H. R. 3296

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2019

Ms. PRESSLEY (for herself, Ms. OCASIO-CORTEZ, Ms. HILL of California, Mr. BERA, and Ms. O’MARA) 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”. 
SEC. 2. PURPOSE.

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

SEC. 3. FINDINGS.

The House of Representatives finds the following:

(1) Birth control is critical health care that almost all women will use at some point in their lifetimes.

(2) Access to the full range of reproductive health care, including birth control coverage as guaranteed under Federal law, provides women with the opportunity to lead healthy lives and get the care they need to reach their goals.

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

(4) An estimated 66,000,000 women of reproductive age (ages 15 through 44) live in the United States, of which nearly 70 percent are at risk of having an unintended pregnancy. Sixty percent of women of reproductive age are using a contraceptive
method and 10 percent of women at risk for unintended pregnancy are not using contraception. The rates of non-use of contraception are highest among those between 15 and 19 years old.

(5) The birth control benefit enacted under the Patient Protection and Affordable Care Act (Public Law 111–148) has been a crucial step forward in advancing access to birth control and has helped ensure nearly 62,800,000 women have the power to decide for themselves if and when to start a family.

(6) Despite legal requirements for birth control coverage and access to services, gaps remain for millions of women. A national survey found that 1 in 3 women have struggled to afford birth control at some point in their lives, and as a result, have used birth control inconsistently. Access to birth control is particularly difficult for women who live in contraceptive deserts and lack reasonable access to a health center that offers the full range of contraceptive methods.

(7) Health disparities persist among low-income women, women of color, and women who lack access to health coverage and health care providers.

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

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

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

It is the sense of the House of Representatives that—

(1) in order to increase women’s access to oral birth control, it must be both easier to obtain and affordable and, to make it either easier to obtain or more affordable, but not both, is to leave unacceptable barriers in place for women;

(2) it is imperative that the entities that research and develop oral birth control and whose medical and scientific experts have developed clinical and other evidence that oral birth control for routine, daily use is safe and effective for women when sold without a prescription, apply to the Food and Drug Administration for review and approval for sale of such birth control without a prescription;

(3) upon the receipt of such an application, the Food and Drug Administration should determine whether the oral birth control meets the rigorous safety, efficacy, and quality standards for over-the-counter use under the Federal Food, Drug, and Cos-
metic Act (21 U.S.C. 301 et seq.), and if the product meets those standards, the Food and Drug Administration should approve the application without delay; and

(4) if and when the Food and Drug Administration approves an oral birth control that is available over-the-counter, such birth control should be covered by health insurance, without a prescription and without cost-sharing.

SEC. 5. CLARIFYING COVERAGE REQUIREMENTS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall clarify that coverage of contraceptives pursuant to section 2713(a)(4) of the Public Health Service Act (42 U.S.C. 300gg–13(a)(4)) includes coverage of over-the-counter contraceptive methods approved by the Food and Drug Administration, even if the enrollee does not have a prescription for the contraceptive.

SEC. 6. RULES OF CONSTRUCTION.

(a) NON-INTERFERENCE WITH FDA REGULATION.—Nothing in this Act (or the amendment made by this Act) shall be construed to modify or interfere with Food and Drug Administration processes to review or approve, or otherwise determine the safety and efficacy of, and make available, non-prescription drugs or devices, modify or interfere with the scientific and medical consid-
erations of the Food and Drug Administration, or alter
any other authority of the Food and Drug Administration.

(b) NON-PREEMPTION.—Nothing in this Act (or the
amendment made by this Act) preempts any provision of
Federal or State law to the extent that such Federal or
State law provides protections for consumers that are
greater than the protections provided for in this Act.

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

(a) IN GENERAL.—Any retailer that stocks oral birth
control for routine, daily use that is approved by, or other-
wise legally marketed under regulation by, the Food and
Drug Administration for use without a prescription may
not interfere with an individual’s access to or purchase
of such birth control or access to medically accurate, com-
prehensive information about such birth control.

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