



Reproductive Health: Supporting Contraception Access and Comprehensive Sex Education



Legislative Overview Series: 2023 Public Health Spotlight

Introduction

Reproductive healthcare encompasses people’s physical, mental, and social wellbeing in relation to their reproductive systems. Public health agencies support reproductive health at all stages of life by coordinating funding sources, promoting education and awareness, and providing data to identify and address health inequities. Providing medically accurate, evidence-based, and age- and culturally-appropriate reproductive health services can promote overall health—empowering people to plan whether, when, and how they chose to build a family. Federal, state, and territorial policies can significantly impact reproductive health in a multitude of ways by facilitating contraception access and reproductive health education and awareness and ensuring the security and privacy of sexual and reproductive health data that the health department collects.

Legislative Trends

Contraception Access

An estimated 3 million unintended or mistimed pregnancies occur each year due to unmet contraceptive needs.¹ Unplanned pregnancies and pregnancies occurring close together are associated with negative maternal and infant health outcomes such as low birth rate and preterm births. Policies that promote increased contraceptive care, including education, contraceptive counseling, and access to the full range of contraceptive methods with little financial and administrative barriers, can improve health outcomes for both infants and people who can become pregnant.

In 2022, at least 15 states (California, Colorado, Idaho, Illinois, Kentucky, Louisiana, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, South Carolina, Washington, and West Virginia) considered bills related to contraception access. Two states (California and Washington) enacted laws extending insurance coverage to certain forms of contraception, with California’s new law requiring health insurance providers to cover FDA-approved over-the-counter contraceptive drugs, devices, and products without cost sharing by Jan. 1, 2024. Washington state’s new law permits insurance providers to bill postpartum contraception services separately from obstetric procedures.

Several states also enacted bills to lower administrative barriers to accessing contraception, including efforts to permit pharmacists to dispense prescription contraceptives. At least 17 states and Washington D.C. permit pharmacists to provide contraceptive care.² In 2022, Maine enacted a law permitting insurance coverage to support pharmacy dispensed hormonal birth control monthly or all at once during a 12-month period.

Comprehensive Sex Education

Comprehensive sex education refers to an age-appropriate, medically accurate, evidence-based, and culturally responsive curriculum for students through grade 12 that focuses on healthy relationships, communication, decision-making, and human development.³ Currently, sex education is required in 29 states and Washington D.C., with five states requiring comprehensive sex education curriculum if sex education is taught.

During the 2022 legislative sessions, at least 14 states (Arizona, California, Colorado, Georgia, Florida, Illinois, Maryland, Michigan, Montana, New Jersey, New York, Rhode Island, Tennessee, and Virginia) considered bills related to sex education, with three states (California, Tennessee, and Virginia) enacting laws amending their sex education requirements. California’s new law created a fund to support community-based organizations to provide and promote comprehensive sex education. Tennessee enacted a law limiting which organizations were eligible to teach sex education at public or charter schools, prohibiting contracts with entities that provide abortion services. Virginia’s new law expanded the scope of its existing sex education curriculum, allowing the high school curriculum to include information on recognizing and preventing human trafficking of children.

Data Security and Privacy

Reproductive health data such as contraceptive use rates, unintended pregnancy rates, and usage of prenatal care provides public health professionals information to find and address health inequities based on race, gender, sexual orientation, and other factors. All health data is sensitive, but there can be special sensitivities related to reproductive health data.

During the 2022 legislative sessions, several states enacted laws providing additional protections to reproductive health data. Connecticut now requires that any patient information related to reproductive health services must only be shared with written consent by the patient or the patient's guardian, with limited exceptions for public health and court orders. A new Colorado law requires that survey data collected from people who have given birth must include race, ethnicity, sexual orientation, and gender identity information be done confidentially and reported without identifying information. A series of new California laws create additional privacy protections surrounding reproductive health data, limiting the release of reproductive health information to out-of-state law enforcement if the care received is legal within California.

1. ASTHO. "Policy Statement: Reproductive Health Services." Available at <https://www.astho.org/globalassets/pdf/policy-statements/reproductive-health-services.pdf>. Accessed 11-07-2022.
2. Guttmacher Institute. "Pharmacist-Prescribed Contraceptives." Available at <https://www.guttmacher.org/state-policy/explore/pharmacist-prescribed-contraceptives>. Accessed 11-07-2022.
3. SIECUS. "2022 Sex Ed State Law and Policy Chart." Available at https://siecus.org/wp-content/uploads/2021/09/2the_s022-Sex-Ed-State-Law-and-Policy-Chart.pdf. Accessed 11-07-2022.
4. Cohen J. "FDA May Approve First OTC Birth Control Pill in the U.S.: More Novel Prescription-to-OTC Switches Could Be on Tap." Forbes. Aug. 1, 2022. Available at <https://www.forbes.com/sites/joshuacohen/2022/08/01/fda-may-approve-first-otc-birth-control-pill-in-us-more-novel-prescription-to-otc-switches-could-be-on-tap/?sh=45fd8bb4383a>. Accessed 11-07-2022.
5. The White House. "Executive Order on Protecting Access to Reproductive Healthcare Services." Available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/07/08/executive-order-on-protecting-access-to-reproductive-healthcare-services/>. Accessed 11-11-2022.

Looking Ahead

ASTHO expects states and territories to continue considering legislation related to reproductive health services, including legislation that:

- Expands contraception access by lowering financial and administrative barriers to care through expanding insurance coverage and permitting pharmacists to dispense contraception.
- Establishes comprehensive sex education curricula and supports school-based reproductive health services.
- Strengthens data and privacy protections surrounding reproductive health information that public health entities collect and maintain.



French pharmaceutical company HRA Pharma submitted a request to FDA in 2022 to sell its progestin-only oral contraception pill over the counter (OTC). If approved, it would be the first OTC birth control pill in the nation.⁴

In July 2022, a presidential executive order directed the Secretary of HHS to strengthen data and privacy protections of patients accessing reproductive healthcare services.⁵

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