November 6, 2023

Dr. Robert Goldstein, Commissioner

Massachusetts Department of Public Health

250 Washington Street

Boston, MA 02108

RE: Reproductive Equity Now Written Comment on emergency amendments to 105 CMR 700.000

Dear Commissioner Goldstein:

Reproductive Equity Now is a grassroots organization focused on promoting equitable access to the full spectrum of reproductive health care for all people regardless of their race, ethnicity, income, zip code, gender, immigration status, ability, sexual orientation, or religion. Advancing reproductive justice and eliminating barriers to safe, legal abortion are central to our mission. We wish to thank the Department of Public Health for swiftly advancing emergency regulations to implement the statutory authorization for pharmacists to prescribe and dispense hormonal contraceptives, pursuant to Section 42 of Chapter 28 of the Acts of 2023. **Reproductive Equity Now strongly supports the proposed emergency amendment to regulation 105 CMR 700.000 — *Implementation of M.G.L. c. 94C*.**

Access to contraception empowers people to decide whether and when to become pregnant, determining their reproductive futures and supporting their bodily autonomy. By promulgating these emergency regulations, Massachusetts joins 29 states and the District of Columbia. in allowing pharmacists to provide contraceptive care.[[1]](#footnote-1) In these comments, Reproductive Equity Now outlines why these emergency regulations are well constructed to not only expand contraceptive access for all Bay Staters but, specifically, for populations that either do not have access to a primary care provider or that face extremely long wait times to see a provider. Additionally, we encourage continued oversight and tracking by the Department and the Board of Registration in Pharmacy to ensure broad and geographically diverse uptake of pharmacist training and enrollment in this new allowance. Finally, we encourage the Department to coordinate with MassHealth, the Division of Insurance, and all carriers, to ensure pharmacists can be properly reimbursed for consultations with patients for contraceptive care.

1. **DPH’s emergency regulations will expand access to contraceptive care for key populations.**

We applaud the Department for promulgating emergency regulations that do not impose medically unnecessary age restrictions on access to contraception from a pharmacist or clinical follow-up requirements. In its guidance document supporting over-the-counter birth control access, the American College of Obstetricians and Gynecologists (ACOG) makes clear that access to contraception at the pharmacy level can improve patient access and continuity of care.[[2]](#footnote-2) Additionally, studies on the implementation of pharmacist prescribing of hormonal contraceptives in Oregon[[3]](#footnote-3) and California[[4]](#footnote-4) show this allowance can demonstrably and meaningfully reduce barriers to contraceptive access for key underserved populations. In Oregon, nearly three-fourths of Medicaid-enrolled patients who were prescribed contraceptives by pharmacists did not previously have a contraceptive prescription in the past 30 days, indicating they were either new contraceptive users or had experienced a lapse in care.[[5]](#footnote-5) Seventy-four percent of respondents to the California study indicated that they sought a prescription from a pharmacist because it was faster than waiting for a doctor’s appointment, and more than 40% said the location and hours were more convenient.[[6]](#footnote-6)

Aligned with best practices to ensure patient-centered care without barriers, we encourage the Department to refrain from being overly prescriptive regarding establishing a framework for clinical follow-up in any further guidance made available to pharmacists regarding this allowance, as unnecessary clinical requirements do little to advance contraceptive care. One-third of adult women who have ever tried to get a prescription for hormonal birth control report problems either obtaining a prescription or obtaining refills.[[7]](#footnote-7) This is often due to clinicians requiring that the patient complete a clinic visit, examination, or Pap smear as a prerequisite to obtaining contraception, even though such a precondition is medically unnecessary. ACOG states that pelvic and breast examinations, cervical cancer screening, and sexually transmitted infection screenings are not required before initiating hormonal contraception, and should not be used as reasons to deny access to care.[[8]](#footnote-8) Similarly, the U.S. Centers for Disease Control (CDC) guidance on birth control also indicates that most women do not need a physical examination before starting a method of contraception.[[9]](#footnote-9) Unnecessary clinical visit requirements are more than an additional barrier; they can clog up provider time needed for other critical care. Difficulty or long wait times involved in scheduling an appointment can also disrupt continuity of care,[[10]](#footnote-10) introducing the risk of unintended pregnancy or other negative medical impacts if patients are prescribed hormonal contraceptives for medical reasons such as managing endometriosis or polycystic ovary syndrome (PCOS).

Expanding access to contraception at the pharmacy level also offers an opportunity to connect young people to care who may face difficulty navigating the healthcare system. According to a 2022 national study conducted by Advocates for Youth, barriers to accessing a prescription can be daunting, particularly for low-income and other marginalized teens: 36% of respondents reported they lacked the time to schedule or attend an appointment with a clinician to obtain a birth control prescription, and nearly one-third of all respondents indicated that they did not have a regular health care provider.[[11]](#footnote-11) Young people clearly face the same difficulty accessing their primary care provider as adults do and, perhaps, more. Imposing age restrictions on who can access hormonal birth control from a pharmacist does little to advance care and will harm young people’s access to contraception. Notably, ACOG’s support for over-the-counter birth control access stipulates that age restrictions should not be imposed, as young people are as capable of making a self-assessment for contraception as adults[[12]](#footnote-12).

1. **BORP must encourage widespread pharmacist enrollment.**

We are encouraged that the Massachusetts Bureau of Health Professions Licensure and the Board of Registration in Pharmacy have already identified board-approved trainings and notified pharmacists of the necessary steps they must take to prescribe and dispense hormonal contraceptives, including encouraging them to enroll in MassHealth and register for a National Provider Identifier (NPI) number. To ensure widespread uptake of this allowance, we encourage the Board to send periodic reminders to licensed pharmacists throughout the state to encourage training completion and MassHealth enrollment, via email and direct mail, in addition to providing an annual audit of training completions to the Department. Finally, we also encourage collaboration with the Massachusetts Pharmacist Association, Western Massachusetts Pharmacist Association, and the Massachusetts Independent Pharmacist Association to ensure these entities engage their membership to promote awareness and uptake of this new allowance and encourage the Board to consider establishing a centralized registry of trained and participating pharmacists and pharmacies.

1. **DPH must coordinate with MassHealth and DOI on guidance for insurance reimbursement.**

To ensure the successful implementation of this new allowance in a sustainable manner, Reproductive Equity Now encourages appropriate insurance reimbursement for pharmacists’ time spent consulting with patients and prescribing hormonal contraceptives, especially as studies show that pharmacists are less likely to participate in prescribing if they won’t receive payment.[[13]](#footnote-13) Conversely, patients may face cost barriers if pharmacists are unable to receive payment, even with the requirement under the Affordable Care Act for insurers to cover the cost of the full range of FDA-approved contraceptives.[[14]](#footnote-14) For instance, researchers studying the implementation of pharmacist-prescribed contraceptives in Hawaii found that 70% of pharmacies surveyed charged patients for the cost of a consultation (at an average of $35) because pharmacists lacked a mechanism to receive insurance reimbursement.[[15]](#footnote-15) Consequently, Reproductive Equity Now encourages the Department to coordinate with the appropriate agencies, including MassHealth and the Massachusetts Division of Insurance, to issue relevant guidance or bulletins regarding pharmacy reimbursement and, to ensure pharmacists know how to bill and are properly reimbursed for their time spent prescribing, and to ensure that this cost is not shifted to consumers.

Thank you for the opportunity to submit comments, and thank you again to the Department for moving so swiftly to implement this critical allowance.

Sincerely,

Rebecca Hart Holder

President

1. Maia Pandey & Randi Selvey, *Map: Where you can get birth control from a pharmacist without a doctor’s prescription*, NBC News (July 11, 2023), [https://www.nbcnews.com/health/health-news/get-birth-control-from-pharmacists-states-map-rcna9314](https://www.nbcnews.com/health/health-news/get-birth-control-from-pharmacists-states-map-rcna93146). [↑](#footnote-ref-1)
2. Committee on Gynecologic Practice Opinion, *Over-the-Counter Access to Hormonal Contraception*, Am. Coll. of Obstetricians & Gynecologists (Oct. 2019), <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/10/over-the-counter-access-to-hormonal-contraception>. [↑](#footnote-ref-2)
3. Maria I. Rodriguez et al., *Pharmacists Begin Prescribing Hormonal Contraception in Oregon: Implementation of House Bill 2879,* 128(1) J. Obstetricians & Gynecologists 168 (July 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4917426/>. [↑](#footnote-ref-3)
4. Sally Rafie et al., *Patient experiences with pharmacist prescribed hormonal contraception in California independent and chain pharmacies*, 62 J. of the Am. Pharmacists Ass’n 378, (Nov. 3, 2021), <https://www.google.com/url?q=https://www.japha.org/article/S1544-3191(21)00463-5/pdf&sa=D&source=docs&ust=1699037510422462&usg=AOvVaw2AuaU856G3doppGlXxkJEo>. [↑](#footnote-ref-4)
5. Lorinda Anderson et al., *Pharmacist Provision of Hormonal Contraception in the Oregon Medicaid Population, 133 (6) J. Obstetricians & Gynecologists 1231* (June 2019), <https://pubmed.ncbi.nlm.nih.gov/31135739/>. [↑](#footnote-ref-5)
6. Rafie, et al., *supra* note 4. [↑](#footnote-ref-6)
7. Kate Grindlay & Daniel Grossman, *Prescription Birth Control Access Among U.S. Women at Risk of Unintended Pregnancy*, 25(3) J. Womens Health 249 (March 2016), <https://pubmed.ncbi.nlm.nih.gov/26666711/>. [↑](#footnote-ref-7)
8. Committee on Gynecologic Practice Opinion *supra* note 2. [↑](#footnote-ref-8)
9. Loretta Gavin et al., *Providing Quality Family Planning Services: Recommendations of CDC and the U.S. Office of Population Affairs,* U.S. Centers for Disease Control and Prevention: Morbidity and Mortality Weekly Report (April 25, 2014), <https://www.cdc.gov/mmwr/preview/mmwrhtml/rr6304a1.htm?s_cid=rr6304a1_w>. [↑](#footnote-ref-9)
10. Committee on Gynecologic Practice Opinion *supra* note 2. [↑](#footnote-ref-10)
11. Claudia Hui et al., *Behind the Counter: Findings from the 2022 Oral Contraceptives Access Survey*, Advocates for Youth, (Sept. 26, 2022), <https://www.google.com/url?q=https://www.advocatesforyouth.org/wp-content/uploads/2022/09/BehindTheCounter-OralContraceptivesAccessReport-2022-1.pdf&sa=D&source=docs&ust=1699037557140445&usg=AOvVaw31k96A64u3wvM_-CGzG9Gl>. [↑](#footnote-ref-11)
12. Committee on Gynecologic Practice Opinion *supra* note 2. [↑](#footnote-ref-12)
13. Sally Rafie et al., *Pharmacist Outlooks on Prescribing Hormonal Contraception Following Statewide Scope of Practice Expansion.* 7(3) Pharmacy (Basel) 96(July 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6789671/>. [↑](#footnote-ref-13)
14. Press Release, U.S. Department of Health & Human Services,HHS, DOL, and Treasury Issue Guidance Regarding Birth Control Coverage (July 28, 2022), <https://www.hhs.gov/about/news/2022/07/28/hhs-dol-treasury-issue-guidance-regarding-birth-control-coverage.html#:~:text=Under%20the%20ACA%2C%20most%20private,counseling%20at%20no%20additional%20cost>. [↑](#footnote-ref-14)
15. Hannah Collins-Doijode et al., *Availability of Pharmacist-Prescribed Contraception in Hawai‘i*, 81(8) Hawaii J of Health & Social Welfare 218 (Aug. 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9344536/>. [↑](#footnote-ref-15)