

Keeping you informed from Washington, D.C.

August 28, 2024

Congressional Recess Nears End

As we near the Labor Day holiday, we hope you have had a wonderful summer, filled with relaxation and memorable moments with family and friends. As summer winds down, so does Congress' August recess, with Members returning to Washington, DC on September 9. We are gearing up for the months ahead, including closely following the upcoming election and tracking pre-filed legislation ahead of state legislatures convening in January.

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



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Pending Legislation of Interest

Mental Health

The [Improving Access to Institutional Mental Health Care Act \(H.R. 8767\)](#) introduced by **Rep. Shri Thanedar (D-MI)**, would amend [title XIX of the Social Security Act](#) (Medicaid) to remove its exclusion of items and services for patients in an institution for mental diseases (IMD) -- such as accredited psychiatric facilities and facilities in which the majority of patients are being treated for mental disease -- from medical assistance, for patients aged 21 through 64 (currently, the exclusion does not affect those 65 and older).

The [Mental Health Care Provider Retention Act of 2024 \(H.R. 9091\)](#), introduced by **Rep. Shri Thanedar (D-MI)**, would allow servicemembers to retain their mental health care provider through the Dept. of Defense's (DoD) Military Health System (MHS) while their overall care is transferred to the Dept. of Veterans' Affairs (VA) Veterans Health Administration (VHA), at the same priority as their active duty service counterparts, with the VA reimbursing any associated costs instead of the DoD. If the mental health care provider departs the MHS, the servicemember "may obtain the services of a different provider at the same treatment facility or a different provider in the VHA.

Reproductive Care

The [Access to Contraception Expansion for \(ACE\) Veterans Act \(H.R. 9094\)](#) re-introduced by **Rep. Lauren Underwood (D-IL)**, would allow veterans, through the Veterans Health Administration (VHA), to receive a full year supply of contraceptive pills, transdermal patches, vaginal rings, and other hormonal contraceptive products. Currently, veterans are only entitled to a three-

month supply of such birth control care.

The [Access to Birth Control Act \(H.R. 9104\)](#), re-introduced by **Rep. Robin Kelly (D-IL)**, would amend the Public Health Service Act, which grants authority to manage public health emergencies, control infectious diseases, and support public health programs and research, to require pharmacies provide contraceptives and contraceptive-related drugs and devices to a requesting customer “without delay” so long as the item is in stock. If the item is not in stock, it would be required to refer the customer to a pharmacy that has the item, or transfer their prescription to the subsequent pharmacy. Pharmacies are prohibited from “operat[ing] an environment in which customers are intimidated, threatened, or harassed in the delivery of services related to a request for contraception,” having their employees misrepresent or deceive customers about the availability of contraceptives, or breaching confidentiality with regards to requests for contraceptives; pharmacies in violation would face a potential civil penalty of \$1,000 per day. The companion bill, [S. 4223](#), was previously introduced by **Sen. Cory Booker (D-NJ)**.

Regulatory News

On August 16, **HHS** issued a [notice](#) of its regulatory agenda of prospective rulemakings, including:

- Medications for the Treatment of Opioid Use Disorder
 - Tobacco Product Standard for Menthol in Cigarettes
 - Direct-to-Consumer Prescription Drug Advertisements: Presentation of the Major Statement in a Clear, Conspicuous, Neutral Manner in Advertisements in Television and Radio Format
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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.



Judicial News

On August 20, the **Arizona Supreme Court** rejected an effort, in [Arizona Right to Life v. Fontes](#), to remove an abortion rights measure from the state's November ballot. Arizona Right to Life did not show that Arizona for Abortion Access misled voters in its description of a measure to establish a fundamental right to abortion until fetal viability (about 24 weeks into pregnancy). Previously, the high court had reversed a lower court's decision to rephrase partisan-written ballot language that used the term “unborn human being” and ultimately accepted the language.

The **Florida Supreme Court**, in [Floridians Protecting Freedom, Inc. v. Passidomo](#), ruled against an abortion rights group that challenged the inclusion of a financial impact statement accompanying the abortion measure. The statement, which speculates increased public costs for abortion and decreased public education funds if abortions decrease childhood populations, will appear on November's ballot. In addition to **Arizona** and **Florida**, seven other states will have abortion-related questions on their ballots: **Colorado, Maryland, Missouri, Montana, Nevada, New York, and South Dakota**.

On August 22, the **Arkansas Supreme Court** [ruled](#) in favor of state **Attorney General Tim Griffin** who argued that the court should not certify an abortion rights ballot initiative based on an alleged failure of Arkansans for Limited Government to properly “file requirements for paid canvassers.” The decision means that a ballot measure that could have legalized abortion for any reason up to 20 weeks gestation and allow the procedure later in pregnancy in cases of rape, incest, threats to the woman's health or life, or severe fetal abnormalities, will not be on the ballot in November.

Legislation Signed into Law

Telemedicine

Illinois HB 5087 – Enacted August 9, allows physical therapists and PT assistants to render care via telemedicine, including to "increase their ability to assess and direct the patient's performance in the patient's own environment." Initial evaluations cannot be conducted via telemedicine unless there is a hardship such as geographical, physical, or weather-related conditions.

Pending Legislation of Interest

Opioids/SUD Treatment

California AB 2115 - Authorizes practitioners to prescribe a narcotic drug at a nonprofit or free clinic to relieve acute withdrawal symptoms, while arrangements are being made for the patient's long-term treatment in a narcotics treatment program (NTP). The clinic dispensing the narcotic remains subject to specified reporting, labeling, and recordkeeping requirements.

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 COVID-19 adjacent 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 contact **John Bremer**, Director, State Legislation and Policy, atjbremmer@fsmb.org, or by phone at (202) 463-4021.



Resources for Regulators

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

September 25, 2024: [New State Medical Board Member Training: Session 2](#), 10 a.m.-noon ET

October 24-26, 2024: [FSMB Board of Directors Meeting](#), Dallas, Texas

November 7-8, 2024: [FSMB Board Attorneys Workshop](#), Reno, Nevada

November 20-22, 2024: [Administrators in Medicine Fall Workshop & CMBE Institute](#), Phoenix, Arizona

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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