

Keeping you informed from Washington, D.C.

May 2, 2024

FSMB Annual Meeting 2024: New Policies Adopted

The FSMB's House of Delegates adopted several policies during its annual meeting on April 20th, addressing timely topics relevant to medical regulation, including [opioid prescribing](#), [opioid use disorder treatment](#), [post-graduate training](#), [artificial intelligence](#), and [board structure and function](#). We hope that the nation's state medical boards find these policies useful in their policy making initiatives.

Please [reach out to us](#) if we can assist you on policy or legislative issues or questions!



Lisa Robin

Chief Advocacy Officer
Federation of State Medical Boards
(202) 463-4000 | lrobin@fsmb.org



Pending Legislation of Interest

Healthcare Workforce

The [Advancing Culturally Competent and Equitable Supportive Services \(ACCESS\) in Mental Health Act \(H.R. 7924\)](#), introduced by **Rep. Jamaal Bowman (D-NY)**, would create a grant program for eligible minority-serving institutions (historically black colleges and universities, tribal colleges and universities, and Hispanic-serving institutions) "to establish, expand, or improve graduate programs in mental and behavioral health professions," including the fields of psychiatry, psychology, school psychology, behavioral pediatrics, psychiatric nursing, social work, school social work, substance use disorder prevention and treatment, and marriage and family counseling, among others. At least five percent of the grant must go towards student scholarships and stipends (designated at \$10,000 per year), prioritizing students from health professional shortage areas (HPSAs). These graduate programs would aim to prepare professionals in "culturally responsive and trauma-informed behavioral health care" and serve in HPSAs.

Diversity, Equity, and Inclusion

The [Embracing anti-Discrimination, Unbiased Curricula, and Advancing Truth in Education \(EDUCATE\) Act \(S. 4115\)](#), introduced by **Sen. John Kennedy (R-LA)**, would prohibit graduate medical schools from receiving Federal financial assistance or participating in a Federally funded student loan program if they "direct, compel, or incentivize students, faculty, or staff of the medical

school to personally state, pledge, recite, affirm, or otherwise adopt" a series of beliefs or theories, including the oppressor/oppressed paradigm, adverse treatment based on demographic categories or the history of a demographic category, or structural racism. The bill also prohibits making a distinction or classification, establishing a benefit or privilege, or providing courses only for students based on race, color, or ethnicity. Lastly, the bill bans that a graduate medical school "establish, maintain, or contract with a DEI office," or its equivalent.

Regulatory News

On April 23, **HHS** promulgated the final rule ("**HIPAA Privacy Rule to Support Reproductive Health Care Privacy**") that increases the protection of personal information under HIPAA for individuals seeking, obtaining or providing abortions from investigation in states restricting them. Specifically, the regulations prevent providers and insurers from turning over information to state officials investigating or prosecuting anyone seeking or providing a legal abortion — and require providers and insurers to receive signed attestations that requests for personal health information related to reproductive health are not being used for those purposes. Covered entities must modify their privacy-practices notices to reflect the new rules.

On April 23, the **Federal Trade Commission (FTC)** issued a **final rule** banning noncompete agreements in almost all circumstances, with exceptions for nonprofits (which the FTC does not have authority over), and senior executives earning over a certain threshold. Between 37-45% of doctors are bound by noncompetes, and the new rule would allow many of them to leave their jobs without penalty. However, challenges to the new rule are anticipated.

On April 30, it was **reported** that the **DEA** would reschedule cannabis from Schedule I to Schedule III under the *Controlled Substances Act* (which was recommended by **HHS** in August 2023). Schedule I drugs (such as LSD, ecstasy, and peyote) have no currently accepted medical use and a high potential for abuse, while Schedule III drugs (such as codeine, ketamine, and testosterone) have a moderate to low potential for physical and psychological dependence, **according** to the DEA. It should be noted that rescheduling would **not** legalize marijuana for recreational use, but would ease access to cannabis for patients and researchers studying its medical applications. Before the rescheduling takes place, the proposal would undergo public comment and official review.

Judicial News

On April 24, the **Supreme Court** heard arguments in *Idaho v. United States*, a case that hinges on the interpretation of the Emergency Medical Treatment and Labor Act (EMTALA), which the **Biden Administration** argues requires doctors to perform abortions to stabilize patients in crisis, while Idaho counters that this would undermine the state's abortion ban and would make it too easy for patients to get a "medically unnecessary" abortion. The two justices most likely to determine the outcome of the case – Chief Justice **John Roberts** and Justice **Amy Coney Barrett** – asked questions of both sides and did not clearly indicate which way they were leaning.

Requests for Information

On April 26, the **Department of Veterans Affairs** issued a **request for information** "to assist in developing a national standard of practice for VA Marriage and Family Therapists." **Comments are due by June 25.**

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



Regulatory News

On May 1, the **Missouri Board of Healing Arts** [proposed](#) a rule (see p. 49) that would increase permanent physician licensure (from \$82 to \$102) and renewal fees (from \$107 to \$147). Comments are due 30 days after the rule proposal; information on how to contact the Board can be found on the link to the state register above.

On May 20, the **Texas Medical Board** will hold a virtual stakeholder meeting from 9am-2pm regarding their recently issued rule, "Exceptions to Abortion Prohibitions." For details on how to attend the meeting, click [here](#). The proposed rule, issued March 22, clarifies the narrow exceptions to Texas' abortion ban, including abortions to save or preserve the life of an unborn child, remove a dead, unborn child whose death was caused by spontaneous abortion, removing an ectopic pregnancy, and medical emergencies, which are further defined in detail. The rule also details documentation requirements and affirms that when investigating any complaint, it will be conducted consistent with the standard processes and disciplinary authority that applies to all complaints and investigations.

Judicial News

Two state health plans must cover transgender care, [according](#) to a federal appeals court ruling April 29. The U.S. Court of Appeals for the Fourth Circuit found that a **North Carolina** state employee health plan violates the 14th Amendment's equal protection clause by refusing to pay for medically necessary gender-dysphoria treatments, and that **West Virginia's** Medicaid program is unconstitutional to the extent that it pays for some gender-affirming care, but not for surgeries that are typically covered for non-transgender patients. However, the rulings will likely be appealed to the Supreme Court.

Legislation Signed into Law

International Medical Graduates

[Iowa SF 477](#) – Enacted April 29, allows the Board to grant provisional licenses to IMGs that:

- Are graduates of foreign medical schools evaluated by the ECFMG;
- Are licensed and in good standing for the immediately preceding five years, without pending disciplinary action;
- Have completed a residency or "substantially similar" PGT in their resident country;
- Have practiced medicine for at least five years following their PGT;
- Possess basic English fluency and Federal immigration status;
- Have an offer of employment at an Iowa health care facility; and
- Have passed the USMLE (*which steps not explicitly mentioned*)

The provisional license *may* be converted to a full license after three years of practice in good standing and without violation of [Iowa Stat. § 148.6](#), as long as the licensee was employed by the health care facility for the entirety of the three-year period and passes a background check, among other administrative components. The bill is effective January 1, 2025.

Reproductive Care

[Kansas HB 2749](#) – Enacted on April 29 after the [Legislature overrode](#) Gov. Kelly's April 25 veto, the bill requires medical facilities and practitioners performing abortions in Kansas to submit biannual reports to the Secretary of Health and Environment, including probing questions such as the number of abortions, the type of facility, the reason for abortion, patient demographics, domestic violence history, housing situation, abuse/neglect history, and the method of abortion. The bill emphasizes confidentiality, protecting the identities of patients, facilities, and practitioners; but some information can be disclosed for disciplinary actions or criminal investigations.

The bill also requires the Kansas Department for Children and Families to publish an annual report on the number of child sexual abuse reports received from abortion providers, categorized by age and month.

[Kansas HB 2436](#) - Enacted on April 29 after the [Legislature overrode](#) Gov. Kelly's April 25 veto, the bill makes it a felony, punishable by a fine up to \$10,000 and imprisonment up to one year (the stronger penalties designated for "putative fathers"), to coerce a woman to get an abortion. The bill provides definitions for coercion, abortion, and unborn child, among other aspects.

Pending Legislation of Interest

Artificial Intelligence

[California AB 3030](#) – Mandates health facilities, clinics, physician's offices, or group practices using generative AI (defined in the statute) for patient communications to include a disclaimer indicating its use, as well as if a health care provider reviewed the communication, and provide clear instructions

for patients who prefer to contact a human health care provider. Violations constitute a crime, and providers could be subject to license discipline.

Board Structure and Function

Oklahoma HB 2956 - Extends the State Board of Medical Licensure and Supervision's mandate for one year, until July 1, 2025, in line with the state's sunset laws.

Oklahoma HB 3035 - Adjusts certain investigative permissions surrounding potential misconduct by medical professionals to include inactive physicians and surgeons within the purview of Board investigations.

Criminal Background Checks

Pennsylvania SB 1165 - 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. This is the companion bill to House Bill 2200.

Healthcare Professionals' Scope of Practice

Michigan HB 5683 – Permits estheticians and cosmetologists to perform activities considered the practice of medicine or osteopathic medicine, if the activities are within their scope of practice.

International Medical Graduates

Louisiana HB 972 – Allows the State Board of Medical Examiners to issue temporary permits to IMGs that:

- Hold a medical doctorate or an equivalent degree from an international medical program that is “substantially similar” to the education or training required to practice in the state;
- Has a license in good standing with the medical licensing or regulatory body in their home country;
- Has completed a residency or similar PGT in their licensing country, or has at least five years’ experience as a practicing physician;
- Has citizenship in the United States or Canada, or legal work status in the U.S., as well as English proficiency; and
- Has an offer of employment at a facility owned or operated by state-licensed hospitals.

Temporary permittees can only practice at state licensed facilities. The Board can revoke the permit with “clear and convincing evidence” that services rendered violated medical safety, competency, or conduct standards established by the Board.

After two years of practice in good standing, the Board *shall* grant the permittee a full and unrestricted license to practice medicine. Additionally, the Board may promulgate any necessary rules and regulations to enforce the legislation. On April 30, the bill passed the first chamber.

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@fsm.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

[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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Texas Office: 400 Fuller Wiser Road, Euless, TX 76039
Telephone: (817) 868-4000

Washington, D.C. Office: 1775 Eye St. NW Suite 410, Washington, D.C. 20006
Telephone: (202) 463-4000



Federation of State Medical Boards | 400 Fuller Wiser Road, Euless, TX 76039

[Unsubscribe dcarlson@fsmb.org](mailto:dcarlson@fsmb.org)

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