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### TESTIMONY OF GERALDINE BETTS

### BOARD MANAGER, OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION

### NEITHER FOR NOR AGAINST L.D. 351

***"An Act to Increase Access to Birth Control by Making Certain Contraception Available over the Counter"***

**Sponsored by Senator Eric L. Brakey**

### BEFORE THE JOINT STANDING COMMITTEE ON HEALTH COVERAGE, INSURANCE AND FINANCIAL SERVICES

**Public Hearing: March 2, 2023, 1:00 PM**

Senator Bailey, Representative Perry, and honorable members of the Committee, my name is Jeri Betts and I am a Regulatory Board Manager with the Office of Professional and Occupational Regulation (OPOR). I am here to speak neither for nor against LD 351 on behalf of OPOR.

This bill proposes to authorize pharmacists to prescribe and dispense hormonal contraceptive patches and self-administered oral hormonal contraceptives to a person who has evidence of a previous prescription from a practitioner for a hormonal contraceptive patch or self-administered oral hormonal contraceptive.

We note the following for your consideration:

- The bill title indicates that its goal is to make certain contraceptives available “over the counter.” We note that the bill language does not make these medications available “over the counter” but rather expands the pharmacist’s authority to prescribe and dispense these types of contraceptives to a person who has evidence of a previous prescription. “Over-the-counter” is a term that implies no prescription is required.
- We note that the bill does not amend the definition of practice of pharmacy to include the authority of a pharmacist to prescribe this contraception. The pharmacist scope of practice was amended to enable the administration of vaccines and the prescribing, dispensing and administering of HIV drugs. (32 M.R.S. §§ 13786-E, 13702-A(28)). The practice of

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pharmacy was not amended to include the prescribing of naloxone hydrochloride which is authorized by 32 M.R.S. § 13815.

- The bill requires a pharmacist to first complete a board-approved training program related to prescribing hormonal contraceptive patches and self-administered oral hormonal contraceptives. We are unaware of available training programs. Assuming there are training programs available that will be acceptable to the Board, the bill is silent as to whether it would be expected that the Board track those pharmacists who complete the approved training. The bill also does not provide whether the Board would note in some way for the public that a particular licensee had completed the training.

By comparison, the law that authorized a pharmacist to administer certain drugs or vaccines (P.L. 2009, c. 308), required evidence of the training to be submitted to the Board and the Board to issue a “certificate of administration,” a credential that is made available to the public in addition to a pharmacist’s license status.

- The bill requires the Board to adopt rules to establish standard procedures for the prescribing of hormonal contraceptive patches and self-administered oral hormonal contraceptives by pharmacists. We discourage mandatory rulemaking. This Board already has several large rulemaking items on its agenda (and more expected to be added this session.) If rules are mandatory, the intent of the law likely could not be implemented for over a year or more given the board’s current rulemaking commitments and the time it takes for a proposed rule to make its way through the APA process.

Thank you for your time and I will be happy to answer your questions now or at the work session.

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