

Keeping you informed from Washington, D.C.

May 8, 2024

Congressional Committee Convenes to Determine Future of Telemedicine

The House Ways and Means Committee will meet at 10:30am EST today to consider a handful of proposals that would extend many of the telehealth flexibilities granted to Medicare beneficiaries during the COVID-19 pandemic, such as removing originating and distant site restrictions and allowing patients to receive telehealth services in their homes, which were subsequently extended in 2022, for two more years, through 2024. To live stream or view an archived version of the hearing, click [here](#).

As always, feel free to [reach out to us](#) if we can assist you on policy or legislative issues or questions!



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Pending Legislation of Interest

Healthcare Workforce

The [Long-Term Care Workforce Support Act \(S. 4120/H.R. 7994\)](#), introduced by **Sens. Bob Casey (D-PA), Tim Kaine (D-VA), and Tammy Baldwin (D-WI)** and **Rep. Debbie Dingell (D-MI)**, would support the direct care professional workforce, defined as home health aides, community-based services workers, certified nursing assistants, nurse aides, or respite care providers, among other occupations (§ 2(11)); specifically by increasing Medicaid reimbursement for long-term direct care professionals by **FMAP** plus 10 percent (§ 101), providing paid sick, family, and medical leave; hazard and overtime pay, and consistent scheduling, hours, and benefit eligibility (§ 101(4)). The bill would expand the direct care professional workforce by adopting a salary review process, providing consistent payment through Medicaid, adopting qualification standards and training opportunities for advancement (§ 102(4)), and addressing insufficient payment rates under State Medicaid programs (§ 102(4)(b)). The bill would also create a grant program for direct care professionals, their managers, and community-based providers (§ 202), create a grant program for nonprofits that employ domestic workers (defined in statute) and direct care professionals that help elderly and disabled populations (§

205), and a demonstration project that aims to advance the career of direct care professionals, with an emphasis on those working in rural or underserved areas, women, communities of color, and individuals with disabilities (§ 206), among many other aspects.

Mental Health

The [Improving Coordination and Access to Resources Equitably \(CARE\) for Youth Act \(H.R. 7996\)](#), introduced by **Rep. Neal Dunn (R-FL)**, would allow for Medicaid reimbursement for the rendering mental health services and primary care services if furnished on the *same* day, which is currently prohibited. The bill also defines "same-day qualifying services."

Reproductive Health

The [Protecting Life in Health Savings Accounts Act \(H.R. 8049\)](#), introduced by **Rep. Alex Mooney (R-WV)**, would amend the Internal Revenue Code to prohibit using health savings accounts (HSAs), flexible savings accounts (FSAs), health reimbursement arrangements (HRAs), Archer medical savings accounts (MSAs), and retiree health accounts for abortions, with exceptions for incest, rape, and the health of the woman. The Senate companion bill, [S. 3608](#), was introduced in January.

Telemedicine

[H.R. 8151](#), introduced by **Reps. Mike Kelly (R-PA), Mike Thompson (D-CA), and Adrian Smith (R-NE)**, would make permanent the COVID-era expansion of certain health care professionals eligible to furnish telehealth services, including physical and occupational therapists, speech language pathologists, and audiologists (See [42 U.S.C. 1395m\(m\)\(4\)\(E\)](#)). The waiver is currently scheduled to expire December 31, 2024.

[H.R. 8154](#), introduced by **Rep. Greg Murphy (R-NC)**, would permanently extend the COVID-era waiver that allowed for Federally Qualified Health Centers (FQHCs) and rural health clinics (RHCs) to render, and be reimbursed by Medicaid for, telehealth services - including audio-only services in qualifying circumstances - by being classified as eligible distant sites. The waiver is currently scheduled to expire December 31, 2024.

Regulatory News

On April 22, **CMS** released a [fact sheet](#) covering the effects of its recent Final Rule([CMS-2439-F](#)) which aims to "improve access to care, quality and health outcomes, and better address health equity issues for Medicaid and Children's Health Insurance Program (CHIP) managed care enrollees." The fact sheet notes how the Final Rule impacts access, state directed payments, medical loss ratio, and in lieu of service and setting, among other aspects.

Grant Announcements

The **Substance Abuse and Mental Health Services Administration (SAMHSA)** [announced](#) "the 2024 State Opioid Response (SOR) and Tribal Opioid Response (TOR) Notices of Funding Opportunity, providing up to \$1.48 billion to states, territories, and the D.C. and \$63 million to Tribes to address the overdose crisis in FY2024. The grant opportunity for SOR can be found [here](#) and the grant opportunity for TOR can be found [here](#). The closing date for applications is **July 1, 2024**."

The **Health Resources and Services Administration (HRSA)** [announced a grant](#) including "\$105 million in funding to support more than 100 community-based organizations working to improve maternal and infant health." The grant opportunity can be found [here](#) and the closing date for applications is **July 15, 2024**."

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 April 17, the **District of Columbia's** Department of Health Care Finance issued a [bulletin](#) removing prior authorization for buprenorphine doses up to 32mg (the prior dose limit was 24mg).

Judicial News

A ruling in the U.S.D.C. for the Central District of North Carolina in [Bryant v. Stein](#) ruled in favor of a **North Carolina** OB-GYN who challenged the state's restrictions on dispensing abortion pills (mifepristone) as unlawfully preempting federal regulation. The ruling, if upheld, will mean nurse practitioners and other non-physician providers can prescribe mifepristone, and patients will no longer have to attend a mandatory, in-person follow up appointment. The ruling kept other prerequisites in place, however, including a mandatory ultrasound, blood test, and in-person counseling.

Legislation Signed into Law

Continuing Medical Education

[Tennessee HB 2122](#) - Enacted April 22, requires the Dept. of Health, in collaboration with a Board-approved sponsor of CME, to create a two hour CME program around public safety, including identifying and reporting individuals who may need treatment related to their mental health, the involuntary admission process, safety in healthcare settings, and maintaining HIPAA compliance.

Healthcare Professionals' Scope of Practice

[Tennessee HB 2060](#) – Enacted April 29, increases the number of patients to whom a licensed NP or PA is authorized to prescribe Schedule II or III drugs, including buprenorphine, from 50 to 100, and allows a supervising or collaborating physician to oversee the practice of 10 NPs or PAs, up from four.

Military Licensure

[Georgia SB 195](#) - Enacted May 1, requires expedited licenses for spouses of members of the armed forces to be issued within 30 days instead of 90.

Occupational Licensing Reform

[Tennessee SB 1915](#) - Enacted April 23, prohibits the Board from automatically rejecting license applications based solely on an individual's criminal record or under the guise of vague terms such as "good moral character" or "character and fitness" and instead mandates that authorities assess each application on a case-by-case basis, considering the applicant's criminal history and current circumstances. The bill removes previous exemptions for certain licenses, such as those in Securities and Insurance, requiring these authorities to now evaluate an individual's criminal record. However, only felony convictions or violent misdemeanors will be considered, with specific offenses exempted from consideration.

Pain Management/Prescribing Practices

[Colorado HB 24-1003](#) – Enacted April 22, extends civil and criminal immunity to school bus drivers and other employees on the bus to administer opioid antagonists, provided they receive the appropriate training, and allows schools to stock non-laboratory drug detection tests, such as fentanyl strips.

Reproductive Care

[Arizona SB 1734 and HB 2677](#) – **Enacted** May 2 but not *effective* until 90 days after the Legislature adjourns – meaning that abortion could be banned before the repeal takes effect – although the Arizona AG has [pledged](#) that she will not enforce it. The bill repeals Arizona's 1864 abortion ban, which permitted abortions only for saving the woman's life, without exceptions for rape or incest, and carried a sentence of two to five years in prison for assisting in an abortion. The ban, [deemed valid](#) by the state Supreme Court on April 9, is currently stayed and is being further litigated. After the effective date, an existing law prohibiting the procedure after 15 weeks would be the law of the land.

On May 1, **Florida's "Heartbeat Law" - SB 300** (2023) - went into effect, after passing scrutiny with the **Florida Supreme Court** in April. The law lowers the gestational threshold for abortion from 15 weeks to six, and includes exceptions for victims of rape, incest, or human trafficking, up until 15 weeks of gestation, but only if the crime was documented, such as in a police report. There is also an exception to save the mother's life. The bill also prohibits medication abortion delivered via telemedicine and thereby through the mail – but it can still be obtained in-person - and prohibits state funds from being used to pay for interstate travel to support an individual getting an abortion.

Pending Legislation of Interest

Board Structure and Function

of Health and Human Services to post an annual report detailing how many health occupational licenses were issued on the basis of reciprocity, the licensee's state or country of origin, their profession, and whether there was a statutory or non-statutory "impediment" to licensure.

Continuing Medical Education

North Carolina SB 838 - Requires health care professionals licensed or certified to perform perinatal care to complete an implicit bias and cultural competency training program, developed by the Dept. of Health and Human Services in collaboration with HBCUs and/or minority-serving community organizations. License renewals would require this training be up to date.

Healthcare Professionals' Scope of Practice

New Jersey A 4271 - Allows pediatricians and APRNs, who do *not* specialize in pediatric behavioral or developmental health care, to provide behavioral or developmental care to children with low-acuity (mild) behavioral or developmental conditions, including, but not limited to anxiety or stress, as determined by the boards of medical examiners and nursing.

Healthcare Workforce

Louisiana HCR 97 - Resolution requests that the Dept. of Health continue its task force to study, identify, and make recommendations to address the shortage of specialist physicians in the state until February 1, 2025.

Licensure Compacts

North Carolina HB 1056 and SB 879 - Enters North Carolina into the PA Licensure Compact.

Mental Health

New Jersey A 4193 and S 3094 - Requires physicians, nurse midwives, and other health care professionals that provide prenatal care to offer, and provide upon the request, pregnant patients with a history of depression, a prenatal screening for postpartum depression.

Miscellaneous

New Jersey A 4199 - Requires that physicians and other health care professionals who testify as expert witnesses in medical malpractice actions be licensed in the state, as opposed to any jurisdiction.

Pain Management/Prescribing Practices

North Carolina HB 1029 and SB 871 - Allows eligible patients, defined as an individual with a life-threatening or severely debilitating illness that has given informed consent, to access investigational drugs, biological products, or devices. The bill prohibits liability to heirs for outstanding debts related to the drugs, sanctions against health care providers rendering authorized care, or State officials from having the ability to block an eligible patient's access to the drugs, among other aspects.

Truth in Advertising

New York A 10009 - Prohibits individuals, including health care professionals, from "misleading or deceptive" advertisements (definitions provided within), with regards to job titles or degrees.

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

[More Meetings & Events](#)

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