

Keeping you informed from Washington, D.C.

June 11, 2024

Ohio debates Board Authority Legislation this Wednesday

Tomorrow, the **Ohio Senate Health Committee** will hold a **hearing** at 9:30 am ET on **HB 73**, which would permit prescribers to issue prescriptions, and pharmacists to dispense (FDA-approved) off-label drugs "in good faith" and with the patient's informed consent, without screening or a positive test, and prohibit licensing boards and the Department of Health, among other bodies, from taking disciplinary actions, except in cases of recklessness or gross negligence. Further, the legislation would prohibit Boards from disciplining a licensee for "publicly or privately expressing a medical opinion that does not align with the opinions of the board or agency" and declare that the World Health Organization has no jurisdiction in the state.

Since 2021, FSMB has tracked more than 100 bills that would limit boards' authority to discipline licensees for unprofessional conduct, failing to follow the standard of care, or disseminating misinformation on social media, or explicitly prohibit boards from restricting off-label prescribing. Of those bills, 13 have been enacted in eight states. FSMB continues to maintain a **legislative tracker** following these bills.

Please **reach out to us** if we can assist you on policy or legislative issues or questions!



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Requests for Information

On May 24, **Sen. Ron Wyden (D-OR)**, the **Senate Finance Committee** chairman, unveiled a **policy outline** aimed at enhancing the Medicare GME program that addresses critical physician workforce shortages and targeting the equitable distribution of physicians to rural and underserved communities, specifically by expanding the Medicare-supported GME positions in those locales. The outline contains numerous questions for consideration under seven key topics, and comments are due by **June 24, 2024**.

Legislation Moving through Congress

Appropriations

An [amendment](#) to the [2025 Military Construction, Veterans Affairs, and Related Agencies \(MilConVA\) \(H.R. 8580\)](#) bill, proposed by [Rep. Brian Mast \(R-FL\)](#), to allow Veterans Affairs staff to recommend medical marijuana to veterans in states where it's legal was adopted by a 290-116 vote. The current bill includes a handful of controversial policies, including blocking the VA from implementing and/or administering a portion of its September 2022 interim final rule (IFR) that removed the exclusion on abortion counseling for veterans and their beneficiaries, but leaves in place the section of the IFR that permits abortions in cases of rape, incest, and to save the mother's life, regardless of location, which was implemented post *Dobbs* (§ 255); it also prohibits any funding "for surgical procedures or hormone therapies for the purposes of gender affirming care" (§ 256). On June 5, the full House passed the bill, largely along party lines, [209-197](#).

Pending Legislation of Interest

Appropriations

The [Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2025 \(H.R. 8580\)](#), introduced by [Rep. John Carter \(R-TX\)](#), would, among many other things, block the VA from implementing and/or administering a portion of its September 2022 [interim final rule](#) (IFR) that removed the exclusion on abortion counseling for veterans and their beneficiaries, but leaves in place the section of the IFR that permits abortions in cases of rape, incest, and to save the mother's life, regardless of location, which was implemented post *Dobbs* (§ 255); it also prohibits any funding "for surgical procedures or hormone therapies for the purposes of gender affirming care" (§ 256).

Mental Health

The [Elementary and Secondary School Counseling Act \(S. 4407/H.R. 8524\)](#), introduced by [Sen. Jeff Merkley \(D-OR\)](#) and [Rep. Katherine Clark \(D-MA\)](#), would establish a grant program to increase access to school-based mental health providers at "high-need" public elementary schools and secondary schools, defined as a school in an area in which the percentage of students from families with incomes below the poverty line is 30 percent or more ([20 U.S.C. 6631\(b\)](#)), according to a formula detailed in the statute, and states must contribute 20 percent of the total contributed by the Federal government. The grants would be dispersed to local education agencies, which work hand-in-glove with partnering schools districts, and used to recruit and retain school-based mental health services providers or contract with community mental health centers to effectively staff high-needs schools, by meeting the maximum ratios of 250 students per school counselor, 500 students per school psychologist, and 250 students per school social worker.

Reproductive Health

The [Right to Contraception Act \(S. 4381/H.R. 4121\)](#), introduced by [Sen. Ed Markey \(D-MA\)](#), establishes a statutory right to obtain and use contraceptives, and prohibits the Federal or state governments from promulgating or enforcing any law or rule that bans or restricts the provision of contraceptives or contraceptive-related information by health care providers and facilities. The bill also allows for the Attorney General, a health care provider, or an adversely affected individual to commence a civil action against any State that violates, or against any government official that implements or enforces such a restriction.

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, atkmcclure@fsmb.org, or by phone at (202) 463-4003.



Regulatory News

The [Wisconsin Medical Board](#) announced the [statement of scope](#) for an upcoming rule for

implementing [AB 954](#) (2024), which created a pathway to licensure for international medical graduates without U.S. or Canadian GME.

The **Michigan Board of Osteopathic Medicine** [proposed rules](#) that would decrease the amount of attempts to pass COMPLEX from six to four, remove the requirement that applicants complete the entire range of COMPLEX exams within seven years, add Board discretion as to how applicants must "provide proof" of various prerequisites, and adjust rules regarding CME waivers and credit requirements.

Judicial News

On May 30, 15 states filed suit in [State of Tennessee et al v. Becerra et al](#) against the **U.S. Dept. of Health and Human Services** in the U.S.D.C. for the Southern District of Mississippi, challenging HHS' [determination](#) that sexual orientation and gender identity are among the protected categories under Section 1557 of the Affordable Care Act, and therefore tying Federal funds for health programs such as Medicare and CHIP to the nondiscrimination of these populations.

On May 31, the **Texas Supreme Court** struck down a lower court's ruling that spelled out medical conditions that must be met to make an abortion lawful in the state. The trial court's order permitting abortions for any unsafe pregnancy is flawed, the justices said, because "all pregnancies carry risks." However, the justices left in place an exception, which the plaintiffs argued is unclear, permitting an abortion "when a physical condition could kill or seriously impair the pregnant woman."

On June 3, a [permanent injunction](#) in the U.S.D.C. for the Middle District of **North Carolina** in *Bryant v. Stein et al.* ruled myriad North Carolina state laws restricting mifepristone to be unconstitutional, thus allowing the medication to be taken outside of clinical settings, dispensed by pharmacists in addition to physicians, and making the follow-up appointment optional.

On June 11, a judge in **Florida's** Federal District Court in Tallahassee [ruled](#) that Florida's [SB 254](#) and similar Boards of Medicine [rules](#) that prohibited minors from accessing gender-affirming care treatments, and added mandatory steps before adult transgender individuals could access care, were unconstitutional. The ruling would allow for puberty blockers and hormone therapy when medically appropriate, leaves the state's prohibition on gender transition surgery for minors in place, and blocked certain rules as they pertain to adults seeking such care. **Florida Governor Ron DeSantis** said the state will appeal the decision.

Legislation Signed into Law

Board Structure and Function

[South Carolina S 241](#) – Enacted May 21, creates the Genetic Counselors Committee under the purview of the Board of Medical Examiners to advise the board on license applications, renewals, disciplinary actions, and regulation of genetic counselors.

Continuing Medical Education

[Colorado HB 24-1153](#) – Enacted June 4, requires licensees to complete 30 hours of CME per 24-month renewal period, effective Jan. 1, 2026. To qualify for CME credit hours, a program must be accredited by the Colorado Medical Society, AMA, or ACCME, and qualify for AMA Category 1 credit; qualify for prescribed credit from AAFP; be an approved program of ACOG; or be a program required in order to maintain national board certification, not including a program of self-study or a program self-claimed or self-documented. The Board is also authorized to audit up to 5 percent of physician renewals annually and to require the physician submit proof of CME completion; failure to comply with CME regulations or with an audit without reasonable cause can result in an unprofessional conduct charge.

[South Carolina S 408](#) – Enacted May 20, requires counselors, marriage and family therapists, psycho-educational specialists, and social workers to obtain at least one hour of CME in suicide assessment, treatment, and management per renewal period. FSMB's May 30 *Advocacy News* erroneously stated this requirement was applicable to physicians.

Death with Dignity

[Colorado SB 24-068](#) – Enacted June 5, amends medical aid-in-dying laws to give the same authority to APRNs to evaluate and prescribe death-aiding prescriptions as physicians, removes the residency requirement to access end-of-life options, reduces the mandatory waiting period between requests from 15 days to 48 hours, and allows the attending provider to waive the mandatory waiting period if the patient is unlikely to survive more than 48 hours and meets all other qualifications.

Health Professionals' Scope of Practice

[Colorado HB 24-1327](#) – Enacted June 5, continues the regulation of physical therapists (PTs) and PT assistants (by the Colorado State Physical Therapy Board) until September 1, 2035 and also authorizes PTs to recommend and prescribe durable medical equipment to patients without a

prescription from a physician.

International Medical Graduates

Tennessee SB 1936 – Enacted May 6, amends **TN Code § 63-6-207**, which was previously amended by **TN SB 1451 (2023)**, requiring IMGs on the alternate pathway to complete three years' of PGT in their licensing country **and** practice as a physician for at least three years outside of the U.S. (previously, the IMG needed to complete **either** the PGT or international experience requirement, the latter being **three out of the last five** years) and stating that the Board **may** issue a full license after two years' of provisional licensure (previously, bill language was that the Board **shall** issue this license). Additionally, the bill allows the Board to issue a limited-duration temporary license to an IMG that has completed USMLE Step 3, demonstrated competency as determined by the Board, and completed one year of PGT in the U.S. After two years of temporary licensure, the licensees are eligible for full licensure. FSMB's May 23 *Advocacy News* erroneously included a summary from an earlier version of the bill.

License Portability

Connecticut HB 5198 – Enacted June 4, amends the definition of a 'telehealth provider' to include additional professions, such as a PA, genetic counselor, and nurse-midwife; allows telehealth providers to utilize audio-only modalities; prohibits providers from charging uninsured patients more than the Medicare reimbursement rate for telehealth services; and allows mental and behavioral care providers licensed in another jurisdiction to provide telehealth services to Connecticut residents *temporarily, through June 30, 2025*, so long as they have professional liability insurance and provide care within their scope of practice (current law allows this privilege *permanently*). The bill also repeals the pandemic-era ability for the Commissioner of the Dept. of Public Health to issue an order that would allow for interstate telemedicine during emergencies, but retains their ability to suspend or revoke the out-of-state practitioner if they violate relevant statutes.

Occupational Licensing Reform

Colorado HB 24-1004 – Enacted June 4, empowers state regulators to assess an applicant's suitability for registration, certification, or licensure in regulated occupations, allowing the consideration of convictions for violent felonies or misdemeanors. However, regulators are prohibited from factoring in convictions for non-violent offenses after a three-year period has elapsed. Furthermore, individuals have the right to petition regulators to assess whether a criminal conviction will affect their eligibility before fulfilling any other credentialing requirements. The bill also mandates that regulators bear the burden of proof in demonstrating that denial based on a criminal conviction is directly relevant to the applicant's potential performance in the desired occupation or profession.

Pain Management/Prescribing Practices

Vermont S 114 – Enacted May 29, establishes the Psychedelic Therapy Advisory Working Group to review existing research on the costs and benefits of psychedelics to improve mental health and to make recommendations regarding whether the State should create a program that permits health care providers to administer psychedelics in therapeutic settings, and their impact on public health, as well as provide rules about the task force's membership, schedule, and timeline for the report.

Telemedicine

Michigan HB 4131 – Enacted June 6, amends the Insurance Code to prohibit insurers in Michigan from requiring a health care professional to provide services for a patient through telemedicine, with exceptions detailed in statute.

Legislation Vetoed

Pain Management/Prescribing Practices

Vermont H 72 - Vetoed May 30, bill would have funded - with \$1.1 million from the state's opioid settlement fund - an "overdose prevention center" (safe injection site) in Burlington where individuals could use drugs in a medically supervised environment and also have substances checked for adulterants, with additional money allocated to study the site's impact.

Pending Legislation of Interest

International Medical Graduates

Massachusetts H 4722 - 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;
- 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.

Gender-affirming care

Delaware SB 315 - Enacts the Family Research Council's **Save Adolescents from Experimentation (SAFE) Act**, which prohibits gender transition treatment for minors, including both surgical and nonsurgical interventions such as prescribing puberty blockers and sex hormones, and bars public funds from going towards paying for such services. The bill classifies a referral for, or the provision of, GAC to a child as unprofessional conduct, subjects them to possible licensing board discipline, and provides a cause of action against offending healthcare professionals until the minor reaches age 38.

Occupational Licensing Reform

Louisiana HB 954 - Applicable to PAs, removes the crime or offense of "moral turpitude" from the list of offenses or violations for which the respective regulatory authority shall take disciplinary action or deny licensure or certification for refusal of a license.

Reproductive Health

New York A 5297 and S 6616 - Prohibits hospitals from limiting a practitioner from providing "medically accurate" information to a patient relating to their "diagnosis, prognosis, recommended treatment, treatment alternatives, information about available services and where and how to obtain them, and any potential risks to the patient's health or life." The bill also codifies *Emergency Medical Treatment and Labor Act* (EMTALA)-style protections, prohibiting hospitals from **not** providing care related to complications of pregnancy, such as miscarriage management and treatment of ectopic pregnancies, as well as in cases where not providing services would mean not meeting the accepted standard of care and the absence of medical attention could "reasonably be expected to pose a risk" to the patient's life or cause irreversible damage to their health.

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

- [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

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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