

ADVOCACY NEWS

Keeping you informed from Washington, D.C.

September 9, 2026

Federal Court Affirms NJ Telehealth Licensing Requirement

On August 31, the U.S. Court of Appeals for the Third Circuit affirmed the dismissal of [MacDonald v President of the New Jersey State Board of Medical Examiners](#), a constitutional challenge to New Jersey's [requirement](#) that any physician providing telehealth services to patients located in New Jersey hold a New Jersey medical license, regardless of where the physician is located.

The case was brought by two out-of-state specialists and New Jersey patients who argued that the requirement restricted interstate practice and violated the First Amendment, the Dormant Commerce Clause, the Privileges and Immunities Clause, and due-process protections. The three-judge panel unanimously rejected those claims, concluding that New Jersey's licensure framework does not unlawfully discriminate against nonresident physicians, impose a constitutionally substantial burden on interstate commerce, or violates the physicians' or patients' constitutional rights.

The decision is significant for state medical boards because it affirms New Jersey's authority to require physicians who furnish telehealth care to New Jersey-based patients to hold a New Jersey license. The ruling therefore supports the patient-location model of state medical practice regulation, while leaving intact the regulatory exception for certain out-of-state clinician-to-clinician consultations that do not direct patient care.

Please [contact us](#) if you have any questions!



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Pending Legislation of Interest

Artificial Intelligence

The [Doctor's Not AI Act of 2026 \(H.R. 10210\)](#), introduced by **Rep. Greg Landsman (D-OH)**, would regulate the use of AI in coverage and utilization-review decisions by group health plans and health insurers. For adverse benefit determinations involving clinical judgment - such as medical necessity, appropriateness, level of care, or treatment effectiveness - the bill would prohibit AI from issuing or dictating the decision and require an independently evaluating, appropriately trained and licensed health care professional to make the determination. When AI is used in the review process, disclosure is required in an adverse-determination notice, including describing the system's role, identifying the clinician who made the decision, and maintaining related AI outputs and compliance documentation. The bill also would treat AI use in utilization review as a treatment limitation for federal mental health

and substance-use-disorder parity purposes, and it would apply to health plan years beginning at least 12 months after enactment.

Antitrust

The [Competition in State Healthcare Markets Act \(H.R. 10177\)](#), introduced by **Rep. Victoria Spartz (R-IN)**, would direct HHS's Assistant Secretary for Planning and Evaluation (ASPE) to conduct an annual, 10-year study of healthcare competition and consolidation in each state, in consultation with the Federal Trade Commission and the Justice Department's Antitrust Division. The study would examine, among other topics, requirements for the initial licensure and ongoing renewal of physicians, nurses, and other healthcare practitioners, as well as profession-specific training, postgraduate and continuing medical education, residency supervision, and board certification.

Regulatory News

Mental Health

On August 31, **HHS announced** \$77 million in new **Substance Abuse and Mental Health Services Administration (SAMHSA)** grant funding to strengthen support substance use prevention, treatment, and recovery, community mental health, and suicide prevention and crisis services.

Judicial News

Reproductive Care

On September 2, a federal judge **ruled** that **Texas** and **Florida** may proceed with their challenge to the **Food and Drug Administration's (FDA)** approval of mifepristone and subsequent agency actions allowing the drug to be prescribed through telehealth and dispensed by mail. The ruling does not immediately change access to mifepristone, but it permits the states' lawsuit to continue and could ultimately affect the FDA's 2000 approval of the drug as well as its more recent distribution policies. The FDA is currently undergoing a safety review on mifepristone.



State Legislative News

Legislation Signed into Law

Artificial Intelligence

Rhode Island SB 2195 and HB 7350 – Enacted June 22 and effective January 1, 2027, mandates built-in safety protocols for "AI companions" to address suicidal ideation or self-harm from users and threats of physical harm to others, including immediately referring users to crisis services. Further, the AI companions must provide clear, repeated disclosures to users that they are interacting with a non-human entity. Operators are mandated to file annual reports with the AG regarding activations of safety protocols and violators are subject to civil fines of up to \$15,000 per day.

Board Structure and Function

Arizona HB 2178 – Enacted April 13 and effective September 12, requires any person serving as chief medical officer for a state agency to possess an active Arizona medical license (MD or DO).

Healthcare Professionals' Scope of Practice

Delaware HB 165 – Enacted August 31, 2026, and effective August 31, 2027, allows PAs and APRNs to perform dry needling, but not advertise or in any other way hold themselves out as an acupuncturist unless the PA or APRN is a licensed acupuncturist, and requires the Board of Medical Licensure and Discipline and the Board of Nursing, respectively, to establish training and practice rules.

Reimbursement

Delaware HB 435 – Enacted August 31 and effective January 1, 2027, requires insurers to reimburse certified registered nurse anesthetists at the same rate as physicians for providing the same service.

Legislation Vetoed

Conscientious Objection

New Hampshire HB 232 – Vetoed August 19, the bill would have required healthcare entities providing abortion services to inform their employees of their right to request reasonable accommodations if providing an abortion conflicts with their religious beliefs or moral convictions.

Pending Legislation of Interest

Board Structure and Function

Michigan HB 6323 – Requires health professional license applicants to take and pass a competency assessment approved by the state Dept. of HHS in consultation with the Board of Medicine or the Board of Osteopathic Medicine and Surgery.

Telemedicine

New York A 11665 – Allows telehealth access for individuals in mental health outpatient treatment, regardless of their location within the state, emphasizing that patients may receive services at home.

Truth in Advertising

Michigan HB 6326 – Requires licensees to ensure that an advertisement or name tag prominently and accurately states their health profession, and prohibits providers from misleading patients or misrepresenting themselves to the public.

Regulatory News

Board Structure and Function

On July 2, the **Oregon Medical Board (OMB)** issued two final rules: a **final rule** providing that unfinished applications expire after six months and a **final rule** modifying compensation rates for OMB members, providing \$250 per day for members preparing for and attending a Board meeting scheduled for six or more hours.

Continuing Medical Education

On August 19, the **Washington Board of Osteopathic Medicine and Surgery** issued a **final rule** allowing licensed osteopathic physicians to meet CME requirements by participating in maintenance of certification with a member board of the American Board of Osteopathic Medical Specialties (ABOMS) or the American Board of Medical Specialties (ABMS) at the time of renewal.

Healthcare Professionals' Scope of Practice

On July 2, the **Oregon Medical Board** issued a **final rule** authorizing a licensed paramedic to perform finger thoracostomy for traumatic cardiac arrest, if they have been trained by the supervising physician.

International Medical Graduates

On May 29, the **District of Columbia Dept. of Health** issued a **proposed rule** that provides for three types of medical training licenses (MTLs): Type I(A), for postgraduate physicians enrolled in a residency program who graduated from a U.S. or Canadian medical school; Type I(B), for foreign medical school-trained postgraduate physicians enrolled in a residency program; and Type II, for foreign medical school trained postgraduate physicians enrolled in an ACGME- or Board-approved fellowship program. MTLs may not be issued for longer than a three-year period.

Licensure Compacts

On July 6, the **Wisconsin Medical Examining Board** issued a **proposed rule** implementing the respiratory care interstate compact.

Medical Aid-in-Dying

On June 3, the **New York Dept. of Health (DOH)** issued a **proposed rule** that requires physicians who provide medication for medical aid-in-dying to submit a report to the DOH within five days of prescribing.

Prescribing Practices

On June 3, the **Washington Medical Commission** issued a **final rule** establishing standards for office-based use of nitrous oxide, providing that nitrous oxide is exempt from minimal sedation requirements when administered at less than 50% concentration, used separately from an opioid, and performed by a physician who has completed a CME course on nitrous oxide administration and is trained in basic life support.

FSMB Legislative Trackers

FSMB maintains free, live legislative trackers for topics impacting medical regulation and the practice of medicine: **artificial intelligence**, **board authority**, **board structure and function**, **continuing medical education**, **gender-affirming care**, **IMGs**, **internationally trained physicians**, **licensure**

compacts, license portability, occupational licensing reform, physician sexual misconduct, prescribing practices, reproductive care, and telemedicine.

Contact

If you have questions regarding specific legislation, please contact **John Bremer**, Managing Director, Advocacy and Policy, at jbremner@fsmb.org, or by phone at (202) 463-4021; or **Andrew Smith**, Manager, Legislation and Policy, at asmith@fsmb.org or by phone at (202) 463-2002.

This email is not intended as an exhaustive or comprehensive statement of the law on this topic. It does not constitute legal advice. Non-cited laws, regulation, and/or policy could impact analysis on a case-by-case or state-by-state basis. All information should be verified independently, as these areas of law change rapidly and there is no guarantee that the information presented reflects the current state of law and policy. If you have any questions about the contents of this document, please contact FSMB staff.



Resources for Regulators

- [Resources for FSMB Members](#)
- [Pathway to Medical Licensure in the U.S.](#)
- [Journal of Medical Regulation](#)



Meetings & Events

April 15-17, 2027: FSMB Annual Meeting, Oklahoma City, Oklahoma

[more meetings & events](#)

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