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Why We're Skeptical of Conservative Support for Over-the-Counter Contraception

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Recently, some conservatives have come out in support of expanding access to birth control pills. Should reproductive health advocates accept the support, or is there a more sinister plot at play?

Two people with the conservative Cato Institute wrote an op-ed published last month in the *Los Angeles Times* calling for hormonal contraceptives to be made available without a prescription—a surprising endorsement of contraceptive access from a hard-right think tank best known for its ties to the Koch brothers and the GOP.

After all, conservatives tend to oppose the advancement of contraceptive access, from attempting to ban emergency contraceptives to trying to torpedo the birth control benefit under the Affordable Care Act (ACA). As public health advocates push the U.S. Food and Drug Administration (FDA) to approve a daily birth control pill for over-the-counter (OTC) access, it would certainly be heartening to see conservative support for contraception; nearly 8 in 10 adults in the United States already consider contraception to be “a basic part of women’s health care.”

Some forms of emergency contraception, like Plan B, are available without a prescription, but no form of daily birth control is, even though some FDA-approved birth control pills are safer than Tylenol. Obtaining a prescription for contraception can lead to additional costs related to doctor’s visits, missed work, childcare, and transportation. Other barriers to birth control access, such as racism and anti-trans bias in the health-care system and lack of privacy for young people, can make it even more difficult. That’s why organizations like the National Women’s Health Network, a longtime FDA watchdog, have joined the “Free the Pill” movement to make safe and effective forms of birth control readily available to consumers.

In their *Los Angeles Times* op-ed, Michael Cannon, Cato’s health policy studies director, and Jeffrey Singer, a senior fellow at Cato, name several of these barriers. We should be thrilled that conservatives are embracing OTC access for birth control, but when something seems too good to be true, it usually is—dig a little deeper and it becomes clear that access to contraception is the progressive Trojan horse hiding a much broader right-wing attack on the FDA’s ability to protect consumers.

First, some background information on how drugs make it onto pharmacy shelves: The FDA is tasked with ensuring that drugs and medical devices sold in the United States are first proven to be safe and effective through a scientifically rigorous pre-approval testing process. Drugs approved to be sold over the counter undergo a further round of testing and risk/benefit analysis to ensure that the instructions are clear and that consumers can self-diagnose the problem and recognize possible risks.

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It's not a perfect process by any stretch: Clinical trials often fail to include enough women and people of color, Big Pharma holds too much power, and politics can sometimes alter outcomes, especially when it comes to reproductive health care. But the solution is to strengthen the agency's independence from industry or political interference, which is where the Cato op-ed comes in. While we at the National Women's Health Network have pushed the FDA to approve an OTC "switch" for specific oral contraceptives on the basis of sound scientific proof of safety, Cannon and Singer believe that "Congress should revoke the Food and Drug Administration's power to require women to obtain prescriptions to purchase hormonal contraceptives."

It's not clear in the op-ed whether Cannon and Singer believe that the FDA should retain the legal authority to approve or reject new hormonal contraceptives, but consider the consequences of their proposal. Some currently approved contraceptives—the Xulane patch and drospirenone-containing oral contraceptives like Yaz and Yasmin—carry a higher risk of blood clots than others and may not be appropriate for OTC status. If the FDA were responsible for approving new drugs but could never limit whether they'd be sold over the counter, it would be hard to get any new and innovative contraceptives approved, no matter how promising. And if the FDA no longer had any authority over any hormonal contraceptives, there would be no one protecting consumers at all.

In fact, eliminating the FDA altogether is conservatives' real agenda. Backed by billionaires who stand to profit handsomely if they can unleash a flood of unregulated drugs onto the market, there's been a quiet drive to use sympathetic test cases—first dying patients, now people who face barriers to contraceptive access—to push through an uglier end game.

Cannon, whose bio on Cato's website touts his credentials as the "intellectual father" of one of the frivolous lawsuits that failed to bring down the ACA, has written about his desire to gut FDA oversight under the pretense of letting unscrupulous drug companies exploit the desperation of dying patients. His piece on so-called "right to try" legislation concludes with a call for "fundamental—and I mean fundamental—reform of safety and efficacy certification for medical technologies." What he means is: "Congress should eliminate the U.S. Food and Drug Administration or, at a minimum, eliminate the FDA's authority to regulate drug efficacy, and allow other entities to certify safety and efficacy," as stated in the "Cato handbook for policymakers."

But that's not all. Once Congress starts meddling in a drug approval process that should be based on medical science, there's no limit to what comes next in attacks on reproductive health. If Congress can prevent the FDA from blocking bad drugs, it can just easily prevent the FDA from approving good ones.

Right now, legislation introduced in the U.S. House and Senate—H.R. 4399 and S.3072, respectively—and backed by 134 abortion opponents in Congress would block the FDA from approving any new abortion pills, no matter how safe and effective they prove to be. The bill would also eliminate the FDA's ability to increase access to existing abortion pills, as the agency did just four years ago, despite their strong safety record.

The message for reproductive health advocates is clear: Seek allies where we can, but beware of conservatives bearing gifts that would destroy the FDA's ability to protect our health.