**South Carolina General Assembly**

124th Session, 2021-2022

**H. 3175**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Rutherford and J.L. Johnson

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Companion/Similar bill(s): 151, 628

Introduced in the House on January 12, 2021

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Pharmacy Access Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2020 House Prefiled

12/9/2020 House Referred to Committee on **Medical, Military, Public and Municipal Affairs**

1/12/2021 House Introduced and read first time ([House Journal‑page 101](file:///h:\hj\20210112.docx))

1/12/2021 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 101](file:///h:\hj\20210112.docx))

1/14/2021 House Member(s) request name added as sponsor: J.L.Johnson

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**VERSIONS OF THIS BILL**

[12/9/2020](file:///p:\pprever\2021-22\3175_20201209.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “PHARMACY ACCESS ACT” BY ADDING CHAPTER 138 TO TITLE 44 SO AS TO PROVIDE THAT QUALIFIED LICENSED PHARMACISTS MAY PRESCRIBE AND ADMINISTER INJECTABLE HORMONAL CONTRACEPTIVES AND PRESCRIBE AND DISPENSE SELF‑ADMINISTERED HORMONAL CONTRACEPTIVES UNDER A STANDING PRESCRIPTION DRUG ORDER, TO PROVIDE FOR WRITTEN JOINT PROTOCOL PROVISIONS, AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act shall be known as and may be cited as the “Pharmacy Access Act”.

SECTION 2. Title 44 of the 1976 Code is amended by adding:

“CHAPTER 138

Pharmacy Access Act

Section 44‑138‑10. As used in this chapter:

(1) ‘Administer’ has the same meaning as in Section 40‑43‑30.

(2) ‘Department’ means the Department of Labor, Licensing and Regulation.

(3) ‘Dispense’ has the same meaning as in Section 40‑43‑30.

(4) ‘Injectable hormonal contraceptive’ means a drug composed of a hormone or a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that a practitioner administers to the patient by injection. ‘Injectable hormonal contraceptive’ does not include any drug intended to terminate a pregnancy.

(5) ‘Intern’ has the same meaning as in Section 40‑43‑30.

(6) ‘Local health board’ has the same meaning as in Chapter 3, Title 44.

(7) ‘Patient counseling’ has the same meaning as in Section 40‑43‑30.

(8) ‘Pharmacist’ has the same meaning as in Section 40‑43‑30.

(9) ‘Practitioner’ has the same meaning as in Section 40‑47‑20.

(10) ‘Prescriber’ means a physician licensed pursuant to Chapter 47, Title 40; an advanced practice registered nurse licensed pursuant to Chapter 33, Title 40 and prescribing in accordance with the requirements of that chapter; or a physician assistant licensed pursuant to Article 7, Chapter 47, Title 40 and prescribing in accordance with the requirements of that article.

(11) ‘Self‑administered hormonal contraceptive’ means a drug composed of a hormone or a combination of hormones that is approved by the United States Food and Drug Administration to prevent pregnancy and that the patient to whom the drug is prescribed may administer to oneself. ‘Self‑administered hormonal contraceptive’ includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch. ‘Self‑administered hormonal contraceptive’ does not include any drug intended to terminate a pregnancy.

Section 44‑138‑20. This chapter does not create a duty of care for a person who prescribes or dispenses a self‑administered hormonal contraceptive or administers an injectable hormonal contraceptive.

Section 44‑138‑30. (A) A person licensed under the South Carolina Pharmacy Practice Act who is acting in good faith and exercising reasonable care as a pharmacist may dispense a self‑administered hormonal contraceptive or administer an injectable hormonal contraceptive pursuant to a standing prescription drug order by a prescriber to a patient who is:

(1) eighteen years of age or older; or

(2) under eighteen years of age if the person has evidence of a previous prescription from a practitioner for a self‑administered hormonal contraceptive or an injectable hormonal contraceptive.

(B) No later than six months after passage of this act, the Board of Medical Examiners and the Board of Pharmacy must issue a written joint protocol to authorize a pharmacist to dispense self‑administered hormonal contraceptive or administer an injectable hormonal contraceptive without a patient‑specific written order.

(C) The written joint protocol must address, at a minimum, the following:

(1) education or training requirements that the Board of Medical Examiners and the Board of Pharmacy determine to be necessary for a pharmacist to dispense an injectable hormonal contraceptive;

(2) information that the pharmacist must provide to a patient prior to dispensing;

(3) documentation regarding the dispensing of the injectable hormonal contraceptive and confirmation that the required information was provided to the patient;

(4) notification to the patient’s designated practitioner that the injectable hormonal contraceptive has been dispensed to that patient;

(5) evaluation and review of the dispensing and administration practices used by pharmacists authorized to dispense the self‑administered hormonal contraceptive; and

(6) any additional provisions that the Board of the Medical Examiners and the Board of Pharmacy determine to be necessary or appropriate for inclusion in the protocol, including any reporting requirements.

(D) The written joint protocol must require a pharmacist dispensing or administering contraceptives to obtain, utilize, prescribe, or provide the following information for each new patient requesting contraception and, at least every twelve months for each returning patient:

(1) obtain a completed self‑screening risk assessment;

(2) utilize a standard procedures algorithm as established by the Board of the Medical Examiners and the Board of Pharmacy to perform a patient assessment;

(3) prescribe, if clinically appropriate, the self‑administered oral hormonal contraceptive or injectable hormonal contraceptive, or refer the patient to a practitioner;

(4) provide the patient with a visit summary;

(5) advise the patient to consult with a practitioner;

(6) refer any patient that may be subject to abuse to the appropriate social services agency; and

(7) ensure that the pharmacy provides appropriate space to prevent the spread of infection and ensure confidentiality.

(E) The Board of Medical Examiners and the Board of Pharmacy may appoint an advisory committee of healthcare professionals licensed in this State to advise and assist in the development of the joint protocol for their consideration.

Section 44‑138‑40. (A) Prior to providing self‑administered or pharmacist‑administered hormonal contraception, pharmacists who participate in this protocol must have completed a minimum of one hour of continuing education as specified in the joint protocol that is program‑specific to self‑administered or pharmacist‑administered hormonal contraception, includes the application of the United States Medical Eligibility Criteria for Contraceptive Use, and includes other Centers for Disease Control and Prevention guidance on contraception.

(B) An equivalent, curriculum‑based training program completed on or after 2020 in an accredited South Carolina pharmacy school is sufficient training to participate in this protocol.

Section 44‑138‑50. (A) A pharmacist or intern who dispenses a self‑administered hormonal contraceptive or injectable hormonal contraceptive under this chapter shall obtain a completed self‑screening risk assessment questionnaire that has been approved by the department, in collaboration with the Board of Pharmacy and the Board of Medical Examiners, from the patient before dispensing the self‑administered or injectable hormonal contraceptive.

(B)(1) If the results of the assessment in subsection (A) indicate that it is unsafe to dispense a self‑administered or injectable hormonal contraceptive to a patient, the pharmacist may not dispense a self‑administered or injectable hormonal contraceptive to the patient and shall refer the patient to a practitioner.

(2) If the results of the assessment in subsection (A) do not indicate that it is unsafe to dispense a self‑administered or injectable hormonal contraceptive to a patient, the pharmacist shall provide the patient with written information regarding:

(a) the importance of seeing the patient’s practitioner to obtain recommended tests and screening;

(b) the effectiveness and availability of long‑acting reversible contraceptives as an alternative to self‑administered or injectable hormonal contraceptives;

(c) a copy of the record of the encounter with the patient that includes the patient’s completed self‑assessment tool; and

(d) a description of the contraceptives dispensed, or the basis for not dispensing a contraceptive.

(C) If a pharmacist dispenses a self‑administered or injectable hormonal contraceptive to a patient, the pharmacist:

(1) shall, at a minimum, provide patient counseling to the patient regarding:

(a) the appropriate administration and storage of the self‑administered or injectable hormonal contraceptive;

(b) potential side effects and risks of the self‑administered or injectable hormonal contraceptive;

(c) the need for backup contraception;

(d) when to seek emergency medical attention; and

(e) the risk of contracting a sexually transmitted infection or disease, along with ways to reduce the risk of contraction; and

(2) may not continue to dispense a self‑administered or injectable hormonal contraceptive to a patient for more than twenty‑four months after the date of the initial prescription without evidence that the patient has consulted with a practitioner during the preceding twenty‑four months.

Section 44‑138‑60. A prescriber who issues a standing prescription drug order in accordance with Section 44‑138‑50 is not liable for any civil damages for acts or omissions resulting from the dispensing of a self‑administered hormonal contraceptive or the administering of an injectable hormonal contraceptive under this chapter.

Section 44‑138‑70. (A) Pharmacist services are a benefit under South Carolina Medicaid, subject to approval by the federal Centers for Medicare and Medicaid Services. The department shall establish a fee schedule for the list of pharmacist services. The rate of reimbursement for pharmacist services must be at seventy percent of the fee schedule for physician services under the Medicaid program.

(B) The following services are covered pharmacist services that maybe provided to a Medicaid beneficiary:

(1) administering self‑administered hormonal contraception, as outlined and authorized in Section 44‑138‑30; and

(2) administering pharmacist‑administered hormonal contraception, as outlined and authorized in Section 44‑138‑30. Covered pharmacist services shall be subject to department protocols and utilization controls.

(C) A pharmacist must be enrolled as an ordering, referring, and prescribing provider under the Medicaid program prior to rendering a pharmacist service that is submitted by a Medicaid pharmacy provider for reimbursement pursuant to this section.

(D) The director of the department shall seek any necessary federal approvals to implement this section. This section may not be implemented until the necessary federal approvals are obtained and may be implemented only to the extent that federal financial participation is available.

(E) This section does not restrict or prohibit any services currently provided by pharmacists as authorized by law, including, but not limited to, this chapter or the Medicaid State Plan.”

SECTION 3. This act takes effect upon approval by the Governor.

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