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THE CONSERVATIVE CASE FOR GREATER BIRTH CONTROL ACCESS

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INTRODUCTION

When “the pill” was officially approved for contraceptive use by the Food and Drug Administration (FDA) in 1960, it was far from clear how it would be received by the American public. The new product was lauded by women’s rights advocates, yet condemned by social conservatives who thought it helped to usher in the growing promiscuity of the sexual revolution. Sixty years later, however, birth control has become ingrained in American life; now, the overwhelming majority of Americans think birth control is morally acceptable, and the pill is the most popular form of contraception for birth control users.¹

Yet, even with broad public support for birth control itself, reproductive rights battles on both the state and federal

1. Megan Brenan, “Birth Control Still Tops List of Morally Acceptable Issues, Gallup, May 29, 2019. <https://news.gallup.com/poll/257858/birth-control-tops-list-morally-acceptable-issues.aspx>; “Contraceptive Use in the United States,” Guttmacher Institute, April 2020. <https://www.guttmacher.org/fact-sheet/contraceptive-use-united-states>.

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levels have raged on. The Trump administration’s ban on Title X funding for groups giving referrals to abortion providers, as well as the recent expansion of birth control coverage opt-outs, have outraged the left. While on the state level, an increasing number of states are requiring insurance coverage for 12-month supplies of birth control.² Even amidst these fights, however, both liberal and conservative policymakers have publicly offered support for expanding birth control access. While the push for greater birth control access is traditionally associated with the political left—given the longtime progressive focus on women’s rights and reproductive health—there is an equally strong conservative and libertarian case for expanding birth control availability. Unfortunately, many proponents of limited and effective government have failed to recognize this.

At the most basic level, clearing away unnecessary regulatory clutter has long been a priority for advocates of limited government, but increasing birth control access also aligns with classical liberal values such as individual autonomy, commercial freedom and personal decision-making. Expanding birth control access also adheres with broader health policy goals shared by many on the ideological right, which makes it a natural fit for conservatives. President George H.W. Bush understood this well; in 1968, then as a U.S. Representative, Bush publicly supported access to family planning and specifically cited its ability to reduce unplanned pregnancy and, subsequently, public spending on social welfare programs.³

More signs are emerging that modern Republican politicians are also increasingly embracing the issue. In 2019, prominent progressive Rep. Alexandria Ocasio-Cortez, (D-N.Y.), engaged in a much-publicized social media exchange with conservative Sen. Ted Cruz, (R-Texas), in which both expressed support for a bill that would require the FDA

2. Lindsay Street, “Birth control access extended under Medicaid,” Statehouse Report, July 10, 2020. <https://www.statehousereport.com/2020/07/10/news-briefs-birth-control-access-extended-under-medicaid/>; “Coverage for an Extended Supply of Contraception,” Power to Decide, May 2020. <https://powertodecide.org/sites/default/files/2020-05/Extended%20Supply%20of%20Contraception.pdf>.

3. Allison Herrera, “Before he was president, H.W. Bush championed family planning,” The World, Dec. 5, 2018. <https://www.pri.org/stories/2018-12-05/he-was-president-hw-bush-championed-family-planning>.

to make birth control available over-the-counter (OTC).⁴ Additionally, Sen. Joni Ernst (R-Iowa) and Sen. Cory Gardner (R-Colo.) have sponsored a bill that would fast track the process of making birth control available OTC in recent congressional sessions.

Some of this movement can likely be attributed to the tremendous popularity of birth control generally. In Gallup's 2019 Values and Beliefs poll, which surveys Americans on various moral issues, 92 percent of respondents found birth control to be morally acceptable.⁵ In fact, the use of birth control enjoyed far more support among Americans than any other personal behavior included in the survey, including drinking alcohol, getting a divorce or wearing animal fur. Not only was birth control the only category that scored above 90 percent support, but it has maintained its number one spot every year since it was included as a category (dating back to 2012).⁶

Birth control is not just viewed favorably, either; it is also widely used. Over 60 percent of women are presently using at least some form of contraception, while estimates suggest that 82 percent of sexually active women have used the pill at some point in their lifetimes.⁷ Additionally, married women greatly outnumber unmarried and never-married women when it comes to contraceptive use.⁸

THE CURRENT LANDSCAPE OF BIRTH CONTROL ACCESS

Despite its widespread popularity among Americans—and its legality since 1960—facets of the birth control paradigm have been politically explosive. The contraceptive mandate included in the Obama administration's Affordable Care Act (ACA) sparked fights that still resonate in some political circles. And as litigation surrounding the mandate wound its way to the Supreme Court, groups on both the left and right focused their energy on debating whether religious groups that opposed the mandate should be exempt from its requirements.

This concentrated focus on insurance coverage—as well as contraception's place within the ACA as a whole—has obscured an important reality: access to birth control remains far more complicated for many Americans than is necessary or desirable.

In other words, while birth control is both legal and popular, it is not always easily obtainable. The current process for procuring most methods of birth control, including the pill, involves a yearly trip to a doctor's office, a written prescription and regular trips to the pharmacy to fill the prescription. This multistep process entails significant opportunity costs as well as practicality issues for many women—particularly those who reside in areas with limited medical services.

According to the American College of Obstetricians and Gynecologists (ACOG), 49 percent of U.S. counties do not have an obstetrician-gynecologist (OB-GYN).⁹ While general practitioners and other health professionals, such as physician's assistants, address some of this shortage by writing birth control prescriptions, the need for a prescription itself creates an unnecessary hurdle. Instead of requiring women to obtain a prescription from a doctor, many birth control methods could simply be available OTC or by consulting directly with a trained pharmacist. In fact, the United States remains in the distinct minority when it comes to birth control, as only 31 percent of countries still require a prescription for its use.¹⁰

There is good reason to believe that access is a real issue for many women, too. A national survey in 2004 showed that 28 percent of women have experienced difficulties obtaining or filling their contraceptive prescriptions.¹¹ Further, a majority of women believe that making birth control available OTC would make it easier to obtain and to stay on it more consistently.¹² Another study of women living along the United States-Mexico border found that over 90 percent of women surveyed were purchasing their birth control across the border in Mexico, where it was available OTC, as opposed to in the United States.¹³

4. Ted Cruz (@tedcruz), "I agree. Perhaps, in addition to the legislation we are already working on together to ban Members of Congress from becoming lobbyists, we can team up here as well. A simple, clean bill making birth control available over the counter. Interested?", June 12, 2020, 12:09 PM. Tweet. https://twitter.com/tedcruz/status/113884086777712128?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E113884086777712128&ref_url=https%3A%2F%2Fwww.vox.com%2Fidentities%2F2019%2F6%2F13%2F18677710%2Fted-cruz-birth-control-aac-otc-counter.

5. "Moral Issues." Gallup, 2020. <https://news.gallup.com/poll/1681/moral-issues.aspx>.

6. Ibid.

7. Megan L. Kavanaugh and Jenna Jerman, "Contraceptive Method Use in the United States: Trends and Characteristics Between 2008, 2012 and 2014." *Contraception* 97:1 (January 2018), pp. 14-21. <https://pubmed.ncbi.nlm.nih.gov/29038071/>;

Kimberly Daniels et al., "Contraceptive Methods Women Have Ever Used: United States, 1982-2010." *National Health Statistics Reports*, 62 (Feb. 14, 2013), pp. 1-15. <https://pdfs.semanticscholar.org/cfe/9a5b9a1fd9c75acee82612c4b38294ebf937.pdf>.

8. "Contraceptive Use in the United States," Guttmacher Institute, April 2020. <https://www.guttmacher.org/fact-sheet/contraceptive-use-united-states>.

9. The American College of Obstetricians and Gynecologists, "Committee Opinion No. 586: Health Disparities in Rural Women," *Obstetrics and Gynecology* 123:2 (February 2014), pp.384-388. <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2014/02/health-disparities-in-rural-women>.

10. Kate Grindlay et al., "Prescription requirements and over-the-counter access to oral contraceptives: a global review," *Contraception* 88:1 (July 1, 2013), pp. 91-96. [https://www.contraceptionjournal.org/article/S0010-7824\(12\)01029-3/abstract](https://www.contraceptionjournal.org/article/S0010-7824(12)01029-3/abstract).

11. Amanda Dennis and Daniel Grossman, "Barriers to Contraception and Interest in Over-the-Counter Access Among Low-Income Women: A Qualitative Study," *Perspectives on Sexual and Reproductive Health* 44:2 (June 2012), pp. 84-91. https://www.jstor.org/stable/42004105?seq=1#page_scan_tab_contents.

12. Ibid.

13. Joseph E. Potter et al., "Clinic Versus Over-the-Counter Access to Oral Contraception: Choices Women Make Along the US-Mexico Border," *American Journal of Public Health* 100:6 (June 2010), pp. 1130-1136. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2866585>.

In recent years, most members of the medical community—including ACOG and the American Medical Association—have publicly endorsed OTC access for hormonal contraception.¹⁴ As these medical professionals have pointed out, oral contraceptives like the pill are safe for OTC access and do not carry risks beyond those of other commonly available drugs, such as aspirin.¹⁵

Despite this medical consensus, the FDA has continued to require a prescription for most types of contraception in the United States. Making the pill available OTC is a sluggish, multiyear, FDA-led process that ultimately remains a black box to many birth control advocates. So, in the meantime, numerous lawmakers across the country are using federalism to their advantage and pursuing birth control deregulation at the state level.

To date, a handful of states have passed what are known as “pharmacy-access” laws.¹⁶ These laws permit pharmacists to directly prescribe birth control, thereby skipping the requirement that women must first obtain a prescription before going to the pharmacy. Allowing women to obtain contraception directly from a pharmacy reduces the number of visits they must make to different medical professionals. Furthermore, pharmacies are often more commonly available—and more evenly distributed geographically—throughout the country than doctors’ offices, which increases access to contraception.

Interestingly, the states that have implemented pharmacy-access reform span a broad swath of the political spectrum. Deep red states like Utah and Tennessee, as well as deep blue states like California, have passed these reforms, and pharmacy-access legislation has been introduced in states as ideologically divergent as Arkansas and Massachusetts.

LIMITED GOVERNMENT AND BIRTH CONTROL

Conservatives and libertarians may disagree on certain policies, but individual autonomy, self-sufficiency and personal responsibility are all key themes for those who favor lim-

ited, effective government. Family planning with hormonal birth control falls squarely into each of those principles. For instance, using contraception consistently to achieve one’s family planning outcomes is associated with higher levels of self-efficacy and the ability to follow through and maintain a regimen.¹⁷ These beliefs are foundational to the conservative maxim that an individual is responsible for his or her own life choices.

But government-imposed regulatory barriers—such as the prescription requirement for birth control—distort individual decision-making when it comes to contraception. Just as notions of autonomy, personal responsibility and self-efficacy do not exist in a vacuum, individual reasons for choosing one method of birth control over another are often complicated. Women choose to use various forms of contraception for many different reasons, including cost, convenience and perceptions about safety and effectiveness.

Additionally, hormonal contraception is used for reasons other than just preventing pregnancy; the pill also helps treat painful symptoms associated with numerous menstrual disorders, and continued use brings reduced risks of ovarian, endometrial and colorectal cancers. Overall, 14 percent of women use birth control solely for non-pregnancy-related reasons, while 58 percent of women cite a secondary reason for using birth control other than pregnancy prevention.¹⁸

Decisions regarding contraception also can vary by region. Women in rural areas use hormonal contraception methods like the pill at a lower rate than their urban counterparts, but they use longer-acting methods such as intrauterine devices or permanent methods like sterilization at a higher rate.¹⁹ This may be due in part to the fact that women in rural areas have less access to nearby medical services and thus avoid options like the pill, that require obtaining a prescription and having it refilled periodically.

Given all of this, ensuring that women can readily choose the form of contraception that is most appropriate for their individual situation without undue government interference promotes the sort of individual autonomy and self-determination that conservatives and libertarians frequently champion. To illustrate the disparate—and oftentimes nonsensical—regulatory treatment between different types of contraceptive methods, consider the current regulatory posture of emergency contraception versus traditional contraception.

14. The American College of Obstetricians and Gynecologists, “Committee Opinion Number 788: Over-the-Counter Access to Hormonal Contraception,” *Obstetrics and Gynecology* 134 (October 2019). <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/10/over-the-counter-access-to-hormonal-contraception#:~:text=Based%20on%20the%20current%20evidence,hormonal%20contraception%20without%20age%20restrictions>; Gerald E. Harmon, “Report of the Board of Trustees: Over-the-Counter Contraceptive Drug Access (Resolution 110-A-17),” American Medical Association, May 2, 2018. <http://ocsoctc.org/wp-content/uploads/2018/06/2018-AMA-OCs-OTC-resolution-110-A-17.pdf>.

15. The American College of Obstetricians and Gynecologists, “Committee Opinion Number 788.” <https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/10/over-the-counter-access-to-hormonal-contraception#:~:text=Based%20on%20the%20current%20evidence,hormonal%20contraception%20without%20age%20restrictions>.

16. Courtney M. Joslin and Steven Greenhut, “Birth Control in the States: A Review of Efforts to Expand Access,” *R Street Policy Study* No. 159, November 2018. <https://www.rstreet.org/wp-content/uploads/2018/11/Final-159.pdf>.

17. Odessa P. Hamidi et al., “High Self-Efficacy Is Associated with Prescription Contraceptive Use,” *Women’s Health Issues* 28:6 (Nov. 1, 2018), pp. 509-513. [https://www.whjournal.com/article/S1049-3867\(17\)30533-9/pdf](https://www.whjournal.com/article/S1049-3867(17)30533-9/pdf).

18. Rachel K. Jones, “Beyond Birth Control: The Overlooked Benefits of Oral Contraceptive Pills,” Guttmacher Institute, November 2011. <https://www.guttmacher.org/report/beyond-birth-control-overlooked-benefits-oral-contraceptive-pills>.

19. Kavanaugh and Jerman. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5959010>.

Emergency contraception, such as Plan B, is a progestin short-acting method similar to regular progestin-only birth control pills but with a higher dose of the active ingredient. Yet under current law, Plan B and other emergency contraception methods are available OTC, while hormonal contraception methods like the pill require a prescription. While this is due in part to the fact that a prescription for emergency contraception would be difficult to obtain and fill in the time-frame needed for it to be effective, it still makes little sense to make access to traditional methods of birth control more difficult to obtain than emergency options that have higher doses of active ingredients. The regulatory framework that requires a prescription for one version of contraception and not for another that is virtually the same, is a textbook definition of needless and overly complex regulation.

This regulatory framework actually encourages women to use emergency alternatives instead of more consistent, preventative methods, which is the opposite of what should be encouraged. By making the regulatory regime surrounding emergency and traditional birth control more equal, individuals would be able to make decisions based on what works best for them, rather than have their decision-making irrationally skewed by government dictate. Given conservatism's long emphasis on providing individuals with ample space to make personal decisions regarding their health, removing perverse government-created incentives surrounding birth control access should be a priority.

In addition to these philosophical reasons to support greater birth control access, conservatives and libertarians also have strong political reasons to do so. Politically charged allegations have been made that the Republican Party—and those on the right writ large—are guilty of neglecting women's issues.²⁰ Worse, some commentators and Democratic politicians have accused the GOP of being anti-women.²¹ Regardless of one's view about the veracity of these political attacks, there is at least some evidence that they are having an effect at the ballot box. For instance, the 2018 midterm elections showed that the GOP is losing suburban female voters—traditionally a key conservative voting bloc—at an alarmingly high rate.²²

20. Rachael Bade et al., "GOP women warn of eroding support among female voters amid a 'gender chasm,'" *The Washington Post*, Aug. 7, 2020. https://www.washingtonpost.com/politics/republican-women-falling-support-trump/2020/08/07/108bec18-d5b6-1lea-b9b2-1ea733b97910_story.html.

21. Alyssa Milano, "Republicans are Waging War on Women—and Two Women Can Stop Them," *Harper's Bazaar*, Sept. 20, 2018. <https://www.harpersbazaar.com/culture/politics/a23337725/alyssa-milano-opinion-brett-kavanaugh-christine-blaise-ford-republican-war-women>.

22. Sean Rossman, "The suburbs turned on Republicans and Trump. The midterm election results prove it," *USA Today*, Nov. 8, 2018. <https://www.usatoday.com/story/news/politics/elections/2018/11/08/midterms-suburbs-republicans-democrats-trump/1921590002>.

Unlike much of the political advice aimed at the right, which frequently seems to counsel that lawmakers abandon the preferences of their truest supporters, increased access to birth control enjoys broad support among many right-leaning demographics. For conservatives as a whole, birth control enjoys widespread acceptance, as demonstrated by 90 percent of the very conservative or conservative respondents in the Gallup Values and Beliefs survey who said birth control was morally acceptable.²³

Additionally, a 2015 survey on young Republicans' attitudes toward birth control from The National Campaign to Prevent Teen and Unplanned Pregnancy found that 29 percent of young Republicans thought birth control should be available OTC so that insurance would not have to cover it.²⁴ Twenty-one percent believed that birth control should be available over the counter and that insurance should cover all forms of contraception.²⁵ Together, half of respondents supported OTC access to birth control in some form (13 percent were unsure).²⁶ Additionally, young conservatives believe that "it is important for people to be able to control their own destiny, build their own lives, and take personal responsibility," and that "[b]irth control is part of that equation for most young Republicans."²⁷

As mentioned, right-leaning politicians have responded by starting to show their support for increased birth control access. For example, Sens. Joni Ernst (R-Iowa) and Cory Gardner (R-Colo.) introduced the Allowing Greater Access to Safe and Effective Contraception Act, which would give manufacturers of birth control pills priority FDA review and waive their priority application fee.²⁸ The bill would also allow women to use pre-tax dollars from their Health Savings Accounts to pay for the OTC pill.

The experience at the state level largely mirrors the federal dynamic. Former Louisiana Gov. Bobby Jindal and Iowa Gov. Kim Reynolds have voiced support for greater birth control access.²⁹ Reynolds has even put this support into action by working with the Iowa legislature in 2019 to promote a bill

23. Megan Brenan, "Birth Control Still Tops List of Morally Acceptable Issues," Gallup, May 29, 2019. <https://news.gallup.com/poll/257858/birth-control-tops-list-morally-acceptable-issues.aspx>.

24. Kristen Soltis Anderson, "Young Republicans, Birth Control, and Public Policy," Power to Decide, March 2015. <https://powertodecide.org/what-we-do/information/resource-library/young-republicans-birth-control-public-policy>.

25. *Ibid.*

26. *Ibid.*

27. *Ibid.*

28. S. 930, Allowing Greater Access to Safe and Effective Contraception Act, 116th Congress. <https://www.congress.gov/bill/116th-congress/senate-bill/930/text>.

29. Kevin Robillard, "Jindal: Birth control should be OTC," *Politico*, Dec. 14, 2012. <https://www.politico.com/story/2012/12/bobby-jindal-birth-control-should-be-over-the-counter-085076>.

allowing pharmacists to prescribe up to a year's worth of hormonal birth control.³⁰

Since 2015, 12 states plus the District of Columbia have enacted pharmacy-access laws for birth control, including deep red states like Utah, Tennessee and West Virginia. In addition, over a dozen states introduced a version of the pharmacy-access model for birth control in the past year, including red (or purple-red) states like Texas, Arkansas, Missouri, Iowa and South Carolina. Republican legislators have sponsored or cosponsored at least six of these bills, with even more right-leaning lawmakers pledging to pursue pharmacy-access legislation in the coming years.

DISENTANGLING THE MODERN HEALTH CARE SYSTEM

Aside from the ample philosophical and political reasons that underpin conservative support for expanding birth control access, a center-right push to deregulate contraception is in the vein of numerous existing conservative and libertarian public policy priorities. Namely, the modern health care system in America is overly complicated, expensive to consumers and sidled with supply-side issues.

In a 2018 report, the secretaries of the Department of Health and Human Services, the Department of the Treasury and the Department of Labor noted that modern health care policy in the United States “increasingly imposes a bewildering array of complexity and inefficiency on consumers, employers, workers, and taxpayers.”³¹ High prescription drug prices, regulatory barriers and a looming primary care provider shortage all threaten the idea of an accessible and transparent health care system.³²

Conservatives and libertarians have long warned of the perils inherent in our modern health care regime and have offered many solutions. For example, small government advocates have argued that the FDA's lengthy drug approval process should be streamlined in an effort to lower drug prices.³³

Similarly, right-leaning policy wonks have pointed out how certain insurance programs have subjugated competitive pricing and are desperately in need of an infusion of market forces.³⁴ Free marketers have also frequently argued that health care availability for many Americans is insufficient due to a shortage of doctors and other medical professionals—a situation that could be remedied by supply-side solutions such as expanding the services that many health care professionals can provide.³⁵

The current regulatory regime surrounding birth control provides a prominent example of how our modern medical system arbitrarily limits access to services in a way that exacerbates medical shortages. Birth control access, therefore, fits naturally alongside conservative and libertarian health policy reform goals.

Expanding access to health care has taken on vital importance in modern day America, particularly as the population continues to age. As researchers from the Kaiser Family Foundation have noted, 58 million Americans live in what are known as “health professional shortage areas,” in which the number of primary care physicians falls below federal standards.³⁶ In some states—particularly rural ones—over 30 percent of the population resides in a shortage area.

Unfortunately, the situation is only projected to get worse. According to the Association of American Medical Colleges, there will be a nationwide physician shortfall of 40,000 to 100,000 physicians by 2030.³⁷ Hoping that more doctors alone can address this shortfall is unrealistic. Recent research shows the number of residency training positions for just-graduated doctors has not kept pace with the number of medical school graduates.³⁸ This means that more and more doctors are graduating medical school only to be unable to find a residency position that allows them to train to become a full-time doctor.

Easing requirements for foreign doctors to practice in the United States is one possible way to alleviate this physician

30. Katarina Sostaric, “Gov. Reynolds: Allowing Birth Control Without Prior Prescription Is ‘The Right Thing To Do,’” Iowa Public Radio, Jan. 3, 2019. <https://www.iowa-publicradio.org/post/gov-reynolds-allowing-birth-control-without-prior-prescription-right-thing-do#stream/0>.

31. “Reforming America's Healthcare System Through Choice and Competition,” U.S. Dept. of Health and Human Services, U.S. Dept. of the Treasury and U.S. Dept. of Labor. <https://www.hhs.gov/about/news/2018/12/03/reforming-americas-healthcare-system-through-choice-and-competition.html>.

32. Robert Graboyes, “Top-down government efforts to corral drug prices will fail,” *The Hill*, April 23, 2019. <https://thehill.com/opinion/finance/440215-top-down-government-efforts-to-coral-drug-prices-will-fail>; “Primary Care Health Professional Shortage Areas (HPSAs),” Kaiser Family Foundation, Sept. 30, 2019. <https://www.kff.org/other/state-indicator/primary-care-health-professional-shortage-areas-hpsas/?currentTimeframe=0&sortModel=%7B%22collid%22:%22Location%22,%22sort%22:%22asc%22%7D>.

33. Robert Graboyes, “Top-down government efforts to corral drug prices will fail,” *The Hill*, April 23, 2019. <https://thehill.com/opinion/finance/440215-top-down-government-efforts-to-coral-drug-prices-will-fail>.

34. Michael F. Cannon and Michael Tanner, *Healthy Competition: What's Holding Back Health Care and How to Free It* (Cato Institute, 2007).

35. Andrea O'Sullivan and Elise Amez-Droz, “For Better Primary Care Access, Look to Supply-Side Solutions,” *The Bridge*, May 17, 2019. <https://www.mercatus.org/bridge/commentary/better-primary-care-access-look-supply-side-solutions>.

36. Amanda Van Vleet and Julia Paradise, “Tapping Nurse Practitioners to Meet Rising Demand for Primary Care,” Kaiser Family Foundation, January 2015. <http://files.kff.org/attachment/issue-brief-tapping-nurse-practitioners-to-meet-rising-demand-for-primary-care>.

37. Emily Heller et al., “Improving Access to Care in Rural and Underserved Communities: State Workforce Strategies,” National Conference of State Legislatures, August 2017. <https://www.ncsl.org/documents/health/WorkforceStrategies2017.pdf>.

38. Kevin Dayaratna et al., “Reforming American Medical Licensure,” *Harvard Journal of Law & Public Policy* 42:1 (2019), pp. 253-278. <http://www.harvard-jlpp.com/wp-content/uploads/sites/21/2019/02/Larkin-Final.pdf>.

shortfall.³⁹ An additional option worth considering is expanding the practice authority of other medical professionals—such as nurses, physician assistants and pharmacists—to allow them to take on more primary care activities in lieu of doctors.

Today, most states limit prescriptive authority for contraception to licensed doctors, physician assistants and nurse practitioners. This grants these professionals exclusive practice authority when it comes to birth control. Eliminating this exclusive authority—by allowing pharmacists to prescribe hormonal birth control, for example—is another way to increase access to medical services and alleviate doctor shortages.

The potential impact on health care access from allowing pharmacists to prescribe hormonal contraception could be immense. Using Bureau of Labor Statistics data, we have calculated that the number of pharmacists in many states nearly equals the number of primary care doctors.⁴⁰ This is particularly true in rural states and areas with sparser populations. For instance, in Arkansas, where a bill that would allow pharmacy access to birth control was introduced in 2019, there are around 3,200 pharmacists compared to 3,500 primary care physicians.⁴¹ And in Montana and South Dakota, pharmacists actually outnumber primary care doctors by a slight margin.⁴² Fourteen states have at least eight pharmacists for every 10 primary care doctors.⁴³ Allowing pharmacists to take on greater primary care responsibilities in these states could nearly double their contraception services supply.

Early research has suggested that efforts to more fully incorporate pharmacists into the primary care activities of patients can also help alleviate issues like “burnout” among doctors and could even improve patient outcomes.⁴⁴ It is currently estimated that over half of doctors suffer from what is known as occupational burnout, which can lead to decreased patient satisfaction and increased medical errors. Therefore, providing overburdened doctors with more assistance by expanding the role of pharmacists could help both doctors and patients. Additionally, a review of relevant research compiled for the U.S. Surgeon General concluded that more extensive primary care roles for pharmacists—including pre-

scribing authority—was associated with improved patient outcomes.⁴⁵

Expanding the primary care authority of pharmacists to prescribe birth control is also a type of “scope-of-practice” deregulation that falls under the general banner of occupational licensing reform. By taking advantage of the broad popularity and support for birth control deregulation, policymakers could use licensing reform in the contraceptive arena as an entry point for more broad-based medical licensing reform to increase health care supply.⁴⁶ States have already begun experimenting with granting pharmacists more authority in non-contraceptive areas, such as allowing them to prescribe certain treatments for tobacco and opioid addictions, as well as travel-related medications for conditions like motion sickness.⁴⁷

Reducing government spending and protecting the public fiscally are other perpetual points of emphasis for conservatives and libertarians when it comes to health care policy, especially in light of sky-high spending and debt across all levels of government. Here again, reforming birth control access can play a role.

Research has shown that increased contraception access can help reduce the costs of unintended pregnancies. The unintended pregnancy rate in the United States hovers around half of all pregnancies, depending on the year.⁴⁸ In 2010, the most recent year for which there is data, public health insurance programs paid nearly \$41 billion in health care costs for pregnancies. Over half of that money—\$21 billion—went to fund costs related to unintended pregnancies.⁴⁹ As researchers at the Guttmacher Institute have noted, publicly funded

39. Ibid.

40. Courtney Joslin, “Medical Licensing Reform Can Provide Better Access to Primary Care,” *R Street Shorts* No. 80, December 2019. <https://www.rstreet.org/2019/12/11/medical-licensing-reform-can-provide-better-access-to-primary-care>.

41. Ibid.

42. Ibid.

43. Ibid.

44. Kylee A. Funk, et al., “Primary Care Providers Believe That Comprehensive Medication Management Improves Their Work-Life,” *Journal of the American Board of Family Medicine*, 32:4 (July 2019), pp. 462-473. <https://www.jabfm.org/content/32/4/462>.

45. Scott Giberson et al., “Improving Patient and Health System Outcomes through Advanced Pharmacy Practice. A Report to the U.S. Surgeon General,” Office of the Chief Pharmacist, U.S. Public Health Service, December 2011. https://www.accp.com/docs/positions/misc/improving_patient_and_health_system_outcomes.pdf.

46. Edward J. Timmons, “Healthcare License Turf Wars: The Effects of Expanded Nurse Practitioner and Physician Assistant Scope of Practice on Medicaid Patient Access,” Mercatus Working Paper, January 2016. <https://www.mercatus.org/system/files/Timmons-Scope-of-Practice-v2.pdf>.

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insurance programs paid close to 70 percent of the costs related to unintended pregnancies in 2010.⁵⁰

All told, a publicly funded pregnancy and birth usually costs between \$12,000 and \$21,000.⁵¹ In a scenario where oral contraceptives were available OTC, it could result in anywhere from a 7 to 25 percent decrease in the number of unintended pregnancies among low-income women, thereby reducing these costs.⁵² Preliminary data at the state level backs this up. When Oregon became the first state to allow pharmacists to prescribe birth control in 2015, the state saved \$1.6 million in publicly funded health care costs associated with unplanned pregnancy in the two years after implementation.⁵³

Beyond pure dollars and cents, reducing unintended pregnancies should be important to conservatives and libertarians for other reasons. Unplanned pregnancies disproportionately harm lower-income and less-educated women, both in terms of health outcomes and socioeconomic achievement.

Unplanned pregnancies are associated with poorer maternal health, lower birth weights and higher incidences of behaviors like smoking while pregnant.⁵⁴ Additionally, teenagers and young women facing unplanned pregnancy experience significantly more challenging hurdles when it comes to socioeconomic improvement throughout their lives.⁵⁵ Better access to birth control would mean fewer unplanned pregnancies and an improved way for these women to plan for the future.

Another consideration for many social conservatives is that unintended pregnancies often end in abortion. In 2011, 42 percent of unintended pregnancies ended in abortion.⁵⁶ Decreasing the number of unplanned pregnancies through increased contraceptive access could mean a significant

decrease in abortions. This reality has led many pro-life commentators and politicians to endorse making birth control more accessible.⁵⁷ Gov. Reynolds, to borrow one example, specifically cited her pro-life beliefs as among the main reasons she supported pharmacy-access legislation in Iowa.⁵⁸

CONCLUSION

At first blush, the casual observer might conclude that championing the cause of greater birth control access fits most naturally with the political left. But nearly every stripe of the ideological right has good reason to support this issue. Conservatives and libertarians have always espoused values of autonomy and self-reliance, and young conservatives today view responsible birth control use as a critical component of personal responsibility.

Market-oriented health policy wonks frequently argue for deregulation and supply-side solutions to our country's health care services shortfall, and fiscal and social conservatives have pushed for enhanced birth control access as a way to potentially reduce unintended pregnancies and the costs associated with them. Those on the right should embrace greater access for birth control. Doing so would not only potentially help their political fortunes, it would be the right thing to do.

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