

Keeping you informed from Washington, D.C.

November 20, 2024

DEA extends telemedicine flexibilities through 2025

The **Drug Enforcement Agency** announced last Friday that the temporary rule “Third Temporary Extension of COVID-19 Telemedicine Flexibilities for Prescription of Controlled Medications” ([RIN 1117-ZA06](#)) will extend telemedicine prescribing of Schedule II-V medications, including as Adderall, Buprenorphine, and Ketamine, without in-person evaluations through **December 31, 2025**. This extends the COVID-era waiver, first implemented in March 2020, to over five years. The extension included no new restrictions.

On the topic of telemedicine, the **Center for Connected Health Policy** just released their [Fall 2024 Telehealth Policy Summary](#) which provides updates on Medicaid reimbursement, private payer laws, licensure compacts, and cross-state licensing, among other aspects.

Have question about the upcoming Congress? Please do not hesitate to [reach out](#) for assistance!



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Pending Legislation of Interest

Veterans Affairs

The [Ensuring Quality Care For Our Veterans Act \(H.R. 10106\)](#) introduced by **Rep. Ralph Norman (R-SC)**, would require the Department of Veterans Affairs to contract with a third party to review appointees in the Veterans Health Administration (VHA) who have had their license terminated by a state licensing board due to care given at a non-VHA facility. The VHA would be required to provide notice to individuals who were treated by licensed professionals who had their license revoked and received services below the standard of care.

Regulatory News

On November 11, the **Department of Veterans Affairs** [announced](#) a proposal removing co-pays for telemedicine care for veterans, as well as fund telehealth access points for veterans in non-VA facilities, with an emphasis on rural and “medically underserved” areas. The proposed grant program, Accessing Telehealth through Local Area Stations (ATLAS), would provide funding to organizations that offer Veterans comfortable, private spaces equipped with high-speed internet access and the

technology to meet with providers remotely.

According to recent [HHS guidance](#), absent Congressional action before the end of this session, a handful of COVID-era waivers will expire **December 31, 2024**, including allowing:

- FQHCs and RHCs to serve as distant sites for non-behavioral/mental telehealth services,
- Medicare patients to receive telehealth services in their home,
- Some non-behavioral/mental telehealth services to be delivered using audio-only modes,
- Telehealth services to be provided by all eligible Medicare providers.

Additionally, geographic origination site restrictions for non-behavioral/mental telehealth services will be enforced again, as well as in-person visits within six months of an initial behavioral/mental telehealth service, and annually thereafter.

On November 14, **President-elect Donald Trump nominated Robert F. Kennedy, Jr.**, to be Secretary of the **Department of Health and Human Services**, the sprawling health care department that houses CMS, which operates Medicare, Medicaid, and CHIP; HRSA, which serves underserved and vulnerable populations; and myriad other divisions, including the Substance Abuse and Mental Health Services Administration, the Food and Drug Administration, and the Centers for Disease Control and Prevention.

On November 19, **President-elect Donald Trump nominated Dr. Mehmet Oz** to be **Administrator of the Centers for Medicare and Medicaid Services (CMS)**, where he will manage the massive governmental health care programs Medicare, Medicaid, and CHIP.

Congressional News

Sen. Bill Cassidy (R-LA), currently the ranking member of the **Senate Health, Education, Labor and Pensions (HELP) Committee**, will [take over the gavel](#) at the influential panel, which has jurisdiction over numerous healthcare-adjacent issues. His focus has included pharmacy benefit manager reform, site-neutral payment policy, surprise medical billing, AI technology, and protecting patient health information, among other issues.

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](mailto:lrobin@fsmb.org), Chief Advocacy Officer, at lrobin@fsmb.org, or by phone at (202) 463-4006.



Regulatory News

Board Structure and Function

The **Iowa Board of Medicine** issued notices that they will be rescinding current rules regarding [resident, special, and temporary licensure](#) and [genetic counselors](#) and reissuing them (new rules for the [former](#) and [latter](#)). A public comment period closed on **November 5, 2024**.

Healthcare Professionals' Scope of Practice

The **Washington Health Care Authority** issued a [final rule](#) that removes the requirement that PAs work under the supervision of a physician on a collaborative care team, and in patient review and coordination (PRC). This final rule also states that PAs are eligible to perform Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) screens without physician supervision.

The **Delaware Board of Medical Licensure and Discipline** issued a [proposed rule](#) that would change the relationship between PAs and physicians from supervisory in nature, to collaborative in nature. While a physician may have existing collaborative agreements with more than four PAs, they are restricted to collaborating with four PAs during a single shift or while performing clinical work.

The **New Hampshire Board of Medicine** issued a [proposed rule](#) stating that PAs with fewer than 8,000 hours of post-graduate clinical practice hours who are practicing in a group, practice, or health system that does not have at least one licensed physician shall engage in practice as a PA only if they have entered into a written collaborative agreement with a licensed physician who practices in a

similar area of medicine. PAs with more than 8,000 post-graduate clinical practice hours who intend to practice in a setting that does not have at least one licensed physician in the group, practice, or health system may request the Board of Medicine to waive the collaboration agreement requirement.

Medical Marijuana

Pennsylvania's Secretary of Health Debra Bogen [rejected proposals](#) from Pennsylvania's Medical Marijuana Advisory Board's Regulatory Subcommittee that would have allowed nurse practitioners and podiatrists to recommend medical cannabis.

Physician Sexual Misconduct

North Dakota is [finalizing rules](#) on four issues: defining different forms of physician sexual misconduct as grounds for discipline; allowing certain telemedicine licensure exceptions, including consultations with local physicians, temporary in-state care, and continuity of care for up to two years; requiring PAs to show proof of graduation from an accredited program; and establishing regulations for genetic counselors.

Judicial News

On November 13, the U.S. Court of Appeals for the Seventh Circuit, in [K.C. vs. Medical Licensing Board of Indiana](#), affirmed the constitutionality of [Indiana's SB 480 \(2023\)](#), which prohibits health care professionals from providing or referring for gender-transition procedures to minors, including hormone therapy and puberty blockers. The Court found that the state has a "legitimate" interest in regulating medical practices and protecting minors, even if the statute restricts certain forms of gender-affirming care that were previously available.

For the second time in a year, the advocacy group [Do No Harm](#) filed a lawsuit ([Do No Harm v. Lee II](#)) against [Tennessee Gov. Bill Lee](#), concerning his role overseeing of state board appointments. This time, the suit centers on the state's [Board of Medical Examiners](#) and [Board of Chiropractic Examiners](#) which are required by statute to appoint at least one Black member, and one racial minority, respectively. In 2023, Do No Harm challenged a similar statute governing the Board of Podiatric Medical Examiners ([Do No Harm v. Lee I](#)), and states that they are "working to defeat race and sex board quotas everywhere the unconstitutional practice is allowed."

Pending Legislation of Interest

Board Authority

[Texas SB 90](#) - Bars officials, employees, or agents of the state from prohibiting or restricting a physician from prescribing, administering, or dispensing a prescription drug for off-label use, other than abortion-inducing drugs. The bill explicitly does not create a private or state cause of action for any potential harm to patients, and prohibits the Medical Board from revoking, failing to renew, suspending, or otherwise taking action on a licensee for prescribing, administering, or dispensing a prescription drug for off-label use, so long as the "treatment of the patient meets the medical standard of care."

[Texas HB 855](#) – Prohibits licensing boards from taking adverse action on a physician's or pharmacist's license for "prescribing, administering, or dispensing a prescription drug for off-label use... or communicating or otherwise promoting an off-label use of a prescription drug to a patient" unless the licensing board proves, beyond a reasonable doubt, that the conduct caused the patient to suffer physical harm within three years.

Board Structure & Function

[Texas SB 123](#) – Establishes civil liability for the Executive Director of the Medical Board if they fail to properly verify the eligibility of a physician applying for a medical license.

[Texas HB 1132](#) – Establishes an "alternate license" for applicants that meet eligibility requirements but do not "complete additional training or certifications for procedures that are not permitted under Texas law," such as abortions. Healthcare facilities cannot refuse to accept the alternate license.

[Texas SB 92](#) – Requires the Board to comply with requests for public information by a member, committee, or agency of the Legislature, with HIPAA-covered patient information and personally identifying patient data (besides their name) redacted, unless the request includes authorization from the patient to disclose the protected information. Along with every fulfilled request for information, the Board must also provide a disclaimer stating that improper use or distribution of the enclosed information constitutes an offense.

[Texas SB 93](#) – Requires the Board to hold a public hearing with a public comment period on proposed rules prior to adoption. Additionally, the bill allows patients, those "directly involved in the care" of the patient, or those with "direct knowledge of the incident" to register a formal complaint to the Board about the licensee within three years of an alleged violation. The Board must complete the investigation of a complaint within 120 days of filing, with a 30-day extension in extenuating

circumstances. The bill requires a currently licensed physician to investigate claims relating to medical competency, allows the physician under investigation to remove Board members who have conflict of interest in the investigation, and requires a threshold of a 3/4 vote from the expert physician reviewers that the actions of the physician under investigation were below standard of care.

COVID-19

Texas HB 943 – Requires informed consent for medical treatments involving the COVID-19 vaccination.

Diversity, Equity, and Inclusion

Texas HB 393 - Repeals requirements pertaining to DEI at institutions of higher learning in the state, including medical schools.

Gender-Affirming Care

Texas SB 116 and **HB 1088** – Establishes a specific statute of limitations for liability claims related to gender modification drugs and procedures (puberty suppression drugs, cross-sex hormones, and gender reassignment surgeries) provided to minors. Minors who undergo gender modification procedures or treatments can file a malpractice claim related to these treatments up to their 30th birthday. The general statute of limitations for health care liability claims remains 2 years from the date of the act or completion of treatment, with a 10-year limit.

License Portability

Texas SB 100 – Streamlines the process for out-of-state applicants to be approved for licensure as long as the applicant holds a current license in good standing from another state with a similar scope of practice, has held that license for at least one year, and has met the necessary exam, education, or training requirements in the other state. In addition, the applicant must not have a disqualifying criminal history, have had their license revoked or surrendered due to negligence or intentional misconduct, or are not currently under investigation or a complaint for unprofessional conduct in another state.

Texas HB 997 - Removes the requirement for health professionals practicing telehealth to be licensed in the state. Health professionals currently licensed in another jurisdiction may administer care so long as they are not the subject of current disciplinary proceeding regarding licensure, and register with the applicable licensing agency.

Texas HB 710 – Requires Texas licensing boards to issue an occupational license or government certification to individuals from other states who meet certain criteria, including holding a valid license in another state for at least one year, having passed required exams, and not having a disqualifying criminal record or pending misconduct investigation. Recognizes work experience from other states where no formal license was required, if the applicant has at least three years of experience in a similar occupation.

Medical Marijuana

Texas SB 259 – Creates a regulated framework for medical cannabis in Texas, providing legal access for patients with qualifying conditions while ensuring accountability and compliance through a robust licensing system. It authorizes the Department of Public Safety to oversee the operation of dispensing organizations and maintain a registry for both patients and recommending physicians.

Texas SB 170 – Authorizes the possession, use, cultivation, distribution, delivery, sale, and research of medical cannabis in Texas for patients with certain medical conditions, establishes a framework for licensing medical cannabis organizations, and authorizes the collection of fees to support the program.

Texas HB 1146 – Redefines “low-THC cannabis” as cannabis products that contain less than 10 mg of THC in each dose, adds as qualifying conditions those causing chronic pain for which opioids would otherwise be prescribed, as well as those with a debilitating medical condition as designated by the Department of State Health Services.

Military Licensure

Texas HB 879 - Requires the Board to issue a medical license to physicians that are licensed and in good standing in another state, are an armed forces veteran that has served on active duty in the state, is authorized to treat enlisted personnel in the state, and have passed the Texas medical jurisprudence examination. The Board may not issue licenses if the veteran physician was discharged on the basis of substandard conduct or moral or professional dereliction, or is under investigation or was disciplined for misconduct related to prescribing controlled substances.

Opioids

Texas HB 1103 – Allows physicians to prescribe opioid antagonists to colleges with a standing order, allowing the medication to be administered to anyone without needing a specific patient relationship.

Reproductive Care

Texas SB 256, HB 257, and HB 395 – Adds the following exemptions to restrictions on abortion access: when abortion is medically indicated, when it is necessary to preserve the pregnant patient's

life, physical, or mental wellbeing, and when it is requested due to a lethal or substantially life-limiting fetal anomaly or diagnosis (SB 256). Adds pregnancy from sexual assault to the list of exemptions related to abortion access (SB 257 and HB 395).

Texas SB 359 – Requires Medicaid and private health care plans to reimburse for abortion services, FDA-approved forms of contraception, and voluntary sterilizations (e.g. vasectomies).

Texas SB 350 and Texas HB 1219– Requires health care practitioners to “prioritize the health of a pregnant individual over the health of the fetus the individual is carrying when recommending a health care treatment for the individual,” maintains the pregnant woman's right to agree to or refuse a treatment, regardless of recommendation, and allows licensing authorities to subject violators to administrative penalty for contravention of this statute.

Texas HB 1254 – Creates exceptions to the state's abortion ban, allowing for instances involving in vitro fertilization (IVF) or any type of fertility treatments, the use of emergency contraception like Plan B, and procedures to save the life of the fetus, remove a deceased fetus following a miscarriage, or treat an ectopic pregnancy. Additional exceptions apply if the pregnant woman is 35 years or older, has a high-risk medical condition, or if the pregnancy results from IVF.

Texas HB 965 – Creates an exception to the state's abortion prohibition if the pregnancy is a result of a sexual assault; it does not require a police report, forensic evidence, or prosecution of the alleged evidence.

Texas HB 257 – Creates an exception to the state's abortion prohibition if an abortion is medically indicated; is necessary to preserve the pregnant woman's life, mental or physical health; if there is a lethal fetal anomaly; or if there is a “life-limiting diagnosis that indicates the existence of the fetus outside the womb is incompatible with life without extraordinary medical interventions.” Medical review processes may not override the determination of the physician rendering care.

Texas HB 1220 – Allows physicians to perform an abortion if the patient is 35 years of age or older, has a high-risk condition, or if the pregnancy was facilitated via IVF.

Virginia HJ 1 – House joint resolution that would create a constitutional amendment that “provides... the fundamental right to reproductive freedom and... and effectuate one's own decisions about all matters related to pregnancy... [and] prohibits the Commonwealth from penalizing, prosecuting, or otherwise taking adverse action against an individual for exercising [their] reproductive freedom.”

Telemedicine

Texas HB 1052 – Requires health insurers to provide equivalent coverage of covered services provided via telehealth from a licensed health care practitioner from another state. The patient receiving services must reside in Texas, and the health professional must be licensed and/or authorized in Texas and have a physical office in the state.

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, atjbrem@fsm.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

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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