

Keeping you informed from Washington, D.C.

July 19, 2024

Farewell and Best Wishes to Kandis McClure

This week, we wished a heartfelt farewell to our colleague and friend **Kandis McClure**, FSMB's Director of Federal Advocacy and Policy. After six years of dedication and hard work with us, Kandis will be embarking on a new and exciting chapter in her career journey.

During her time here at the FSMB, Kandis has been an invaluable member of our advocacy and policy team. Her relentlessly positive attitude and commitment to excellence has contributed greatly to our organization and will be missed.

As much as we will miss Kandis' presence and contributions, we are excited for her as she moves forward into this new opportunity. Please join me in expressing our gratitude for all that she has done and our best wishes for her continued success in her future endeavors.

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



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Legislation Moving through Congress

Appropriations

The [Labor-HHS-Education appropriations bill \(H.R. 1\)](#) would increase funding for programs that screen pregnant and postpartum women for substance use disorders and mental health concerns as well as increase funding for the maternal health block grant program, cut funding for the [Ryan White HIV/AIDS program](#) by \$190 million, increase funding for rural health programs from \$364 million to \$400 million, including money to help small and critical access hospitals; and increase spending on the organ transplant network revamp by \$2 million, among other aspects. Additionally, the Committee report includes \$44,550,000 for the Office for the Advancement of Telehealth (OAT), for "the effective use of technologies to improve access to health services..." The bill would bar federal money from being used to promote abortion or reproductive rights information and information on gender-affirming care. It also seeks information from fertility clinics, such as the number of fertilized eggs typically created during an in vitro fertilization cycle. The bill was advanced by the House Appropriations Committee on June 10 along party lines by a 31-25 vote, but is seen as unlikely to become law in its

Pending Legislation of Interest

The **Senate's** version of the [National Defense Authorization Act for 2025 \(S. 2226\)](#) contains myriad sections of note, including a portion updating the existing military spouse licensing program, expediting the timeline to 30 days maximum (either full or temporary, with the latter having a path to full licensure), so long as the applicant has all the necessary paperwork (including marriage certificate, background check, and proof of completed continuing education) required by the new jurisdiction. Eligible licensees cannot have had a license revoked, been disciplined by any jurisdiction or have any pending unprofessional conduct complaints, allegations, or investigations, among other disqualifiers (§ 1091). The bill would allow mental health care providers on the TRICARE network to render services across state lines to armed services members or their dependents at any location in the U.S., so long as the practice is within the scope of the authorized Federal duties (§ 701), require TRICARE to cover fertility treatment (including IVF) to *active* duty members "without regard to the sex, sex characteristics, gender identity, sexual orientation, diagnosis, or marital status" (§ 705), and also prohibits DoD funds or facilities to be used for sex change surgeries (§ 708) or TRICARE from covering gender-affirming care (including hormone therapy and puberty blockers) for minors (§ 709).

Mental Health

The [Increasing Mental Health Options Act of 2024 \(H.R. 8458\)](#), introduced by **Rep. Nicole Malliotakis (R-NY)**, would incentivize clinical psychologists to practice in health professional shortage areas (HPSAs) with a 10 percent reimbursement increase from Medicare, remove certain prior authorization requirements for psychologists rendering behavioral health services within their scope of practice, and allow independent practice for qualifying psychologists at outpatient rehabilitation and skilled nursing facilities, home health, and at inpatient psychiatric hospitals.

Reproductive Health

The [Conscience Protection Act \(H.R. 8857\)](#), introduced by **Rep. Jim Banks (R-IN)**, would prohibit discrimination by any person or entity that receives Federal financial assistance against health care entities - broadly defined as individual health care professionals, health care facilities, insurers, provider-sponsored organizations, and health education institutions, among others - that do not participate in abortion. The bill also designates HHS' Office for Civil Rights to receive complaints alleging violations of the *Religious Freedom Restoration Act of 1993*, investigate, issue findings, and require corrective actions if the complaint is validated; and provide a right of action for individuals that have been harmed, including injunctive relief and compensatory damages. The Senate companion, [S. 4524](#), was introduced by **Sen. James Lankford (R-OK)** in June and featured in the *6/27 Advocacy News*.

Substance Use Disorder Treatment/Opioids

The [Preventing and Treating Substance Use Disorders Among Older Adults Act \(S. 4358\)](#) introduced by **Sen. Bob Casey (D-PA)**, would require the Substance Abuse and Mental Health Services Administration (SAMHSA) to establish a grant program aimed at addressing substance use disorders (SUD) among older adults, defined as those aged 60 and above, given to eligible public and private entities that will provide early identification of individuals at risk for SUD, provide SUD treatment and prevention services, linking older adults to resources, and provide integrated care and comprehensive care coordination. Priority would be granted to entities that apply evidence-informed and cost-effective methods, embrace detailed data collection, coordinate with social service agencies in the community, provide a continuum of integrated treatment services, and ensure that at least 15 percent be distributed to rural communities.

Veterans' Affairs

The [Rural Veterans' Improved Access to Benefits Act \(H.R. 8881\)](#) introduced by **Rep. Juan Ciscomani (R-AZ)**, would make permanent the ability for non-VA Department healthcare professionals to conduct disability examinations, including across state lines, pursuant to contracts, so long as they are licensed in at least one jurisdiction and *not* barred from practice in any other jurisdiction. Currently, the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* granted the ability for interstate examinations to PAs, NPs, audiologists, and psychologists, but the authority is scheduled to expire in January 2026. The bill also requires a report to Congress regarding the cost, timeliness, and thoroughness of medical disability examinations with the expanded authority granted in the statute.

Regulatory News

On July 1, HHS, through HRSA, **announced** a grant of over \$200 million to support the [Geriatrics Workforce Enhancement Program](#) (GWEP), which trains primary care physicians, nurse practitioners, and other health care clinicians to provide age-friendly and dementia-friendly care for older adults, as well as providing families and other caregivers of older adults with the knowledge and skills to help them best support their loved ones. The full list of award recipients can be found [here](#).

On July 5, the **Biden Administration** released its [spring 2024 Unified Agenda](#), which included the following items, among others:

- July: [Expanded final regulations](#) requiring insurers to treat mental health care on the same terms as other care and planned payment rules for doctors under Medicare.
- September: Rules for prescribing controlled substances via telemedicine in two months are expected. The name of the regulation in the agenda has changed since a previous iteration, suggesting it could address virtual care across state lines.
- Of note, the agenda does not include the proposed ban on menthol cigarettes that the administration delayed in the spring.

Judicial News

On July 2, the **Biden Administration**, through **HHS**, [authorized](#) five states - Illinois, Kentucky, Oregon, Utah and Vermont - to provide health coverage to people transitioning out of prison through their Medicaid programs, specifically substance use disorder and mental health treatment, up to 90 days before their release from prison. Four other states - California, Massachusetts, Montana and Washington - have similar programs in place.

On July 3, the **Biden Administration's** new antidiscrimination protections for transgender health care was blocked by a federal judge in Mississippi which issued a nationwide stay. **HHS** issued a [final rule](#) on May 6 - that was scheduled to go into effect July 5 - that Section 1557 of the *Affordable Care Act* entitled people to civil rights protections over their gender identity or sexual orientation, a reversal of a previous **Trump Administration** rule. The rule had meant to serve as a bulwark against the roughly two dozen states that have enacted restrictions on minors' receiving gender-affirming care. The decision came days after the **Supreme Court** overturned the precedent of *Chevron* deference in *Loper Bright Enterprises v. Raimondo*, which is [expected](#) to undercut the HHS' ability to uphold regulations and guidance around controversial topics like gender-affirming care and abortion, while giving courts more leeway to cut them down.

On July 10, **CMS** released their [20215 proposed physician fee schedule](#), which among other things, makes access to audio-only telehealth permanent when patients cannot or do not consent to use video-enabled telehealth, allows telehealth providers to report their in-person care locations, even if they deliver care from their home; and delaying until 2026 the in-person requirement before getting virtual mental health care. However, the rule does not include other aspects that have been allowed since the pandemic, including allowing federally qualified health centers and rural health clinics to bill for telehealth services, eased geographic (origination and destination) site restrictions, and allowing more practitioners to bill for telemedicine services.

Requests for Information

The **Department of Veterans Affairs** issued a [notice](#) requesting information to assist in developing a national standard of practice for [Clinical Perfusionists](#), [Diagnostic Radiologic Technologists](#), and [Registered Radiologist Assistants](#), with comments due by **September 9, 2024**. Previously, the VA issued RFIs regarding developing national standards for [Nuclear Medicine Technologists](#) (comments were due by July 15, 2024), and [Marriage and Family Therapists](#) (comments due by July 25, 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 5, 2024, the surcharge fees for the **Washington Physician Health Program** for physicians, osteopathic physicians, podiatric physicians, dentists, physician assistants, and veterinarians will increase from \$50 to \$70 due to the passage of **HB 1972** in March.

Beginning July 1, 2024, boards and bureaus under **California's Dept. of Consumer Affairs (DCA)** (including the Medical and Osteopathic Medicine Boards) must expedite licensure application processing for service members currently enrolled in the U.S. Dept. of Defense **SkillBridge Program**, which "connects transitioning service members with industry partners in real-world job experiences."

The **Arkansas Dept. of Health** issued **proposed rules** governing the practice of emergency medical services, essentially updating the entire corpus of regulations regarding emergency medicine (changes in redline can be seen on p.93). Comments are due by **July 30**.

Wyoming's ban on gender-affirming care for minors went into effect on **July 1**. **SF 99 (2024)** and puts the state in line with its neighbors - Idaho, Utah, and Montana - which have similar bans, although the latter is on hold due to litigation.

The **Washington Dept. of Health** issued **proposed rules** regarding its **J-1 physician visa waivers**, which allow IMGs to remain in the U.S. for up to seven years while they complete their GME, but then must return to their home country for at least two years before gaining eligibility for an H-1B visa. The proposed rules detail requirements of entities wishing to sponsor J-1 physicians, flex waivers regarding practice outside of Health Professional Shortage Areas (HPSAs), employment contracts between the IMG and the healthcare entity, and the Department's own authority to sponsor the waivers, among other aspects. The rule is scheduled to be finalized on **August 13, 2024**.

Beginning July 1, 2024, the **Kentucky's Board of Medical Licensure** and Board of Nursing will begin **taking applications** from physicians and APRNs seeking to become authorized to write medical cannabis certifications. Patients, however, will not be able to apply for a medical cannabis card until Jan. 1, 2025. In March 2023, Kentucky enacted **SB 47**, which legalized medical cannabis in the commonwealth. For more information, please see the Kentucky Office of Medical Cannabis' **website**.

On July 3, 2024, **Idaho's Division of Occupational and Professional Licensing (DOPL)** issued **proposed rules** pertaining to PAs and graduate PAs, specifying the Physician Assistant National Certifying Examination (PANCE) as an acceptable licensure exam, requiring current National Commission on Certification of Physician Assistants (NCCPA) certification instead of CME requirements, and simplifying rules regarding the licensing, examinations, and scope of practice of graduate PAs. DOPL also issued proposed rules pertaining to the practice of medicine, defining key terms, clarifying that Idaho residence is *not* needed for licensure, providing rules for temporary registration of physicians in postgraduate training, and allowing maintaining board certification as an alternative to CME requirements.

On July 30, the **Medical Board of California** will hold a virtual meeting to discuss whether the Board should change its introductory statement and/or questions relating to mental and physical health on its licensing applications.

Judicial News

On July 5, the **Kansas Supreme Court** permanently blocked (in **Hodes & Nauser MDs, PA v. Kobach**) two anti-abortion laws, one prohibiting dilation and evacuation (D&E) abortions, which are commonly used in the second trimester, and the other requiring special licensing for abortion clinics. Abortion is legal in Kansas up until 22 weeks of pregnancy, but there are several restrictions in place, including a 24-hour delay, state-mandated consent forms, and a bar on telemedicine abortions. In 2022, Kansas voted in a **ballot measure** that the state's Bill of Rights provides a right to abortion.

Legislation Signed into Law

Medical Marijuana

Delaware HB 285 - Enacted May 28 and effective July 1, eliminates the debilitating medical condition requirement to qualify for a medical marijuana card. Instead, healthcare providers can determine if a patient has a diagnosed condition that would benefit from medical marijuana. The bill also removes CBD-rich and compassionate use programs, instead allowing medical marijuana for conditions that previously did not qualify for a registry card, such as anxiety. The bill extends the validity of medical marijuana cards from one year to two or three years, and "indefinite" for individuals with terminal illnesses; and provides parity for individuals with out-of-state medical marijuana cards. Lastly, patients aged 65 and older would be able to self-certify without a written provider certification and out-of-state registry cards or their equivalent could be used in Delaware for qualifying purposes.

Occupational Licensing Reform

Florida SB 1600 – Enacted June 28, creates a licensure pathway based on endorsement for

professionals that do not currently have a similar process in place. Qualifying applicants must hold a valid, active license in another jurisdiction for at least five years prior to application, passed recognized licensing exams if necessary, have no pending disciplinary actions, satisfied prior disciplinary actions if necessary, complete Florida-specific continuing education courses and/or relevant jurisprudence exams, and comply with any insurance requirements.

Pain Management/Prescribing Practices

North Carolina HB 98 – Enacted July 8, Right-to-Try style bill that allows eligible patients, defined as someone that has considered all other treatment options and has received a recommendation from a treating physician to try the intervention, to use investigational drugs, biological products, or devices for a life-threatening or severely debilitating illness, so long as they have given their informed consent, the nature of which is detailed in the bill. Further, the bill prohibits sanctions against health care providers for relevant recommendations, and prohibits State officials to block or attempt to block an eligible patient's access to investigational care.

Reproductive Care

Tennessee SB 1971 and HB 1895 - Enacted May 31 and effective July 1, following two judges' temporary restraining orders in separate U.S. District Courts (*Welty v. Dunaway* and *SisterReach, Inc. v. Skrmetti*), prohibits an individual from intentionally recruiting, harboring, or transporting an unemancipated minor for the purpose of receiving a medical procedure prohibited in Tennessee, such as an abortion, medication abortion, or gender-affirming care. The ban does not apply to the minor's parents or guardians, an adult with permission from the minor's parent or guardian, or ambulance drivers, emergency medical services personnel, and other common transportation services. Violators are subject to a Class A misdemeanor, which can incur a one year prison sentence, and civil actions that can be brought on behalf of the "unborn child" by the biological mother or father, unless the pregnancy is a result of the latter's rape (aggravated or statutory) or incest.

Telemedicine

Pennsylvania SB 739 – Enacted July 3, requires health insurers and managed care plans (such as HMOs and PPOs) to pay for covered health care services provided through telemedicine, and requires providers rendering care via telemedicine to apply the same standard of care as that required for in-person care.

Pending Legislation of Interest

Healthcare Professionals' Scope of Practice

Pennsylvania HB 2464 - Allows PAs to work according to the state's *Outpatient Psychiatric Oversight Act* so long as they obtain a mental health certification within two years of being hired by an outpatient psychiatric clinic or have a written agreement with a psychiatrist.

IMG Additional Pathways

Massachusetts S 2856 - 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 candidate IMGs 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.

Mental Health

California SB 294 - Triggers an automatic review process if a provider denies a claim for mental health or substance use disorder treatment for individuals aged 26 and under, which are required to be covered by public and private insurers under state law.

Reproductive Care

Massachusetts H 4844 - Prohibits covered entities, defined as a person, partnership, corporation, limited liability company, association or other group; or service providers from collecting or processing an individual's reproductive or gender-affirming care location information without their consent unless required by Federal or state law. The bill also prohibits collecting more information than "necessary," retaining the information "longer than necessary," or selling the data to third parties.

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 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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