



Advocacy News

Keeping you informed from Washington, D.C.

April 26, 2024

FSMB Annual Meeting Recap

Last week, the FSMB held its annual meeting in **Nashville, Tennessee** with record attendance from state medical board representatives and other stakeholders in medical regulation.

The meeting featured noted author and former Obama Administration official **Cass Sunstein** and political analyst **Charlie Cook** as well as illuminating discussions on topics such as alternate licensing models, artificial intelligence, making regulation “kinder,” forums for the many unique roles within SMBs, and “difficult cases” for regulators.

FSMB’s House of Delegates **adopted several new policies**, including *Strategies for Prescribing Opioids for the Management of Pain*, *Position Statement on the Evidence Based Treatment for Opioid Use Disorder*, *Navigating the Responsible and Ethical Incorporation of AI into Clinical Practice*, and *Regulation of Physicians in Training*.

Next year’s annual meeting will be held in **Seattle, Washington** from **April 24-26, 2025!** In the meantime, please **reach out to us** if we can assist you on policy or legislative issues or questions!



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Pending Legislation of Interest

Healthcare Workforce

The **Welcome Back to the Health Care Workforce Act (S. 4088)** introduced by **Sen. Tim Kaine (D-VA)**, would authorize the HHS Secretary to award grants to eligible entities, defined as a consortium of two or more hospitals, health systems, community-based clinical or public health nonprofits, institutions of higher education, government entities, and FQHCs; and “to provide career support for internationally educated health care professionals - defined as individuals that completed education for a health profession in their home country and are lawfully in the U.S. - to integrate into,

and expand, the health care workforce." Priority to entities that will support the recruitment and retention of internationally educated health care professionals in medically underserved communities and professionals located in rural areas. Grant funds are eligible to be utilized for myriad purposes, including:

- establishing a network of partners that offer prerequisite educational and continuing education opportunities,
- developing peer support and mentoring opportunities,
- developing a system to provide ongoing supportive services once employment is obtained, and
- supporting internationally educated health care professionals through the licensing process, English as a second language courses, test prep courses, culturally competent career counseling and coaching, and informing them about their rights as employees, among other aspects.

Grant recipients must provide annual reports regarding the scope and volume of their projects.

The **Rural Residency Planning and Development Act of 2024 (H.R. 7855)** introduced by **Reps. Yadira Caraveo (D-CO)** and **Carol Miller (R-WV)**, would fund HRSA's **Rural Residency Planning and Development (RRPD) Program**, which funds ACGME-accredited residency programs that either train residents in rural areas (as defined by the HHS Secretary) for more than 50 percent of the residency or primarily focuses on producing physicians who will practice in rural areas, for \$12.7 million per year from 2025 through 2029.

Board Structure and Function

The **Equal Health Care for All Act (S. 4065/H.R. 3068)**, introduced by **Sens. Alex Padilla (D-CA)** and **Cory Booker (D-NJ)** and **Rep. Adam Schiff (D-CA)**, would require HHS, in consultation with myriad associated agencies including CMS, NIH, CDC, and others, to "report data on specific health outcomes... by demographic characteristics" (Sec. 3(a)(1)); and include equitable health care, defined as the principle that high-quality care should be provided to all individuals and health care treatment and services should not vary on account of the real or perceived race, origin, sex (including sexual orientation and gender identity), disability, or age, in the calculation for **hospital value-based purchasing programs** (Sec. 4). The bill also makes the "inequitable provision of health care," which is defined in the statute, a basis for exclusion from CMS and other Federal health programs (Sec. 5); renames HHS' "Office on Civil Rights" to "Office of Civil Rights and Health Equity" (Sec. 6); and prohibits health care providers from providing "inequitable care" based on the protected characteristics above (Sec. 7), among other aspects.

Telemedicine

The **Temporary Reciprocity to Ensure Access to Treatment (TREAT) Act (H.R. 5541)** introduced by **Reps. Bob Latta (R-OH)** and **Debbie Dingell (D-MI)**, would authorize practitioners licensed in any one jurisdiction (and not "affirmatively excluded" to practice in any other jurisdiction) to provide interstate mental health telehealth (telemental) services, including synchronous or asynchronous audio-visual, audio-only, or store and forward, within their scope of practice during a declared national emergency, regardless of whether there is a preexisting patient/physician relationship. The statute includes directions regarding initiating telehealth services and requires practitioners to contact medical boards in the states where their patients reside to provide contact and license information. Further, state medical boards are empowered to regulate the medicine practiced within their borders by health care professionals, regardless of where they are licensed.

H.R. 7899, introduced by **Rep. Mike Ezell (R-MS)**, would direct the Attorney General, in consultation with the HHS Secretary, to promulgate the final regulations relating to DEA special registration, which would allow for prescribing controlled substances via telemedicine without an in-person medical evaluation, one year after the bill's enactment. Special registration was originally proposed by the Ryan Haight Act in 2008 and subsequently required by law to be finalized by October 24, 2018, according to **21 U.S.C. 831(h)(2)**, but rules have yet to be promulgated.

Reproductive Care

The **VA Abortion Transparency Act (S. 4128/H.R. 8029)**, introduced by **Sen. Tommy Tuberville (R-AL)** and **Rep. Mariannette Miller-Meeks (R-IA)**, would require the VA Secretary of Veterans Affairs to submit reports, at least quarterly, to the appropriate House and Senate committees regarding the abortions facilitated by the VA's health care system - which became an interim policy in 2022 and **finalized in 2024** - detailing the number of abortions provided, where the procedure was conducted, whether it was conducted surgically or through medication, whether the recipient was a veteran or their spouse, and the total expenditures associated with abortion, including the cost of the procedure, staffing, and infrastructure, among other aspects.

The **Rural Obstetrics Readiness Act (S. 4079)**, introduced by **Sens. Maggie Hassan (D-NH)** and **Susan Collins (R-ME)**, would create the Obstetric Emergency Training Program, funded with \$5 million for three years, responsible for "developing, and facilitating access to, an evidence-based program to train practitioners in rural health care facilities without dedicated obstetric units." Funding may be utilized for purchasing equipment or providing technical assistance to non-obstetricians so they may be adequately trained during obstetric emergencies, purchasing equipment needed to "prepare for, identify, stabilize, or transfer, as appropriate, individuals experiencing obstetric emergencies," developing protocols to transfer patients to facilities with the required

equipment, hiring and increasing pay for health care personnel, and establishing training opportunities for non-obstetricians to become experts in the genre of care "including through clinical rotations, fellowships, or cross-training clinicians in other specialties," among other aspects.

Mental Health

The [Telehealth Enhancement for Mental Health \(TELEMH\) Act of 2024 \(H.R. 7858\)](#) introduced by **Reps. John James (R-MI)**, **Don Davis (D-NC)**, and **David Schweikert (R-AZ)**, would require the HHS Secretary to establish a Medicare incident to modifier - services that are part of a patient's typical course of treatment - for mental health services furnished through telehealth within two years of enactment.

The [Treatment, Recovery, Education, Awareness and Training \(TREAT\) for Youth Act \(H.R. 5598\)](#), introduced by **Reps. Susie Lee (D-NV)** and **Jen Kiggans (R-VA)**, would reauthorize Substance Abuse and Mental Health Services Administration's (SAMHSA) [Preventing Youth Overdose: Treatment, Recovery, Education, Awareness and Training](#) program through FY 2028, whose goal is to improve youth awareness of the risks associated with fentanyl, increase access to medications for opioid use disorder (MOUD) for adolescents and young adults, and train healthcare providers, families, and school personnel on best practices for supporting children, adolescents, and young adults with opioid use disorder.

Maternal Health

The [Mamas and Babies in Underserved Communities Act \(H.R.7815\)](#), introduced by **Rep. Maxine Waters (D-CA)**, would authorize the HHS Secretary, through HRSA, to award grants to eligible entities, defined as a public or nonprofit private health care provider that serves one or more minority, low-income, or medically underserved communities, that expand, improve, or reduce the disparities in care pertaining to maternal health care services, including prenatal care, postnatal care for infants, and postpartum care for mothers. Priority is given to entities that serve underserved communities, entities that are led by individuals who have lived, were educated, or currently reside in the communities served, and entities that are geographically located in the communities served.

Privacy

A [discussion draft](#) of the American Privacy Rights Act was released by **Sen. Maria Cantwell (D-WA)** and **Rep. Cathy McMorris-Rodgers (R-WA)** that provides scores of definitions on relevant terms such as consent, algorithm, covered entities (which "does not include a Federal, State, Tribal, territorial, or local government entity such as a body, authority, *board*...), exclusions, privacy harm ("any alleged physical or mental harm to an individual that involves treatment by a licensed, credentialed, or otherwise bona fide health care provider...), and targeted advertising (Sec. 2); lays out principles with regards to data minimization, restricting the type of information entities can collect and retain and prohibiting the collection of genetic or biometric information without express consent (Sec. 3); enforces transparency standards including requiring that entities publicly publish their privacy policies (Sec. 4); gives consumers control over their data, including the ability to request what data has been collected or transferred and the capability to delete said data (Sec. 5); and provides the ability for consumers to opt out of targeted advertising using personal information (Sec. 6). The bill also allows separate mechanisms for enforcement by the FTC (Sec. 17), States, vis-a-vis Attorneys General (Sec. 18), and individuals, providing a timeline (six months after enactment) for allowing individuals to sue entities for privacy violations (Sec. 19). Lastly, the bill would "establish a uniform national data privacy and data security standard" that necessarily preempts existing state privacy laws - 15 states have such laws according to Politico - with myriad enumerated exceptions (Sec. 20).

COVID-19

A [discussion draft](#) for a bill combatting "Long COVID" was released by **Sen. Bernie Sanders (I-VT)** which would provide \$1 billion in funding to the National Institutes of Health (NIH) to respond to Long COVID, including creating an entity that centralizes and coordinates research pertaining to the condition, creating an expedited and prioritized grant process for clinical trials, a database of de-identified patients, and an advisory board to provide advice for research practices.

Regulatory News

On April 10, **HHS** announced a proposed rule that would expand the scope of health centers to allow them to provide services to incarcerated people who are 90 days out from release. Public comments are due by **June 14** but grant applications will be available immediately. The proposed rule is similar to [CMS guidance](#) issued in April 2023, which allowed state Medicaid programs to cover services that address afflictions like substance use disorder and other chronic health conditions.

Congressional Hearings

On April 10, the **House Energy and Commerce Committee's Subcommittee on Health's** hearing "Legislative Proposals to Support Patient Access to Telehealth Services" discussed the immediate

future of myriad telemedicine flexibilities scheduled to expire at the end of the year, including:

- removing in-person requirements and restrictions that patients had to live in rural areas to receive remote care,
- allowing Medicare patients to receive telehealth services at home,
- relaxing the ban of audio-only telehealth services,
- allowing providers such as physical therapists, audiologists and speech language pathologists to receive Medicare reimbursement for telehealth services, and
- making it easier for mental health providers to bill for online care by creating a billing code.

Lawmakers appeared poised to keep the current rules in place for at least another temporary extension, but concerns about cost (payment parity), trickle-down impact on in-person care, and industry “gaming” remain. An archived version of the hearing can be viewed [here](#).

Federal Contact

The FSMB’s federal legislative staff will continue to track and monitor legislation and regulations of interest to state medical boards. If there is specific legislation you would like us to assist with, please contact **Kandis McClure**, Director, Federal Advocacy and Policy, at atkmccclure@fsm.org, or by phone at (202) 463-4003.



Regulatory News

On April 10, the **Oregon Medical Board** filed a [permanent administrative order](#) increasing OMB license registration fees by 25% for all licensees.

On April 11, the **Pennsylvania State Boards of Psychology** and **Osteopathic Medicine** [adopted new policies](#) opposing the use of “conversion therapy” on LGBTQ+ minors, with an ability to [file a complaint](#) on the Department of State’s website.

On April 12, the **Arkansas State Medical Board** [approved](#) a statewide protocol allowing pharmacists to dispense pre- and post-exposure prophylaxis medications for HIV.

On April 22, the **Ohio Department of Health** released a [rule](#) (Ohio Admin. Code 3701-83-60) regarding gender-affirming care (GAC), specifically, prohibiting rendering gender reassignment surgery to minors, except those with medically verifiable disorder of sex development. In January, the Ohio Legislature overrode **Gov. Mike DeWine’s** veto of [HB 68](#), enacting a ban on all types of GAC for minors, including puberty blockers and sex hormones. That bill becomes effective April 24, 2024.

Legislation Signed into Law

Artificial Intelligence

Utah SB 149 – Enacted March 13, establishes the Artificial Intelligence Policy Act, provides key definitions, and requires “regulated occupations,” including licensed health care professionals, to “prominently disclose when a person [such as a patient] is interacting with generative AI in the provision of regulated services” [e.g., the practice of medicine] both verbally and electronically, before beginning use. Left ambiguous is the nature, content, and regularity of this disclosure.

Board Structure and Function

Kansas SB 433 – Enacted April 4, clarifies that institutional licenses can be issued to an employee of a third party contractor of the Dept. of Corrections or the Dept. for Aging and Disability Services. The bill would limit the employment of license holders to the institution to which the holder is assigned.

Virginia HB 699 – Enacted April 4, directs the boards of Medicine and Dentistry to amend their regulations to require that prior to issuing a prescription for any opioid, practitioners provide patient counseling unless the patient is in active treatment for cancer, receiving hospice care, a resident of a

long-term care facility, or being prescribed an opioid in the course of treatment for substance abuse or opioid dependence.

Virginia HB 964 – Enacted April 4, allows attorneys to serve as the executive director (ED) for the Board of Medicine; under current law the ED must be a physician.

Gender-affirming Care

Maine LD 227 – Enacted April 22, establishes that both gender-affirming care and reproductive health care services are fundamental rights, declares that any obstruction or denial of these services is contrary to the state's public policy, and prohibits any cooperation with out-of-state investigations of individuals facilitating, seeking, receiving, or rendering related services that are lawful in the state.

Healthcare Professionals' Scope of Practice

Arizona HB 2582 – Enacted April 9, adds certified midwives and PAs to the list of health care professionals that pharmacists may enter into a collaborative practice agreement.

International Medical Graduates

Virginia HB 995 – Enacted on April 4, permits the Board to grant a provisional license to a qualified physician licensed in a foreign country, for a period of up to two years, that meet the following criteria:

- Has received a degree from a medical school recognized by the World Health Organization;
- Is licensed in another country and practiced medicine for at least five years;
- Has a valid ECFMG certificate, however, the Board may waive this condition “at its discretion where the applicant is unable to obtain the required documentation from a noncooperative country;”
- Has passed USMLE Steps 1 and 2;
- Has entered into an agreement with a medical care facility defined under [Code § 32.1-3](#) “that provides an assessment and evaluation program designed to develop, assess, and evaluate the physician's nonclinical skills and familiarity with [state] standards... “according to criteria developed or approved by the Board.”

Licensees practicing under this statute may apply for a renewable two-year extension if they:

- Practice in a medically underserved area;
- Achieve a passing score on USMLE Step 3;
- Enter a full-time employment relationship with a medical facility.

After at least two years of practice under the renewable license (at least four years overall), the physician may apply for a full, unrestricted license. The law is effective July 1, 2024.

License Portability

Virginia HB 511 – Enacted April 4, adds assisted living facilities to the list of eligible employers a health care practitioner licensed in another jurisdiction may temporarily practice, for one 90-day period, if the practitioner is contracted by, or has received an offer of employment.

Licensure Compacts

Oklahoma HB 3781 and Maine LD 2043 – Enacted on April 18 and April 23, respectively, enters Oklahoma and Maine into the PA Compact, becoming the 8th and 9th member states.

Military Licensure

Colorado HB 24-1097 – Enacted April 17, allows dependents and Gold Star spouses of individuals serving in the military, that have been transferred to the state, to participate in the Department of Regulatory Agencies' (DORA) Occupational Credential Portability Program (OCP). Also, OCP is reformed to make the licenses it issues permanent, renewable, and six years in length instead of temporary; and restricts regulators to considering only if the license is in good standing when making licensing decisions. The act is effective September 1, 2024.

Kentucky HB 397 – Enacted April 9, clarifies that military members, including reserves and National Guard, veterans, or their spouses with licenses in multiple jurisdictions via an interstate licensure compact are subject to the requirements of the compact alone, not state statutes.

Occupational Licensure Reform

Arizona HB 2308 – Enacted April 8, mandates that occupational, professional, and health regulatory boards establish, with a threshold of clear and convincing evidence (See the FSMB's [Standard of Proof Board-by-Board chart](#)), whether an individual's criminal offense is significantly related to their occupation or poses a reasonable threat to public health and safety, and boards are prohibited from denying, suspending, or revoking licenses, registrations, or certificates if it is not. Additionally, the bill grants applicants, licensees, registrants, or certificate holders the right to petition the Office of Administrative Hearings (OAH) for a review of any adverse decision, and details the specifics regarding the petition process.

Nebraska LB 1214 – Enacted April 18, mandates criminal background checks for all health professionals applying for all forms of initial licenses (including educational permits).

Legislation Vetoed

Gender-affirming Care

Kansas SB 233 - Vetoed on April 12, bill would have prohibited physicians from rendering gender-affirming care, including prescribing puberty-blocking drugs or sex hormones, as well as performing gender-affirming surgical procedures, and clarified that providing said care is classified as unprofessional conduct and licenses shall be revoked for doing so. Further, the bill would have provided a civil action for minors that suffer any "physical, psychological, emotional or physiological harm" before they turn 28.

Pending Legislation of Interest

Artificial Intelligence

California SB 1120 - Requires physicians to supervise the use of artificial intelligence decision-making tools when those tools are used to make decisions to approve, modify, or deny authorization requests for a health care service.

Board Structure and Function

Alabama HB 460 – Prohibits the Board of Medical Examiners, among other licensing boards, from acquiring any additional **real property**, defined as underlying land and improvements attached to the land, such as structures, starting October 1, 2024; it rescinds the specific statutory authority to do so.

Pennsylvania HB 2200 – Requires license, certification, or registration applicants to submit a full set of fingerprints to the Pennsylvania State Police to be checked against both state and national criminal records to verify identity and ascertain criminal history, who then forward the information back to the Dept. of State (DoS) solely to make licensing determinations in line with **Pa. Code § 3113**, which addresses the connection between convictions and occupations. Lastly, DoS must adopt policies and procedures within six months of enactment to implement these provisions.

Gender-affirming Care

New Jersey A 4170 – Prohibits health care professionals from providing gender-affirming *surgical* care for minors under 12, unless necessary to "address an immediate risk of physical harm." Violators are subject to penalties or administrative action by the Board, and liable to civil action from the individuals receiving the verboten care for until the age of 28.

Healthcare Workforce

California SB 1451 – Bill includes a number of proposals regarding health care professionals, including:

- Allowing dental hygienists to continue alternative practice in health professional shortage areas, even if department certification is revoked;
- Expanding the list of prohibited titles for dental hygienists to include "D.O.," "doctor," "physician," "Dr.," or "M.D.;"
- Exempting discontinued national nurse practitioner (NP) certification examinations before January 1, 2017, from competency alignment assessments;
- Setting transition to practice requirements for NPs at three years or 4,600 hours of practice within the last five years and an attestation from a licensed physician or NP, removes the requirement for NPs to inform patients of their right to see a physician, and to use specific language for informing Spanish-speaking patients; and
- Extending the requirements for licensed vocational nurses to perform respiratory tasks to January 1, 2028.

Maternal Health

New Jersey S 3049 – Requires licensed health care professionals providing prenatal care to offer, and provide pregnant patients upon the affirmative, a screening for postpartum depression.

Medical Ethics

Rhode Island SB 2423 – Establishes the right of a medical practitioner, healthcare institution, or payer to not participate in or pay for any medical procedure or service this violates their conscience, shielding practitioners and institutions from lawsuits, criminal charges, or license discipline.

West Virginia SB 560 – Protects medical practitioners, healthcare institutions, and payers from discrimination, punishment, or retaliation as a result of conscientious medical objection.

Occupational Licensure Reform

Massachusetts S 141 and H 244 – Empowers the Commissioner of Occupational Licensure to oversee various registration and examination boards, propose changes to examination methods and business practices, report to the governor and council as needed, and review requests to lower licensure standards. Approval from the relevant licensing board is **required** before implementing changes.

Massachusetts H 349 – Establishes a one-stop online portal within the Division of Occupational Licensure (DOL) to streamline licensing applications, permitting requirements, and business registration. DOL will manage and implement portal based on an assessment that provides recommendations for its creation and operation, including estimating costs, establishing a call center, designing the portal, involving other state agencies, addressing statutory/regulatory changes, federal law challenges, and streamlining agency processes.

New Jersey S 1761 and A 2805 – Requires the Division of Consumer Affairs to report on certain information and data on the processing of applications for professional and occupational licenses and mandates a review of training and call intake.

Opioids/Substance Use Disorder Treatment

Alabama SJR 51 – Extends the mandate of the **Alabama Opioid Overdose and Addiction Council**, originally formed in 2017, to continue its work addressing the opioid crisis in the state.

South Carolina S 1265 – Mandates Medicaid reimbursement for non-opioid treatments by healthcare providers and separate reimbursement for non-opioid treatments provided by hospitals. The bill allows Healthy Connections (SC Medicaid) to establish or modify a preferred drug list (PDL) without formal rulemaking and prohibits insurers from denying coverage for non-opioid prescriptions when prescribed by a physician. Lastly, the bill requires the Dept. of Health to create an educational pamphlet on non-opioid pain treatment options and requires practitioners prescribing opioids to inform patients about non-opioid alternatives, discuss pros and cons, provide educational material, and document these discussions.

Pain Management/Prescribing Practices

California SB 1012 - Legalizes psychedelics service centers where adults 21 and older could access psilocybin, MDMA, mescaline and DMT in a supervised environment with trained facilitators, regulated by a newly created Board of Regulated Psychedelic Facilitators within the Department of Consumer Affairs to license "psychedelic facilitators." Notably, the bill does not lay out any specific qualifying medical conditions that a person must have in order to access the services, but retains criminal penalties for possession of the above substances outside of the service centers.

New York A 9841 – Mandates that prescribers and pharmacists offer counseling to patients regarding the potential addictive nature of opioids before prescription and during dispensing, respectively.

Reproductive Care

Alabama SB 307 – Establishes the right to access contraception, grants healthcare providers the authority to dispense contraceptive devices and offer information about their usage, and establishes mechanisms for enforcement, including allowing the Attorney General, healthcare providers, and individuals to initiate civil suits to prohibit the enforcement of any law, rule, or policy that obstructs the distribution and utilization of contraceptives.

Arizona SB 1734 and HB 2677 - Repeals Arizona's 1864 abortion ban, which permits abortions only for saving the woman's life, without exceptions for rape or incest, and carries a sentence of two to five years in prison for assisting in an abortion. The ban, **deemed valid** by the state Supreme Court on April 9, is currently stayed and is being further litigated. On April 24, HB 2677 **passed the House**. Bills become effective 90 days after enactment in most cases, so the ban is likely to stay in place for a period of time even if the bill is eventually enacted. After the effective date, an existing law prohibiting the procedure after 15 weeks would be the law of the land.

Illinois HB 5239 – Prohibits state support of interstate investigations or proceedings regarding reproductive health care activities lawful in Illinois, specifically prohibiting the use of time, money, facilities, personnel, or any other resources, with an exception for investigations or proceedings where the conduct in question could incur criminal or civil liability under state law.

Legislation Affecting Board Authority

The FSMB continues to closely monitor legislative areas that could have significant implications on the practice and regulation of medicine: off-label treatment, reproductive health, and gender-affirming care. In addition to legislation highlighted in FSMB Advocacy Network News, all tracked off-label treatment legislation can be found [here](#), all tracked reproductive health legislation can be found [here](#), and all tracked gender-affirming care legislation can be found [here](#).

State Contact

The FSMB's state legislative staff will continue to track and monitor legislation and regulations of interest to state medical boards. If there is specific legislation you would like us to assist with, please



Resources for Regulators

- [Directory of Physician Assessment and Remedial Education Programs](#)
- [FSMB Opioids and Pain Management webpage](#)



Meetings & Events

- April 24-26, 2025: FSMB 113th Annual Meeting, Seattle, Washington

[More Meetings & Events](#)

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To help medical boards keep up with current legislation around the country, FSMB tracks relevant legislation and regulations in state houses across the United States, as well as the U.S. Congress.

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