



11 DUPONT CIRCLE NW
SUITE 800
WASHINGTON, DC 20036
202-588-5180
NWLC.ORG

Excluding Young People from Pharmacy Access is Harmful and Unnecessary

The 2021 state legislative sessions have seen new momentum for bills expanding pharmacists' ability to prescribe birth control, or pharmacy access bills. These bills increase access points to birth control by allowing it to be prescribed directly at the pharmacy without first requiring a visit to a clinician, like a doctor or a nurse. Enacted in more than a dozen states across the political spectrum,¹ pharmacy access laws can alleviate the costs and other burdens associated with seeing a clinician, particularly during a pandemic.

Many of these bills, however, have a major flaw: they exclude people under the age of 18 from getting pharmacist-prescribed contraception.² These exclusions are not supported by the evidence, which consistently demonstrates that restrictions like these undermine young people's safety rather than protect it. Additionally, young people already face disparities in access to birth control, disparities that may be exacerbated by new age restrictions. And because age exclusions would likely require people to show identification (ID) in order to get pharmacist-prescribed birth control, they may also affect people of all ages who face barriers to accessing IDs, disproportionately people of color, transgender people, undocumented residents, and people experiencing homelessness.

Age exclusions are not evidence-based and do not protect young people's safety.

While these age exclusions may be included with the intent of protecting young people's safety, doing so is not justified by the evidence. Numerous studies demonstrate that restricting young people's access to birth control undermines their health and wellness. That is why professional organizations like the American College of Obstetricians and Gynecologists,³ the American

¹ Pharmacy access laws have been passed in California, Colorado, Hawai'i, Idaho, Maryland, Minnesota, New Hampshire, New Mexico, Oregon, Tennessee, Vermont, Virginia, Washington, and West Virginia, as well as in Washington, DC.

² As of February 11, pharmacy access bills with age restrictions have been introduced in Arizona (SB 1082), Arkansas (HB 1069), Indiana (HB 1379), Iowa (HF 434, HF 448, SB 1157), Kansas (HB 2342), Massachusetts (SD 280, S. 1309), Rhode Island (HB 5241), South Carolina (HB 3175, SB 0151), and Wisconsin (SB 30). Pharmacy bills without age restrictions have been introduced in Illinois (HB 135), New Jersey (A4673), and New York (A1125).

³ American College of Obstetricians and Gynecologists' Committee on Adolescent Health Care. (2019). *Counseling adolescents about contraception*. <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Adolescent-Health-Care/Counseling-Adolescents-About-Contraception>.

Academy of Pediatrics,⁴ the American Medical Association,⁵ and the Society for Adolescent Health and Medicine⁶ recommend reducing barriers young people face to accessing birth control.

Methods available through a pharmacist like oral contraception are safe and highly effective for young people; in fact, contraindications to oral contraception are less common among teenagers than they are among older birth control users.⁷ With or without an age restriction, pharmacists are always required to conduct an individualized screening before prescribing contraception to someone of any age, just as a clinician must. Evidence from several states indicates that pharmacists assess patient needs and prescribe contraception at similar rates as clinicians. For example, one study found that the safety profile of pharmacist-prescribed contraception was on par with what is seen among clinicians, with less than 1% of patients with medical contraindications receiving a prescription.⁸ Adults obtaining hormonal contraception from pharmacists were also as likely to receive side-effect counseling as those whose prescribers were clinicians.⁹

Some legislators raise concerns that making contraception more accessible may lead young people to be more likely to have sex. Although sexual activity among young people should not be stigmatized, studies repeatedly show that greater access to birth control does not increase sexual activity among teenagers; many young people will continue to be sexually active, except that they are more likely to forgo contraception if they face barriers to getting it.¹⁰ Making contraception more accessible simply enables those who choose to have sex to do so in a manner consistent with their pregnancy intentions. Making contraception more accessible also allows young people to use contraceptives to treat a range of medical conditions that are particularly common in adolescence, including painful or irregular periods and acne. In one study, teenagers (age 15–19) who were using oral contraceptives were more likely to do so for non-contraceptive purposes (82%) than for birth control (67%); in fact, 33% of teenage pill users reported using oral contraceptive pills exclusively for non-contraceptive purposes.¹¹

Some legislators may be concerned that pharmacy access will affect minors' decisions about whether to tell their parents that they are using contraception. But adding an age exclusion does

⁴ Ott, M. A., Sucato, G. S., and Committee on Adolescence of the American Academy of Pediatrics. (2014). Contraception for adolescents. *Pediatrics* 134(4). e1257-e1281. <https://doi.org/10.1542/peds.2014-2300>.

⁵ AMA Council on Ethical and Judicial Affairs. (2014). AMA Code of Medical Ethics' Opinion on Adolescent Care. *Virtual Mentor* 16(11). 901-902. <https://doi.org/10.1001/virtualmentor.2014.16.11.coet1-1411>.

⁶ The Society for Adolescent Health and Medicine & the American Academy of Pediatrics. (2015). Confidentiality protections for adolescents and young adults in the health care billing and insurance claims process. *Journal of Adolescent Health* 58(3). 374-377. <https://doi.org/10.1016/j.jadohealth.2015.12.009>.

⁷ Upadhy, K. K. et al. (2017). Over-the-counter access to oral contraceptives for adolescents. *Journal of Adolescent Health* 60(6). 634-640. <https://doi.org/10.1016/j.jadohealth.2016.12.024>.

⁸ Anderson, L. et al. (2019). Pharmacist provision of hormonal contraception in the Oregon Medicaid population. *Obstetrics & Gynecology* 133(6). 1231-1237. <https://doi.org/10.1097/AOG.0000000000003286>.

⁹ Rodriguez, M. I. (2020). Reasons for and experience in obtaining pharmacist prescribed contraception. *Contraception* 102(4). 259-261. <https://doi.org/10.1016/j.contraception.2020.05.016>.

¹⁰ See, e.g., Fuentes, L. et al. (2018). Adolescents' and young adults' reports of barriers to confidential health care and receipt of contraceptive services. *Journal of Adolescent Health* 62(1), 36-43. <https://doi.org/10.1016/j.jadohealth.2017.10.011>.

¹¹ Jones, R. K. (2011). *Beyond birth control: The overlooked benefits of oral contraceptive pills*. Accessible at: <https://www.guttmacher.org/report/beyond-birth-control-overlooked-benefits-oral-contraceptive-pills>.

not address this concern; the age exclusion applies regardless of whether a parent consents to the prescription.¹² Further, pharmacy access bills do not affect whether a young person can be prescribed birth control as a general matter: a different set of laws govern when a young person can consent to contraceptive care, and adding or omitting an age exclusion in a pharmacy access bill does not change those laws. It does, however, mean that young people may be forced to take more burdensome steps than adults to get contraception because they must see a clinician first to get a prescription.

Inclusive pharmacy access can help reduce barriers that young people face.

Anyone who needs birth control should be allowed to access it regardless of age, whether to prevent pregnancy or—like most teenagers who use oral contraceptives—for non-contraceptive purposes.¹³ But many young people face barriers to getting birth control, like costs, difficulties accessing providers who can prescribe it, and confidentiality concerns, in addition to restrictions imposed by state laws.¹⁴

Pharmacy access bills can help alleviate some of these barriers. For example, being able to get pharmacist-prescribed birth control makes contraception more affordable for young people by reducing the costs associated with a clinician appointment, particularly for those who are uninsured or cannot use their insurance for privacy or safety reasons. Pharmacies are also more likely to be open outside of school and work hours. And importantly for many young people, who are less likely to have a car, pharmacies are typically easier to reach than clinical settings. In the United States, more than 90% of residents live within five miles of a pharmacy¹⁵ and people see their community pharmacist 12 times more frequently than their primary care provider.¹⁶ The proximity of pharmacies can be especially crucial for underserved young people: People of color, people with low incomes, and people in rural areas are all more likely to live closer to a pharmacy than to a clinical provider.¹⁷ Evidence from states that have already expanded

¹² If these bills *were* to condition young people's access to pharmacist-prescribed birth control on parental consent, that limitation would create substantial barriers. Requiring parental consent deters many young people from using contraception or accessing reproductive care even as they continue to be sexually active. *See, e.g.,* Fuentes, L. et al. (2018). Adolescents' and young adults' reports of barriers to confidential health care and receipt of contraceptive services. *Journal of Adolescent Health* 62(1), 36-43. <https://doi.org/10.1016/j.jadohealth.2017.10.011>. Numerous courts have invalidated parental involvement requirements for contraception. *See, e.g., Planned Parenthood Association v. Matheson*, 582 F. Supp. 1001 (D. Utah 1983) (applying Supreme Court precedent in *Carey v. Population Services International*, 431 U.S. 678 (1977), and holding that parental notification requirements infringe on young people's constitutional right to contraception).

¹³ Jones, R. K. (2011). *Beyond birth control: The overlooked benefits of oral contraceptive pills*. Accessible at: <https://www.guttmacher.org/report/beyond-birth-control-overlooked-benefits-oral-contraceptive-pills>.

¹⁴ For more information about legal restrictions on young people's access to contraception, see, e.g., <https://www.guttmacher.org/state-policy/explore/minors-access-contraceptive-services>.

¹⁵ Qato, D. M. et al. (2017). The availability of pharmacies in the United States: 2007–2015. *PLoS One* 12(8). e0183172. <https://doi.org/10.1371/journal.pone.0183172>.

¹⁶ Strand, M. A. et al. (2020). Community pharmacists' contribution to disease management during the COVID-19 pandemic. *Preventing Chronic Disease* 17. 200317e. <http://dx.doi.org/10.5888/pcd17.200317>.

¹⁷ *Ibid.*; Kelling, S. E. (2015). Exploring accessibility of community pharmacy services. *Innovations in Pharmacy* 6(3). <https://doi.org/10.24926/iip.v6i3.392>. For example, a study of young women aged 18–19 in Michigan found that Black women were more likely to live near a pharmacy than white women. Barber J. S. et al. (2019).

pharmacy access suggests that younger people may particularly benefit from these laws. For example, in a study of adult women in four states, those who obtained contraception from pharmacists were more likely to be aged 18–24 than those who were prescribed birth control by a clinician.¹⁸

Including age exclusions in pharmacy access bill would maintain those barriers, undermining the goal of pharmacy access and exacerbating the disparities between young people and other birth control users. A pharmacy access bill with an age exclusion may even undermine their existing access to birth control as prescribed by clinicians. In many states, it would create different rules for when a minor can access birth control in clinical and pharmacy settings, creating confusion among clinicians, pharmacists, and young people about when and where a minor can receive contraception.

Restricting access to minors with an existing prescription is not a viable solution.

Most of the bills that have been introduced in 2021 do not allow people under the age of 18 to get pharmacist-prescribed birth control at all, under any circumstances. But a small number allow people under the age of 18 to use pharmacy access if they have evidence of a prior prescription from a clinician. This provision does not fix the problems that age restrictions create. Requiring a prior prescription undermines the benefits of pharmacy access by compelling birth control users to first see a clinician—precisely the barrier that these bills seek to address. This restriction also runs contrary to the evidence since screening for contraception by trained pharmacist would likely be no less thorough or accurate than a physician’s assessment. As a practical matter, it can also be challenging to obtain evidence of a prescription, especially when most prescriptions are transmitted electronically.

Additionally, many people who would benefit from pharmacist-prescribed birth control are new users or users that do not have a recent prescription. For example, a study in Oregon found that about three-quarters (74%) of Medicaid recipients who were prescribed contraception by pharmacists had no history of a birth control prescription in the preceding 30 days, and 62% had not filled a contraceptive prescription that would end in the preceding 180 days.¹⁹

Age restrictions may exclude people of any age who does not have a photo ID.

In order to enforce an age restriction, pharmacists would likely need to rely on the patients’ photo ID, like a driver’s license or a passport, to confirm their date of birth. But requiring photo ID could exclude many adults from pharmacist-prescribed birth control, along with younger people. A 2006 study of U.S. citizens found that more than one in ten (11%) did not have a

Contraceptive desert? Black-white differences in characteristics of nearby pharmacies. *Journal of Racial and Ethnic Health Disparities* 6(4), <https://doi.org/10.1007/s40615-019-00570-3>.

¹⁸ Rodriguez M. I. et al. (2020). Association of pharmacist prescription with dispensed duration of hormonal contraception. *JAMA Network Open* 3(5). e205252. <https://doi.org/10.1001/jamanetworkopen.2020.5252>.

¹⁹ Anderson, L. et al. (2019). Pharmacist provision of hormonal contraception in the Oregon Medicaid population. *Obstetrics & Gynecology* 133(6). 1231-1237. <https://doi.org/10.1097/AOG.0000000000003286>.

government-issued photo ID.²⁰ For many people, obtaining a photo ID is a process fraught with costs, administrative barriers, and discriminatory policies:

- **For people with low incomes**, the costs of IDs can be prohibitive, particularly when combined with other associated costs, like going to the DMV (which can include travel costs as well as expenses like taking time off work or paying for childcare) or obtaining existing proof of identity.²¹
- **Black people and people of color** are especially likely not to have a photo ID. For example, in the 2006 study, 25% of Black people lacked a photo ID, more than four times the rate among white people (8%).²²
- **People who are experiencing homelessness or housing instability** may have difficulty providing proof of residence or a prior ID in order to obtain a current ID and paying fees.²³
- High costs, arcane policies, and discriminatory procedures make it difficult for many **transgender people** to obtain accurate IDs, with one national study of transgender adults finding that 68% did not have any form of ID with the correct name and gender.²⁴
- **Disabled people** are less likely to have access to the common forms of ID, and with one in three living in poverty, they are less likely to be able to afford the costs associated with obtaining one.²⁵

Age exclusions in pharmacy access bills are not supported by the evidence, they are unnecessary and ineffective, and they thwart access to contraceptives for many of the people who would most benefit from pharmacist-prescribed birth control. The unjustified harm they cause for young people, as well as for people of all ages without photo ID, makes it crucial to pass pharmacy access bills without age exclusions.

Additional Assistance

For more assistance on age restrictions in pharmacy access bills or other legislation related to contraception, contact Ma'ayan Anafi, National Women's Law Center, at manafi@nwlc.org.

²⁰ Brennan Center for Justice at NYU School of Law. (2006). *Citizens without proof: A survey of Americans' possession of documentary proof of citizenship and photo identification*. 3. Accessible at: https://www.brennancenter.org/sites/default/files/2020-09/download_file_39242.pdf.

²¹ Gaskins, K. & Iyer S. (2012) *The challenge of obtaining voter identification*. Accessible at: <https://www.brennancenter.org/our-work/research-reports/challenge-obtaining-voter-identification>.

²² Brennan Center for Justice at NYU School of Law. (2006). *Citizens without proof: A survey of Americans' possession of documentary proof of citizenship and photo identification*. 3. Accessible at: https://www.brennancenter.org/sites/default/files/2020-09/download_file_39242.pdf.

²³ Wiltz, T. (2017). *Without ID, homeless trapped in vicious cycle*. Accessible at: <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2017/05/15/without-id-homeless-trapped-in-vicious-cycle>.

²⁴ James, S. E. et al. (2016). *The report of the 2015 U.S. Transgender Survey*. 85. Accessible at: <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

²⁵ smith, s.e. (2016, April). Voting is already hard for people with disabilities. Voter ID laws make it even harder. *Vox*. Accessible at: <https://www.vox.com/2016/4/1/11346714/voter-id-laws-disabilities>.