

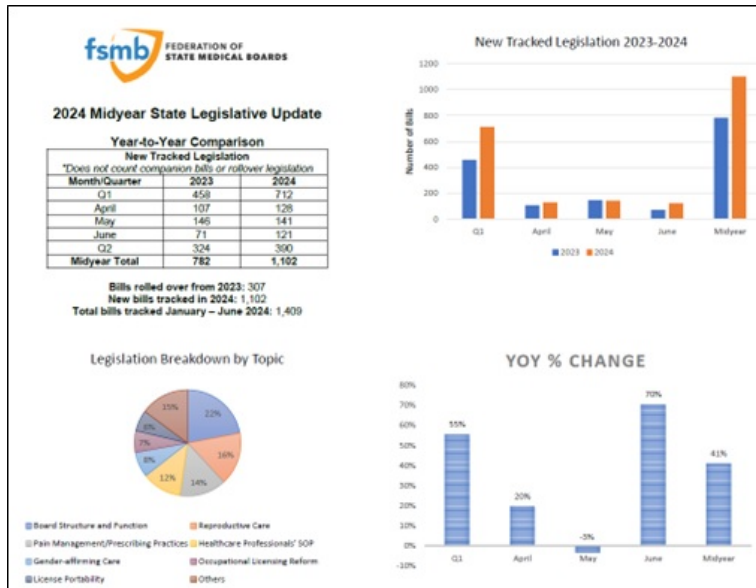
Keeping you informed from Washington, D.C.

August 14, 2024

State Legislative Recap of the First Half of 2024

With a large majority of state legislatures adjourned for the year and Congress in August recess, it is a great time to look back at the first half of 2024. To recap the activity, FSMB’s Advocacy team created a legislative summary highlighting the most impactful trends affecting state medical boards and the practice and regulation of medicine, as well as recapping the most noteworthy legislation enacted in the second quarter (April through June).

The FSMB is tracking more than 1,400 bills in the current legislative session, which is a 41 percent increase compared to 2023. Of these bills, 85 percent fall into seven categories: board structure and function, women’s health and reproductive care, pain management and prescribing practices, scope of practice, gender-affirming care, occupational licensing reform, and license portability. The complete legislative summary can be found [here](#).



Our team remains available to supporting your policy questions or needs. [Reach out to us here.](#)



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Pending Legislation of Interest

Chevron Deference Aftermath

The [Separation of Powers Restoration \(SOPRA\) Act of 2024 \(S. 4727/H.R. 288\)](#), introduced by **Sen. Eric Schmitt (R-MO)** and **Rep. Scott Fitzgerald (R-WI)**, would reform [5 U.S.C. § 706](#) (the *Administrative Procedure Act*) by enacting a de novo standard of review for “all relevant questions of law, including the interpretation of constitutional and statutory provisions, rules made by agencies, and interpretative rules, general statements of policy, and all other agency guidance documents” - allowing courts to review the merits of the argument without a deference standard.

Credentialing

The [Uniform Credentials for IHS Providers Act of 2024 \(H.R. 8956\)](#) introduced by **Rep. Dan Newhouse (R-WA)**, would develop and implement a centralized system to credential licensed health professionals, under the auspices of HHS, who “seek to provide health care services at any Indian Health Service (IHS) unit.” The new system would grandfather in current IHS providers, but all those needing re-credentialing after enactment must utilize the credentialing system. The legislation mandates that the credentialing system be developed in consultation with key stakeholders including Indian tribes, health care associations, and experts; it also requires quinquennial reviews of the credentialing system.

The [IHS Provider Integrity Act \(H.R. 8955\)](#), introduced by **Rep. Dusty Johnson (R-SD)**, would require Indian Health Service (IHS) to notify state medical boards (SMBs) of an investigation initiated on a licensee from their state within 14 days for violations committed in their IHS capacity, and requires the IHS to provide subsequent updates and records, such as license discipline, to SMBs within 14 days. The bill also requires the IHS Director, as part of an applicant's screening process, to solicit 20 years of medical license information from all the states in which they have held a license.

The [Restoring Accountability in the Indian Health Service Act of 2024 \(H.R. 8966\)](#) introduced by **Rep. Dusty Johnson (R-SD)**, aims to improve the recruitment and retention of employees in the Indian Health Service (IHS) by creating pay parity between health care professionals employed by IHS and the Veterans Health Administration (VHA) and offering housing vouchers to the former (§ 101), creating the centralized system to credential licensed health professionals in the IHS system detailed in [H.R. 8956](#) (§ 102), establishing liability protections for sponsored IHS volunteers rendering care without compensation (§ 103), bolstering the IHS' loan repayment program for health care professionals that pledge to commit to serve in the IHS for a set period of time (§ 104), mandates the IHS to communicate with state medical boards (SMBs) from which applicants are applying for information on prior violations and settlement agreements, and also mandates reciprocal information sharing in the opposite direction, requiring the IHS Director to share licensee discipline with the SMB(s) in which they are licensed (§ 113). The bill also mandates that an automatic investigation notification to relevant SMBs in which the licensee holds a license detailed in [H.R. 8955](#) (§ 112) and provides new whistleblower protections to IHS employees (§ 201), among many other components.

Health Equity

The [Health Equity and Accountability Act of 2024 \(S. 4773/H.R. 9161\)](#), re-introduced by **Sen. Mazie Hirono (D-HI)** and **Rep. Barbara Lee (D-CA)**, would, among many other things, mandate the HHS Secretary, in coordination with their counterparts around Federal agencies, collect data on race, ethnicity, sex, primary language, sexual orientation, gender identity, age, disability status, or socioeconomic status to quantify “disparities in health status, health care access, quality, and outcomes” (§ 1006) in conjunction with primarily minority-serving institutions of higher learning, and awarded grants to analyze the data (§ 1007). The bill would require the FDA to investigate “if there is evidence of a racial or ethnic disparity in safety or effectiveness” of a drug or biological product, and if the disparity is found to exist, label the drug or biological product accordingly (§ 1008); provide grants to entities that “promote health for medically underserved communities, such as racial and ethnic minority women and children and adolescents, as well as lesbian, gay, bisexual, and transgender populations” (§ 5001), establishes initiatives for pregnancy screening and enacts a host of discrete bills comprising the [MOMNIBUS Act](#), a provision that would exclude providers from Medicare and state health care programs if they provide “inequitable health care... on the basis of race, national origin, sex (including sexual orientation and gender identity), disability, or age” (§ 4503). Lastly, there are sections focusing on addressing “high-impact” minority diseases, including lung, liver, and prostate cancer; increased screening for minority patients; tobacco cessation; and obesity prevention.

The **Foreign Medical School Accountability Fairness Act (S. 4744)**, introduced by **Sen. Dick Durbin (D-IL)**, would eliminate a grandfathered exemption of certain foreign medical schools from current Department of Education requirements for federal student loans, ensuring all medical schools outside of the U.S. and Canada enroll at least 60% non-U.S. citizens or permanent residents, and that their graduates must have at least a 75% pass rate on the USMLE. Any U.S. student enrolled *before* the enactment of the legislation would be unaffected and retain access to Direct Loans.

Regulatory News

In July, **CMS** released its proposed **2025 Physician Fee Schedule (PFS)**, which would *continue* to allow rural health clinics (RHCs) and federally qualified health centers (FQHCs) to bill for non-behavioral health services, including services furnished using audio-only communications technology; allow virtual presence to fulfill direct supervision requirements permanently for a subset of services; and allow periodic assessments to be furnished via audio-only telecommunications on a permanent basis in an opioid treatment program.

The PFS would allow several policies to *expire*, including allowing non-mental health services to be provided to patients located in their homes and in urban (rather than only rural) areas, an allowance for an expanded list of practitioners to deliver services (such as occupational therapists, physical therapists and speech language pathologists), and the waiver of an initial in-person visit requirement before mental health services can be delivered via telehealth.

Judicial News

On July 25, the U.S.D.C. for the Eastern District of Missouri **ruled**, in *The State of Ark. v. US Dep't of Educ.*, that in six states - **Arkansas, Missouri, Iowa, Nebraska, North Dakota, and South Dakota** - the **U.S. Dept. of Education** could not enforce broadening its interpretation of Title IX protections against discrimination and harassment to include sexual orientation and gender identity. The Court argued Title IX "contains no definition of sex or express prohibition of discrimination on the basis of gender identity, and it expressly permits sex-based differential treatment in certain circumstances." The rule is currently blocked in at least 14 other states.

Requests for Information

The **Department of Veterans Affairs** issued an **RFP** regarding its VA Pilot Program on Graduate Medical Education and Residency (PPGMER), allowing ACGME-accredited programs to apply for reimbursement of the proportionate costs of stipends and benefits for individual resident physician's clinical rotations at priority covered facilities - Indian Health Service, Indian Tribes, Tribal organizations, Federally Qualified Health Center programs, and Department of Defense facilities - through PPGMER. The application deadline is **September 30, 2024**, and is applicable for Resident Rotations within Academic Year 2025.

The **Department of Veterans Affairs** issued a **notice** requesting information to assist in developing a national standard of practice for **Therapeutic Radiologic Technologists**, with comments due by **September 27, 2024**. Previously, the VA issued RFIs regarding developing national standards for **Clinical Perfusionists, Diagnostic Radiologic Technologists, and Registered Radiologist Assistants** (comments for all due by **September 9, 2024**).

Additional information on the VA National Standards of Practice is [available 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 **Lisa Robin**, Chief Advocacy Officer, at lrobin@fsmb.org, or by phone at (202) 463-4006.



Regulatory News

Effective June 14, the **Alabama Board of Medical Examiners** issued a [final rule](#) prohibiting physicians from utilizing any form of telemedicine when certifying or recommending, or recertifying or re-recommending, a patient for the use of medical marijuana, or when conducting any associated examination for the potential use of medical marijuana.

The **Florida Board of Medicine** and **Dept. of Health** issued proposed rules announcing the development and implementation of new statutory provisions stemming from [SB 7016 \(2024\)](#), the omnibus-style bill that introduced an additional licensure pathway for IMGs and created a bridge-year style, time-limited license for “graduate assistant physicians” that were unselected for residencies.

The **State Medical Board of Ohio** promulgated [rules](#) revising [Ohio Admin. Code 4731-33-03](#) regarding Office-based treatment for opioid addiction. Specifically, the new rules would require practitioners to perform a patient assessment prior to, or at least “as soon as possible,” initiating treatment; update referenced treatment protocol, including the American Society of Addiction Medicine's 2020 guidelines; and revise protocols around buprenorphine, among other aspects.

The **Oregon Medical Board** issued a [proposed rule](#) regarding [postgraduate limited licenses](#), increasing the length of validity from 13 months to up to five years, though notably not to exceed the physician's postgraduate training program period. The postgraduate physician's application and fee will be based on the length of license requested.

The **Oregon Medical Board** issued a [proposed rule](#), implementing [HB 4010 \(2024\)](#), to change the title “physician assistant” to “physician associate” throughout OMB rules.

The **Wisconsin Naturopathic Medicine Examining Board** issued [proposed rules](#), effective September 1, 2024, providing definitions and outlining the regulation of naturopathic medicine, rules regarding informed consent, recordkeeping, and advertising; as well as outlining rules around unprofessional conduct and clarifying that individuals must be licensed in the patient's state if rendering care via telemedicine.

Judicial News

On July 15, the U.S. Court of Appeals for the 10th District ruled, in [Oklahoma v. U.S. Dep't of Health & Human Servs.](#), that the **Oklahoma State Department of Health** was **not** entitled to an immediate restoration of Title X family planning grant money that the Federal government withdrew based on the department's refusal to refer pregnant patients for abortion if requested. Title X is the only federal program that awards taxpayer money to public and private entities that provide family planning services, mostly to low-income people. Several anti-abortion states have objected to a condition of participation that requires providers to give their patients counseling about all methods of family planning, including abortion if requested.

On July 26, the **Nebraska Supreme Court** ruled that the state's [LB 574 \(2023\)](#) passed muster with the state's constitutional amendment requiring bills to stick to a single subject. The bill, which banned gender-affirming care for minors and instituted a 12-week abortion ban, was found acceptable to the high court because both aspects concern “medical care.”

Legislation Signed into Law

Board Structure and Function

[District of Columbia B 25-0545](#) - Enacted June 5 and effective July 26, transfers regulatory authority for the practices of acupuncture and naturopathic medicine from the Board of Medicine (BOM) to the Board of Integrative Healthcare (BIH), and also lays out the structure and function of the BIH. The bill also allows the BOM to grant a license to practice medical radiation technology to qualifying professionals that meet certain requirements, including passing a national certification examination. The bill has a section on telehealth, explicitly requiring that care delivered via telemedicine must be consistent with the (in-person) standard of care, the practitioner-patient relationship can be established through telehealth, though additional requirements for specific health professions may apply, including a need for an initial in-person physical exam. Lastly, the bill makes clear that a DC medical license is required **unless** the patient is temporarily present in the District, or they are a resident and the services provided do not exceed 120 days.

[New Hampshire HB 322](#) – Enacted July 26, establishes a committee to study the New Hampshire Board of Medicine, including the adequacy of staffing and funding “to maintain the highest possible transparency for the public,” appropriateness of procedures to ensure timely consideration of complaints, and construction of means to make the decisions of the Board accessible to the public, among other goals.

Gender-affirming Care

New Hampshire HB 619 - Enacted July 19 and effective January 1, 2025, prohibits healthcare professionals from providing or referring for “genital gender reassignment surgery” for individuals under the age of 18 (with exceptions for those with disorders of sex development) and public funds from covering the procedures. Violators are subject to discipline by their board for unprofessional conduct and civil action by the patient up until the patient is 20 years old.

Health Professionals' Scope of Practice

New Hampshire HB 1222 – Enacted July 30, eliminates the collaboration agreement requirement for PAs and suspends state licensure laws, rules, and regulations for PAs licensed in at least one jurisdiction that are employed by the VA and working at the Veterans Administration Medical Center (VAMC), provided that they are acting within the scope of their employment.

License Portability

Alaska SB 91 – Enacted July 19 without the Governor’s signature, allows a physician licensed in another state or an out-of-state member of a physician’s multidisciplinary care team to provide health care services through telehealth to a patient located in Alaska, if the services are not “reasonably available” in the state.

Medical Marijuana

Delaware HB 425 – Enacted July 17, shifts the Office of Medical Marijuana, which is currently under the Dept. of Health and Social Services (DHSS), to the Dept. of Safety and Homeland Security; empowers the Marijuana Commissioner, rather than DHSS, to administer the *Delaware Medical Marijuana Act*, which includes the registration and certification of safety compliance facilities and compassion centers, issuing registry cards, registering qualifying patients and designated caregivers, and updating rules and regulations.

New Hampshire SB 357 – Enacted July 26, allows physicians or APRNs licensed in neighboring states — Maine, Massachusetts, or Vermont — that possess an active DEA registration to certify patients in New Hampshire’s medical marijuana program. The bill also allows state-licensed PAs and “any [other] healthcare provider” with active DEA registrations, and the consent of supervising physicians, to do the same.

New Hampshire HB 1349 – Enacted July 12, adds generalized anxiety disorder to the list of qualifying medical conditions for recommending medical marijuana.

Military Licensing/Reciprocity

New Hampshire HB 1385 – Enacted July 26, establishes the Veteran Licensing Acceleration Program (VLAP) to expedite the licensure and certification process for veterans in regulated professions overseen by the umbrella Office of Professional Licensure and Certification (OPLC). Under VLAP, eligible veterans with military specialty experience equivalent to the state’s licensure requirements can apply for accelerated licensing and aims to provide applicants with comprehensive support, including resources and employment assistance. Completed applications must make licensing decisions within 10 days and insurance carriers are required to allow VLAP applicants to obtain necessary occupational insurance.

Occupational Licensing Reform

Pennsylvania HB 2200 and SB 1165 – Enacted July 17, 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.

Pain Management/Prescribing Practices

New Hampshire HB 1300 – Enacted July 22, this Right-to-Try style legislation allows eligible patients with a life-threatening disease or condition, that has already tried or is not a candidate for an FDA-approved treatment and is unable to participate in a clinical trial involving an investigational drug, to receive investigational drugs (that have passed a phase one clinical trial but has not been approved for general use by the FDA) from their physician, so long as the physician is not compensated by the manufacturer.

Reproductive Care

Illinois HB 5142 – Enacted July 29, requires insurers to cover all pregnancy, postpartum, and newborn care provided by doulas and midwives; pay for lactation consultants; and require abortions to be covered without cost-sharing requirements.

Illinois HB 5282 - Enacted July 19, requires insurers to cover mental health care for people following a miscarriage or stillbirth.

Iowa HF 732 - Enacted July 14, 2023, but effective July 29, 2024, following a district court's **decision** to dissolve an injunction after the state's Supreme Court **deemed it constitutional** June 28, the

legislation restricts abortion after the detection of a fetal heartbeat, defined as six weeks' gestation, unless there's a medical emergency. The law also required the Board to adopt rules for implementation, which it promulgated in November 2023 and [finalized](#) in February 2024.

Pending Legislation of Interest

Board Structure and Function

[New Hampshire HB 518](#) - Removes "moral turpitude" as a reason for disciplinary action against licensees, abolishes the state's [Medical Review Subcommittee \(MRSC\)](#), which investigates licensee complaints, removes the New Hampshire Medical Society's responsibility to annually audit CME credits, and notably raises the standard of proof bar for licensee misconduct from "preponderance of evidence" to "clear and convincing," among other aspects.

[Pennsylvania SB 1281](#) - Adds myriad definitions to the state's MPA, including for the practice of radiology and occupations of radiologist, radiation therapist, and radiologist assistant; and nuclear medicine technology; adds depth to the definition of "good moral character," requiring the Board to conduct individualized assessments when an applicant has a criminal conviction; and requires a license for medical imaging professionals and establishes criteria to do so, among other aspects.

Consumer Health Data

[District of Columbia B 25-0930](#) - Prohibits regulated entities, defined as non-governmental bodies that collect, process, share, or sell consumer health data from collecting consumer health data unless it has informed consent; it also prohibits certain types of information, including about procedures like abortion or gender-affirming care, from being tracked.

IMG Additional Pathways

[Massachusetts S 2869](#) - Allows the Board to grant a renewable, one-year license to physicians licensed or "otherwise authorized to practice" medicine outside of the U.S. that have:

- Received a degree of doctor from a medical school outside of the U.S. that is recognized by the World Health Organization;
- Practiced medicine for at least one year;
- Holds ECFMG certification ("or other credential evaluation service approved by the board") that can be waived at the Board's discretion;
- Passed USMLE Steps 1 & 2; and
- Entered into an employment agreement with a participating facility.

Further, the participating facilities must "develop, assess, and evaluate the applicant's familiarity with non-clinical skills and standards appropriate for medical practice in the commonwealth." The Board may promulgate additional criteria for the IMG candidates and the license may be renewed once, for one additional year. If the licensee completes the facility's assessment and evaluation program and USMLE Step 3, they become eligible for a two-year restricted license, which can be renewed once, to practice in a physician shortage area designated by the Board. After two years of practice with the renewed license, the IMG is eligible to apply for a full, unrestricted license.

Medical Marijuana

[Nebraska LB 71](#) - Legalizes the use of medical marijuana, establishes a comprehensive regulatory framework for its use, and provides necessary definitions. The bill mandates a genuine patient-practitioner relationship before recommending medical marijuana, creates a registry for patients and caregivers, and assigns the Nebraska Cannabis Control Commission to oversee the market. It also defines qualifying medical conditions as those in which "a diagnosis or symptoms such that, in the physician's professional judgment and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from medical cannabis."

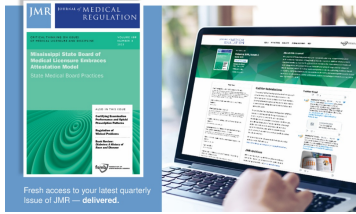
[Nebraska LB 52](#) - Sets a regulatory framework for how cannabis could be grown, refined, manufactured, distributed, tested and sold, overseen by a commission appointed by the state tax commissioner.

[Pennsylvania SB 1290](#) - Amends the state's Medical Marijuana Act, providing definitions, including of "impaired" and "under the influence," reforms certain rules regarding using medical marijuana in certain occupations, and allows employers to give prospective employees drug tests for safety-sensitive positions, among other aspects.

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](#).

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 contact **John Bremer**, Director, State Legislation and Policy, atjbrem@fsmb.org, or by phone at (202) 463-4021.



Resources for Regulators

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



Meetings & Events

September 18-19, 2024: [Coalition for Physician Enhancement Annual Conference](#), Baltimore, Maryland

September 20, 2024: [IAMRA 2024 Symposium: 'AI and Medical Regulation'](#), Baltimore, Maryland

April 24-26, 2025: [FSMB 113th Annual Meeting](#), Seattle, Washington

September 3-7, 2025: [16th International Conference on Medical Regulation](#), Dublin, Ireland

[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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