

117TH CONGRESS  
2D SESSION

# H. R. 7894

To require group health plans and group or individual health insurance coverage to provide coverage for over-the-counter contraceptives.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 27, 2022

Ms. PRESSLEY (for herself, Mr. BERA, Ms. OCASIO-CORTEZ, Ms. NORTON, Ms. SPEIER, Mr. PAYNE, Mr. AUCHINCLOSS, Mr. CONNOLLY, Ms. VELÁZQUEZ, Ms. JAYAPAL, Mr. RASKIN, Mrs. CAROLYN B. MALONEY of New York, Mr. TAKANO, Ms. UNDERWOOD, Ms. DELBENE, Ms. STRICKLAND, Ms. GARCIA of Texas, Mrs. NAPOLITANO, Mr. DANNY K. DAVIS of Illinois, Mr. ESPAILLAT, Mr. CASTEN, Mr. LARSON of Connecticut, Mrs. LAWRENCE, Mr. BROWN of Maryland, Mrs. FLETCHER, Ms. BONAMICI, Ms. WILLIAMS of Georgia, Mr. JOHNSON of Georgia, Ms. BROWNLEY, Mr. HUFFMAN, Ms. MCCOLLUM, Mr. SOTO, Ms. DELAURO, Mr. DOGGETT, Mr. MCGOVERN, Ms. MENG, Mr. KHANNA, Mr. VARGAS, Mr. BLUMENAUER, Mr. CICILLINE, Mr. LIEU, Ms. MOORE of Wisconsin, Ms. CLARKE of New York, Ms. LEE of California, Ms. JACOBS of California, Mr. LEVIN of Michigan, Mr. TORRES of New York, Mr. DESAULNIER, Mrs. BUSTOS, Mrs. WATSON COLEMAN, Mr. SMITH of Washington, Mr. JONES, Mr. EVANS, Mr. DEFazio, Ms. WASSERMAN SCHULTZ, Ms. SCHAKOWSKY, Mrs. TRAHAN, Mr. KILMER, Mr. CARBAJAL, Mr. LOWENTHAL, Ms. NEWMAN, Ms. SCHRIER, Ms. SÁNCHEZ, Mrs. CHERFILUS-McCORMICK, Mr. BOWMAN, Mr. TRONE, Mr. SWALWELL, Ms. BARRAGÁN, Mr. McNERNEY, Ms. CHU, Ms. LOIS FRANKEL of Florida, Mr. GARCÍA of Illinois, Ms. DEGETTE, Ms. MANNING, Ms. TITUS, Ms. WILSON of Florida, Ms. CASTOR of Florida, Ms. ADAMS, Mr. GOMEZ, Mr. GRIJALVA, Ms. TLAIB, Ms. PORTER, Mr. KRISHNAMOORTHY, Mr. QUIGLEY, Mr. PETERS, Ms. BASS, Mr. NADLER, Ms. CLARK of Massachusetts, Ms. JACKSON LEE, Mrs. MCBATH, Mr. CÁRDENAS, Mr. POCAN, and Mr. SCHNEIDER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# A BILL

To require group health plans and group or individual health insurance coverage to provide coverage for over-the-counter contraceptives.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Affordability is Access  
5       Act”.

6       **SEC. 2. PURPOSE.**

7       The purpose of this Act is to ensure timely access  
8       to affordable birth control by requiring coverage without  
9       cost-sharing for oral birth control for routine, daily use  
10      that is approved by, or otherwise legally marketed under  
11      regulation by, the Food and Drug Administration for use  
12      without a prescription.

13      **SEC. 3. FINDINGS.**

14      The House of Representatives finds the following:

15           (1) Birth control is critical health care that al-  
16      most all women will use at some point in their life-  
17      times.

18           (2) Access to the full range of reproductive  
19      health care, including birth control coverage as guar-  
20      anteed under Federal law, provides people with the

1 opportunity to lead healthy lives and get the care  
2 they need to reach their goals.

3 (3) Family planning has well documented  
4 health benefits for women, newborns, families, and  
5 communities and can lower the risk of harm to ma-  
6 ternal and infant health.

7 (4) An estimated 72,000,000 women of repro-  
8 ductive age (ages 15 through 44) live in the United  
9 States, of which nearly 70 percent are at risk of  
10 having an unintended pregnancy. Sixty-five percent  
11 of women of reproductive age are using a contracep-  
12 tive method and 12 percent of women at risk for un-  
13 intended pregnancy are not using contraception. The  
14 rates of non-use of contraception are highest among  
15 those between 15 and 19 years old.

16 (5) The birth control benefit enacted under the  
17 Patient Protection and Affordable Care Act (Public  
18 Law 111–148) has been a crucial step forward in  
19 advancing access to birth control and has helped en-  
20 sure 62,100,000 women have the power to decide for  
21 themselves if and when to start a family.

22 (6) Despite legal requirements for birth control  
23 coverage and access to services, gaps remain for mil-  
24 lions of people. A national survey found that 1 in 3  
25 women have struggled to afford birth control at

1       some point in their lives, and as a result, have used  
2       birth control inconsistently. Access to birth control is  
3       particularly difficult for people who live in contra-  
4       ceptive deserts and lack reasonable access to a  
5       health center that offers the full range of contracep-  
6       tive methods.

7           (7) Health disparities persist among people  
8       with low-incomes, people of color, LGBTQ people,  
9       immigrants and people who lack access to health  
10      coverage and health care providers.

11          (8) There are numerous social and economic  
12      barriers that make it harder to access birth control,  
13      including rising income and wealth inequality, gaps  
14      in insurance coverage and challenges accessing  
15      health providers.

16          (9) Leading health experts support over-the-  
17      counter birth control pills.

18   **SEC. 4. SENSE OF THE HOUSE OF REPRESENTATIVES.**

19      It is the sense of the House of Representatives that—

20          (1) in order to increase access to oral birth con-  
21      trol, such birth control must be both easier to obtain  
22      and affordable and, to make such birth control ei-  
23      ther easier to obtain or more affordable, but not  
24      both, is to leave unacceptable barriers in place;

1           (2) it is imperative that the entities that re-  
2       search and develop oral birth control and whose  
3       medical and scientific experts have developed clinical  
4       and other evidence that oral birth control for rou-  
5       tine, daily use is safe and effective when sold with-  
6       out a prescription, apply to the Food and Drug Ad-  
7       ministration for review and approval for sale of such  
8       birth control without a prescription;

9           (3) upon the receipt of such an application, the  
10      Food and Drug Administration should determine  
11      whether the oral birth control meets the rigorous  
12      safety, efficacy, and quality standards for over-the-  
13      counter use under the Federal Food, Drug, and Cos-  
14      metic Act (21 U.S.C. 301 et seq.), and if the prod-  
15      uct meets those standards, the Food and Drug Ad-  
16      ministration should approve the application without  
17      delay; and

18          (4) if and when the Food and Drug Adminis-  
19      tration approves an oral birth control that is avail-  
20      able over-the-counter, such birth control should be  
21      covered by health insurance, without a prescription  
22      and without cost-sharing.

23 **SEC. 5. CLARIFYING COVERAGE REQUIREMENTS.**

24      The Secretaries of Health and Human Services,  
25      Labor, and the Treasury shall clarify that coverage of con-

1 traceptives pursuant to section 2713(a)(4) of the Public  
 2 Health Service Act (42 U.S.C. 300gg-13(a)(4)) includes  
 3 coverage of over-the-counter contraceptive methods ap-  
 4 proved by the Food and Drug Administration, even if the  
 5 enrollee does not have a prescription for the contraceptive.

6 **SEC. 6. RULES OF CONSTRUCTION.**

7 (a) NON-INTERFERENCE WITH FDA REGULA-  
 8 TION.—Nothing in this Act shall be construed to modify  
 9 or interfere with Food and Drug Administration processes  
 10 to review or approve, or otherwise determine the safety  
 11 and efficacy of, and make available, non-prescription  
 12 drugs or devices, modify or interfere with the scientific  
 13 and medical considerations of the Food and Drug Admin-  
 14 istration, or alter any other authority of the Food and  
 15 Drug Administration.

16 (b) NON-PREEMPTION.—Nothing in this Act pre-  
 17 empts any provision of Federal or State law to the extent  
 18 that such Federal or State law provides protections for  
 19 consumers that are greater than the protections provided  
 20 for in this Act.

21 **SEC. 7. DUTIES OF RETAILERS TO ENSURE ACCESS TO**  
 22 **ORAL BIRTH CONTROL FOR USE WITHOUT A**  
 23 **PRESCRIPTION.**

24 (a) IN GENERAL.—Any retailer that stocks oral birth  
 25 control for routine, daily use that is approved by, or other-

1 wise legally marketed under regulation by, the Food and  
2 Drug Administration for use without a prescription may  
3 not interfere with an individual's access to or purchase  
4 of such birth control or access to medically accurate, com-  
5 prehensive information about such birth control.

6 (b) LIMITATION.—Nothing in this section shall pro-  
7 hibit a retailer that stocks oral birth control for routine,  
8 daily use from refusing to provide an individual with such  
9 oral birth control that is approved by, or otherwise legally  
10 marketed under regulation by, the Food and Drug Admin-  
11 istration if the individual is unable to pay for the birth  
12 control, directly or through insurance coverage.

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