescription contraceptive devices approved by the U.S. Food and Drug Administration  
13 under the same terms and conditions as other prescription drugs. Nothing in this  
14 section shall be construed as altering the terms and conditions of a contract relating to  
15 prescription drugs and outpatient services.

16 205:5 Insurance; Health Service Corporations; Coverage for Prescription  
17 Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive  
18 Services. Amend RSA 420-A:17-c to read as follows:

19 420-A:17-c Coverage for Prescription Contraceptive Drugs and Prescription  
20 Contraceptive Devices and for Contraceptive Services. Every health service corporation  
21 and every other similar corporation licensed under the laws of another state that issues  
22 or renews any policy of group accident or health insurance providing benefits for  
23 medical or hospital expenses, which provides coverage for outpatient services shall  
24 provide to each group, or to the portion of each group comprised of certificate holders of  
25 such insurance who are residents of this state, coverage for outpatient contraceptive  
26 services under the same terms and conditions as for other outpatient services.  
27 "Outpatient contraceptive services" means consultations, examinations, and medical  
28 services, provided on an outpatient basis, ***including the initial screening provided***  
29 ***through a pharmacy pursuant to RSA 318:47-1 at a rate established by contract between***  
30 ***the pharmacy and the insurer or its pharmacy benefits manager***, and related to the use  
31 of contraceptive methods to prevent pregnancy which has been approved by the U.S.  
32 Food and Drug Administration. Each health service corporation and every other similar  
33 corporation licensed under the laws of a different state that issues or renews any group  
34 policy of accident or health insurance providing benefits for medical or hospital  
35 expenses which provides a prescription rider shall cover all prescription contraceptive  
36 drugs and prescription contraceptive devices approved by the U.S. Food and Drug  
37 Administration under the same terms and conditions as other prescription drugs.

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1 Nothing in this section shall be construed as altering the terms and conditions of a  
2 contract relating to prescription drugs and outpatient services.

3 205:6 Insurance; Health Maintenance Organizations; Coverage for Prescription  
4 Contraceptive Drugs and Prescription Contraceptive Devices and for Contraceptive  
5 Services. Amend RSA 420-B:8-gg to read as follows:

6 420-B:8-gg Coverage for Prescription Contraceptive Drugs and Prescription  
7 Contraceptive Devices and for Contraceptive Services. Every health maintenance  
8 organization and every other similar corporation licensed under the laws of another  
9 state that issues or renews any policy of group health insurance providing benefits for  
10 medical or hospital expenses, which provides coverage for outpatient services shall  
11 provide to each group, or to the portion of each group comprised of certificate holders of  
12 such insurance who are residents of this state, coverage for outpatient contraceptive  
13 services under the same terms and conditions as for other outpatient services.  
14 "Outpatient contraceptive services" means consultations, examinations, and medical  
15 services, provided on an outpatient basis, *including the initial screening provided*  
16 *through a pharmacy pursuant to RSA 318:47-1 at a rate established by contract between*  
17 *the pharmacy and the insurer or its pharmacy benefits manager*, and related to the use  
18 of contraceptive methods to prevent pregnancy which has been approved by the U.S.  
19 Food and Drug Administration. Each health maintenance organization and every other  
20 similar corporation licensed under the laws of another state that issues or renews any  
21 group health insurance providing benefits for medical or hospital expenses which  
22 provides a prescription rider shall cover all prescription contraceptive drugs and  
23 prescription contraceptive devices approved by the U.S. Food and Drug Administration  
24 under the same terms and conditions as other prescription drugs. Nothing in this  
25 section shall be construed as altering the terms and conditions of a contract relating to  
26 prescription drugs and outpatient services.

27 205:7 New Section; Insurance; Individual; Coverage for Prescription Contraceptive  
28 Drugs and Prescription Contraceptive Devices and for Contraceptive Services. Amend  
29 RSA 415 by inserting after section 6-v the following new section:

30 415:6-w Coverage for Prescription Contraceptive Drugs and Prescription  
31 Contraceptive Devices and for Contraceptive Services. Each insurer that issues or  
32 renews any individual policy, plan, or contract of accident or health insurance  
33 providing benefits for medical or hospital expenses, which provides coverage for  
34 outpatient services shall provide to persons covered by such insurance who are  
35 residents of this state coverage for outpatient contraceptive services under the same  
36 terms and conditions as for other outpatient services. "Outpatient contraceptive  
37 services" means consultations, examinations, and medical services, provided on an

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1   outpatient basis, including the initial screening provided through a pharmacy pursuant  
2   to RSA 318:47-1 at a rate established by contract between the pharmacy and the insurer  
3   or its pharmacy benefits manager, and related to the use of contraceptive methods to  
4   prevent pregnancy which has been approved by the U.S. Food and Drug Administration.  
5   Each insurer that issues or renews any individual policy of accident or health insurance  
6   providing benefits for medical or hospital expenses which provides a prescription rider  
7   shall cover all prescription contraceptive drugs and prescription contraceptive devices  
8   approved by the U.S. Food and Drug Administration under the same terms and  
9   conditions as other prescription drugs. Nothing in this section shall be construed as  
10  altering the terms and conditions of a contract relating to prescription drugs and  
11  outpatient services.

12       **205:8 Effective Date.**

13           **I. Sections 4-7 of this act shall take effect January 1, 2019.**

14           **II. The remainder of this act shall take effect 60 days after its passage.**

**Approved: June 08, 2018**

**Effective Date:**

**I. Sections 4-7 shall take effect January 1, 2019.**

**II. Remainder shall take effect August 7, 2018.**

