

**Commission to Study Allowing Pharmacists to Prescribe or Make Available via  
Protocol Oral Contraceptives and Certain Related Medications**

Meeting Minutes  
September 28, 2017

**Opening**

The second meeting of the Commission to Study Allowing Pharmacists to Prescribe or Make Available via Protocol Oral Contraceptives and Certain Related Medications was called to order at 10AM on September 28, 2017 in Room 205, Legislative Office Building by Representative Mariellen MacKay.

**Present**

Rep Mariellen MacKay; Rep William Marsh; Robert Stout; Michael Bullek; Gary Sobelson; Christopher Lopez; Brenden Rock; Jennifer Frizzell; Sara Kellogg Meade; April Kvetkosky; Patricia Tilley; Melissa Martina-Adorno; Lindsay Schommer; Joyce Cappiello; Amy Schneider; Ellen Joyce; Diane Trowbridge.

**Approval of minutes**

Gary Sobelason motioned to accept the minutes from September 14, 2017. Rep William Marsh seconded the motion. Minutes approved.

**Presentations**

***NH Insurance Department Perspective-***

***Tyler Brannen, NH Insurance Department***

Tyler Brannen discussed the NH Department of Insurance's role in the regulation of all insurance companies, agents and adjusters including the commercial insurers that support Expanded Medicaid population. The NH Department of Insurance does not regulate public insurance such as Medicaid and Medicare, but works closely with NH Department of Health and Human Services (DHHS) and Centers for Medicare and Medicaid Services (CMS).

Mr. Brannen described the role of Pharmacy Benefit Managers (PBMs) as the entities primarily responsible for developing and maintaining prescription drug formularies, contracting with pharmacies, and processing and paying prescription drug claims. Insurance carriers subcontract with PBMs to manage the pharmacy expenditures of insurance plans while also improving health care outcomes.

It is important to note that in 2017, NH enacted HB 455 which states that pharmacy benefit managers shall not require accreditation, credentialing, or licensing of providers/pharmacists other than by the New Hampshire pharmacy board or other state or federal entity. Insurance companies have the authority to extend credentialing to pharmacists and thus making them eligible to receive third party reimbursement, but whether they would move in that direction would require further consideration. There is no logistical problem for insurers to develop reimbursement (beyond what is covered through a PBM contract) although they may be reluctant.

*Questions/Comments:*

Representative Marsh asked: *Could insurers potentially be interested in extending provider status to pharmacists for the discrete use of prescribing and dispensing hormonal contraception since it appears that contraception will remain a covered service under the Affordable Care Act (ACA)?*

Insurers typically consider the cost of the service, the number of people that use or access that service, and if that service could lead to reductions in cost for other services.

Christopher Lopez commented *that in a clinic setting pharmacists are currently being reimbursed by insurers, but it is unclear how that would translate to a retail pharmacy setting.*

Gary Sobelson asked: *Why was HB 455 brought forward in the last legislative session?*

Some PBMs were requiring accreditation requirements for pharmacists that were very costly. There was some suspicion that the PBMs were engaging in “pay to play” by requiring accreditation.

Robert Stout commented: *Other states have recognized the pharmacists and given them provider status. It is not unprecedented in NH to add provider types. This has been done for providers such as chiropractors, dieticians, Advance Practice Registered Nurses, etc.*

Jennifer Frizzell asked: *Is there a way to incent increasing access by ensuring that women could receive more than one cycle of products/pills?*

The Commission could address that if so inclined.

## *NH Emergency Contraception Collaboration Practice Program (2005-2007)*

### *Jennifer Frizzell, PPNNE*

Jennifer Frizzell described that in 1998 Emergency Contraception (EC) methods were approved by the FDA and in 1999 Plan B was approved by FDA with an additional prescription option. In 2003 an application was filed with FDA to switch Plan B from prescription to over the counter status. In 2006 FDA approved Plan B for over the counter status for individuals 18 and over. In 2013 the US Court of Appeals ordered FDA to remove age restrictions for over the counter access.

In 1998 the State of Washington began dispensing EC via their existing collaborative practice act. NH did not have this authority in place so in the 2005 legislative session, SB 30, the Collaborative Practice for Emergency Contraception was introduced, passed and signed into law by Gov. John Lynch. NH was the fourth state in the country to move a Collaborative Practice Act forward. No funds were appropriated for implementation so Planned Parenthood of Northern New England (PPNNE) secured private funding for training and provider and patient education.

The NH Board of Pharmacy established procedures and protocols for certifying eligibility and registering agreements between prescribers and pharmacists. Participating pharmacists were required to receive training about contraception. SB 30 also required that there be a private space available in retail pharmacies for consultation (this was far less common in 2005 than it is in current pharmacies in 2017). Public education and patient materials needed to be developed to increase awareness among women throughout the state.

In partnership with the Board of Pharmacy and NH DHHS, and using private funds, PPNNE organized training and developed marketing materials. They worked with organizations such as the NH Medical Society, Bi State Primary Care and other community health centers to identify MDs and APRNs interesting in collaborating with pharmacists. They developed electronic mapping features to ensure access statewide. After 18 months, 265 pharmacists were trained, but only 22 pharmacies had trained staff and were able to dispense via collaboration.

In 2005 and 2006 there were different challenges specific to large chain retailers and independent pharmacies. Pharmacists expressed concern with the amount of time they felt they needed with patient counselling and the SB30 requirement for referral to healthcare providers. Others experienced challenges with inconsistent corporate policy

and barriers. There was uneven reimbursement- and no opportunity for reimbursement for time intensive counseling.

Women and medical providers had difficulty knowing what pharmacies were participating. Because policies at participating pharmacies were inconsistent all patient materials included the disclaimer to “Always call ahead”. The cost of EC was also a challenge for low income uninsured women and pharmacists were ill equipped to advise women of Medicaid eligibility.

The program disbanded in 2007 after FDA approved Plan B for over the counter status for individuals 18 and over. In 2013, the US Court of Appeals ordered FDA to remove age restrictions for over the counter access.

*Questions/Comments:*

Robert Stout commented: *It was very difficult to establish a collaborative practice agreement then. The times have changed especially with experience such as Flu Immunizations.*

Rep Mariellen MacKay asked: *It appears that there is a triad- physicians, pharmacists and insurers. Did you see turf battles then?*

Yes, there are boundaries and questions that still need to be addressed. However, a decision was made at that time through SB30 to move forward to increase access to EC.

Gary Sobelson commented: *The Medical Associations were in favor of addressing the public health need. But it was recognized that there are boundaries, questions and potentially unintended consequences.*

Sara Kellogg Meade asked: *Are we talking about just oral contraception or hormonal contraception?*

While the official charge of the Commission is to address “Oral Contraceptives and Certain Related Medications”, the Commission will use a working definition of “hormonal contraception”.

**ACTION ITEM- Christopher Lopez will develop a list of hormonal contraceptives and related devices for the Commission.**

***Additional Discussion Regarding Collaborative Practice Agreements:***

While the foundation for collaborative practice agreements exists, these types of arrangements have not been put in place for hormonal contraceptives. There may be opportunities to further address collaborative practice within Board of Pharmacy Administrative Rules.

Commission members suggested that the group needs further information about collaborative practice acts.

The Commission should remain focused on how any potential solution (e.g. collaborative practice or standing orders) impacts low income populations, uninsured patients, and retail pharmacy.

**ACTION ITEM- Michael Bullek and/or the Board of Pharmacy should prepare information for the Commission on Collaborative Practice.**

***New Hampshire's Experience with Naloxone –***

***Leigh Cheney & Adnela Alic, NH DHHS***

Following the passage of House Bill 271 in June 2015, the New Hampshire Department of Health and Human Services (NH DHHS) began a Naloxone Kit distribution campaign. Kits are distributed through public events through the Regional Public Health Networks and through retail pharmacies that have a standing order for dispensing.

HB 271 allows New Hampshire physicians to prescribe, dispense or distribute naloxone to a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose, as well as to persons who are themselves at risk of overdose.

The NH Board of Medicine worked closely with NH Board of Pharmacy, NH DHHS and the NH Attorney General's Office to revise its Administrative Rules in response to HB271. As part of the implementation of Naloxone distribution, the NH Medical Society stated that a standing order in the context of naloxone distribution means "an order provided by a physician that authorizes a pharmacist to dispense naloxone to any persons at risk or persons in a position to assist in the event of an opioid overdose without specification of a particular individual".

*New Hampshire Board of Medicine Statement on House Bill 271: “HB 271 authorizes licensees to prescribe naloxone pursuant to a non-patient specific standing order with a pharmacy that authorizes naloxone to be dispensed to persons whom a pharmacist understands to be at risk of opioid overdose or in a position to assist a person at risk of overdose.”*

Doctors with prescriptive authority issue a written order that Naloxone can be distributed by a pharmacist. Under this scenario, someone can receive naloxone without ever meeting the doctor who officially prescribed it. In New Hampshire, many of the standing orders for naloxone were signed by a physician under contract with NH DHHS.

Currently any New Hampshire resident can buy Naloxone at an over-the-counter pharmacy that has standing orders for this service.

### **New Business**

Rep Marsh brought the Commission’s attention to the LSR that he drafted. There is an opportunity to revise the language based upon the recommendations of the Commission.

The primary question for the Commission revolves around the mechanism for increasing access to hormonal contraception at the retail pharmacy setting. There appear to be three options:

- Collaborative Practice Agreements
- Standing Orders
- Provider Status Change

The Commission will also need to clarify which hormonal contraceptives would be included.

There was discussion related to the fact that Standing Orders may be a viable middle-ground approach.

**ACTION ITEM- Patricia Tilley will research which entity would be the best to discuss Standing Orders and Statutory Protection for prescribers and present information to the Commission.**

Melissa Martina-Adorno described a patient-centric vision for the ultimate goal of expanding affordable access to hormonal contraception.

**ACTION ITEM- Melissa Martina-Adorno will develop a written statement that describes a patient-centric vision for increased access to affordable hormonal contraception and share it with the Commission for their consideration.**

### **Old Business**

Rep Mariellen MacKay followed through with the request of the Commission from September 14, 2017 to explore if recording equipment can be used to electronically record Commission meetings.

Because recording meetings is not the standing protocol of Legislative Commissions and because of the potentially chilling effect it may have on discussion, she has determined that meetings will not be recorded.

### **Agenda for Next Meeting**

#### **Adjournment**

Meeting was adjourned at Noon by Representative Mariellen MacKay. The next general meeting will be at 10:00AM-Noon on October 12, 2017, in the Legislative Office Building, Room 205, Concord.

Minutes submitted by: Patricia Tilley