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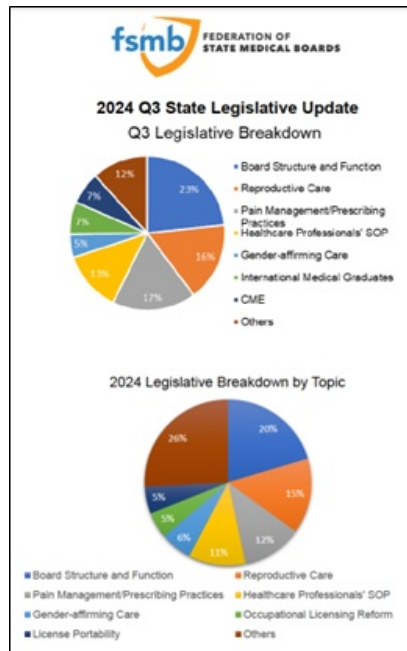
October 31, 2024

State Legislative Recap of Third Quarter 2024

As we near the end of 2024, with most state legislatures adjourned and Congress in recess until the upcoming election, it is a great time to look back at the first three quarters of 2024 to reflect on key legislative developments of interest to state medical boards and relevant to medical regulation.

FSMB's Advocacy team has prepared a comprehensive legislative summary, highlighting legislative trends and legislation signed into law since July.

This year, FSMB is tracking nearly 1,500 bills; of those, 74 percent focus on critical issues such as board structure and function, reproductive healthcare, pain management and prescribing practices, scope of practice, gender-affirming care, occupational licensing reform, and license portability. Dive into the full summary [here](#) to explore the latest developments.



Our team is available to support your policy questions or needs. [Reach out to us here!](#)



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Pending Legislation of Interest

COVID-19

The [Long COVID Research Moonshot Act \(S. 4964/H.R. 9907\)](#), introduced by **Sen. Bernie Sanders (I-VT)** and **Reps. Ilhan Omar (D-MN)** and **Ayanna Pressley (D-MA)**, would establish the Long COVID research program, within the National Institutes of Health (NIH), to address Long COVID and other infection-associated chronic conditions, such as myalgic encephalomyelitis/chronic fatigue syndrome, postural orthostatic tachycardia syndrome, and post-treatment Lyme disease syndrome/persistent Lyme disease. Specifically, the program would investigate the etiology, pathophysiology, risk factors, and pathology of the suite of conditions, explore the best ways to prevent, detect, monitor, manage, and treat the conditions, and conduct associated research. Funded with \$1 billion per year from 2025 through 2034, the Long COVID research program would collaborate with related government agencies and relevant outside organizations, create a data system and publicly-available clearinghouse with research and treatment results, engage with patients suffering from Long COVID and associated conditions, and create a public awareness campaign about their impacts on public health.

Mental Health

The [Corrections Officer Blake Schwarz Suicide Prevention Act of 2024 \(H.R. 9929\)](#), introduced by **Rep. Mariannette Miller-Meeks (R-IA)**, would establish a grant program, funded with \$300 million from 2025 through 2029, to implement and administer mental health screenings to corrections officers at any Federal, State, or local prison or jail and refer qualifying officers to mental healthcare providers. The grantees would hire mental health professionals, provide mental health screenings, form outreach teams, collect data on mental health and suicide rates to understand the scope, and form partnerships with interested and associated outside parties to improve support networks for employees in need of mental health care services.

Opioids/SUD Treatment

The [Rural Communities Opioid Response Program \(RCORP\) Authorization Act \(H.R. 9842\)](#) introduced by **Rep. Carol Miller (R-WV)**, would maintain the [Rural Communities Opioid Response Program](#), which acts to “expand prevention, treatment, and recovery services in rural areas... for substance use disorders, related behavioral health conditions, and other related public health issues” with \$165 million annually from fiscal year 2024 through 2028. Specifically, RCORP would facilitate grants to state offices of rural health, tribal organizations, and other entities, to enhance their capacity for planning, delivering evidence-based services, and responding to emerging public health challenges related to substance use.

The [Broadening Utilization of Proven and Effective Treatment \(BUPE\) for Recovery Act \(S. 5271/H.R. 9886\)](#), introduced by **Sen. Martin Heinrich (D-NM)** and **Rep. Paul Tonko (D-NY)**, would require the DEA Administrator to temporarily exempt any buprenorphine product approved for substance use disorder treatment from the [Suspicious Orders Report System \(SORS\)](#), which all DEA registrants that distribute controlled substances to report “suspicious orders” to DEA, for the remainder of the opioid public health emergency, plus 270 days afterward. The bill also requires a joint DOJ and HHS report analyzing whether the exemption increased access to buprenorphine treatment and make a recommendation to the White House and Congress about whether buprenorphine should remain in SORS permanently.

PDMPs

The [Prescription Drug Monitoring Act of 2024 \(S. 5228\)](#) re-introduced by **Sen. Amy Klobuchar (D-MN)**, would require every prescribing practitioner dispensing Schedule II-IV controlled substances to consult their state's PDMP prior to initiating treatment and every 3 months thereafter as long as the treatment continues, and report every prescription within 24 hours. State PDMPs must make available a quarterly and annual, de-identified data set for public and private use, including use by health care providers, health plans and health benefits administrators, State agencies, and researchers to “describe any practitioner that repeatedly fall outside of expected norms or standard practices for the prescribing practitioner’s field.”

Veterans' Affairs

The [Building Resources and Access for Veterans' Mental Health Engagement \(BRAVE\) Act of 2024 \(S. 5210\)](#), introduced by **Sen. Jon Tester (D-MT)**, would support mental health care and outreach services for veterans by extending the current licensure waiver for psychologists supporting

mental health programs from two years to “a reasonable period of time recommended by the Under Secretary for Health,” so long as their practice is directly supervised (§ 102); measures to enhance the coordination and accessibility of services provided by Vet Centers, which offer counseling and mental health support, including ensuring proper contact information for staff and improving consultation processes to better support high-risk veterans (§ 203); and assess and potentially replace the VA's existing IT system used for managing Vet Center services (§ 204). Lastly, the bill would establish a study on the effectiveness of suicide prevention and mental health outreach programs for women veterans and incorporate risk factors especially for women veterans as part of the Recovery Engagement and Coordination for Health–Veterans Enhanced Treatment (REACH VET) program (§ 302), among other aspects.

The [Affordable Mental Health Care for Selected Reserve Act \(S. 5217\)](#), introduced by **Sens. John Fetterman (D-PA)** and **John Cornyn (R-TX)**, would eliminate cost-sharing or copayment requirements for behavioral health care for Selected Reserve personnel, members of the U.S. military's Ready Reserve who are considered to be in active status, eligible for TRICARE Reserve Select health plans.

Women's Health

The [Connected Maternal Online Monitoring \(MOM\) Enhancement Act](#) introduced by **Rep. Yvette Clarke (D-NY)**, would add coverage of remote patient monitoring (RPM) services and devices, such as pulse oximeters, blood pressure cuffs, and glucose monitors, for beneficiaries of the [Maternal and Child Health Services Block Grant](#) at no cost. The bill also mandates a report to Congress regarding best practices for covering RPM services and devices, including limitations and barriers to the coverage and the impact on maternal health outcomes; and within six months of the report, the HHS Secretary must update resources for State Medicaid programs and telehealth toolkits consistent with their recommendations.

Regulatory News

On October 10, a new [rule](#) posted on the **Office of Management and Budget (OMB)** registry indicates that the **DEA** is planning an additional extension of COVID-19 flexibilities for telemedicine prescribing of controlled substances, beyond the current expiration date of December 31, 2024. It remains unknown whether the extension has any new restrictions and for how long it will run.

On October 16, **CMS announced** the approval of Section 1115 demonstration amendments that allow **Medicaid** and **Children's Health Insurance Program (CHIP)** coverage of traditional health care practices provided by Indian Health Service (IHS) facilities, Tribal facilities, and urban Indian organizations (UIO). The press release stated that the move will “improve access to culturally appropriate health care and improve the quality of care and health outcomes for tribal communities in Arizona, California, New Mexico, and Oregon.”

Judicial News

On September 26, the **U.S. Court of Appeals for the 5th Circuit** ruled in [Hines v. Pardue](#) that a Texas veterinarian did not violate Texas law ([Tex. Occ. Code § 801.351](#)), which mandates an in-person veterinarian-client-patient relationship (VCPR) be established before offering medical advice online. The court held that the veterinarian's communications are protected under the First Amendment, noting that the State failed to demonstrate alleged harms necessitating the in-person VCPR, since no complaints had been filed against Dr. Hines. While the case focused on veterinary care, it highlights significant policy issues for telemedicine, particularly concerning virtual physician-patient relationships and related restrictions.

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

The **Oregon Medical Board** issued proposed rules pertaining to office-based surgery, specifically adding the Accreditation Commission for Health Care, Inc. (ACHC) as a Board-recognized accreditation agency for facilities where Level II or Level III office-based surgeries are performed ([847-017-0010](#)), updates the requirements for certain lipoplasty procedures ([847-017-0003](#)), and empowers the Executive Director or Medical Director to issue **Orders for Evaluation** regarding a licensee's physical or mental health or their medical knowledge or competence ([847-001-0024](#)). The **Oregon Medical Board** also issued permanent rules clarifying that a licensee and health care facility must report a voluntary withdrawal from practice, resignation, or limitation of privileges while the licensee is under investigation within 30 calendar days ([847-010-0073](#); [847-010-0070](#)), and changed the title “physician assistant” to “physician associate” throughout Oregon statutes ([847-005-0005](#)) pursuant to [HB 4010](#) (2024).

On October 24, the **California Medical Board** held a virtual meeting for public comment on **draft legislation** to establish a new physician health and wellness program (PHWP). The draft legislation provides definitions, program requirements for the PHWP, requirements for the third-party entity that would administer the program, confidentiality and mandatory reporting, funding and costs, and the process by which licensees would be recommended for program evaluation, treatment, and monitoring, among other aspects. Meeting details can be found [here](#).

Judicial News

On October 10, **Oregon AG Ellen Rosenblum**, along with **Washington AG Bob Ferguson**, filed a motion for **summary judgment** urging a federal judge in Spokane, Washington to rule that the **FDA's** restrictions on the abortion medication mifepristone are unnecessary and unlawful. In addition to Washington and Oregon, attorneys general for Arizona, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, Nevada, New Mexico, Pennsylvania, Rhode Island, Vermont and Washington, D.C. joined the case.

On October 17, **Texas AG Ken Paxton** sued a Dallas pediatrician accusing her of providing gender transition treatment to minors in violation of a 2023 state law ([SB 14](#)) that makes it illegal for health care workers to “affirm the child’s perception of the child’s sex if that perception is inconsistent with the child’s biological sex” with a potential penalty of license revocation.

On October 17, a three-judge panel **ruled** that **Tennessee** doctors who provide emergency abortions to protect the life of the mother cannot have their medical licenses revoked or face other disciplinary actions while a lawsuit challenging the state’s sweeping abortion ban continues. The chancery court does not have the jurisdiction to block the criminal statute inside the ban — where violators face felony charges carrying a prison sentence as high as 15 years — so while doctors will not face disciplinary actions from the Attorney General’s office and the Tennessee Board of Medical Examiners, they could still risk criminal charges.

On October 18, eleven **Tennessee** District Attorneys General filed an appeal, *Welty v. Dunaway*, in the U.S.D.C. for the Middle District of Tennessee seeking to overrule an order temporarily blocking the state’s “abortion trafficking” law ([HB 1895/SB 1971](#)) which prohibits non-parents or guardians from “intentionally recruiting, harboring, or transporting” unemancipated minors for the purpose of receiving prohibited medical procedures, such as an abortion, medication abortion, or gender-affirming care. The case will proceed to the US Court of Appeals for the Sixth Circuit.

Ballot Measures

On October 17, a judge in the U.S.D.C. for the Northern District of Florida **ruled**, in *Floridians Protecting Freedom Inc v. Ladapo*, that **Florida’s Health Department** must pause ongoing attempts to remove advertisements and other communications supporting an abortion rights ballot measure in the state, citing First Amendment protections regarding political speech. Amendment 4, as it’s known, has been predictably contentious. A group of Florida residents also sued state officials on October 16 (*Hoffman v. Barton*) in state court to remove the ballot measure from the November ballot, alleging “widespread fraud and illegality” in the petition signature collection. Amendment 4 would prevent the state government from prohibiting, penalizing, delaying, or restricting abortion before *viability* or when necessary to protect the patient’s health. Currently, Florida has a “heartbeat” abortion ban, meaning that the state prohibits the procedure after about six weeks of gestation.

On October 21, the **Arkansas Supreme Court** ruled, in *Paschall v. Thurston*, that the state's medical marijuana expansion initiative will remain on the ballot but the result will be voided, because “the ballot title was affirmatively misleading.” The **Medical Marijuana Expansion Initiative** would have expanded the medical marijuana program by allowing more health care professionals to recommend cannabis, expand medically qualifying conditions, and allow for patient assessment through telemedicine. It would have also more broadly legalized possession of (up to one ounce of)

cannabis if federal decriminalization occurs and would also restrict the legislature from revising the voter-approved law if enacted.

On October 24, an **Ohio** Common Pleas Court judge permanently struck down, in [Preterm-Cleveland v. Yost](#), the state's "Heartbeat ban" that effectively banned abortions after six weeks of pregnancy, saying it directly conflicts with a [constitutional amendment voters passed last year](#) to enshrine reproductive rights. The decision also struck down associated restrictions, including reporting requirements, criminal penalties for performing an abortion without checking fetal cardiac activity, a requirement to sign a form acknowledging cardiac activity, and the ability to file a wrongful-death suit on behalf of a patient against their abortion provider.

Pending Legislation of Interest

Healthcare Professionals' Scope of Practice

[Virginia SB 739](#) - Defines CRNA supervision as a "licensed doctor of medicine, osteopathy, podiatry, or dentistry... be present during an operation or procedure or immediately available to respond and provide patient care as needed," and directs a work group in collaboration with the Board of Medicine and Board of Nursing evaluate and make recommendations to increase the anesthesia provider workforce in the state.

Medical Marijuana

[New Jersey A 4938](#) and [S 3484](#) - Grants health care practitioners the autonomy to determine which medical conditions qualify patients for medical marijuana, versus the status quo of certain approved qualifying medical conditions.

Mental Health

[Michigan SB 1049](#) - Reforms mental health treatment consent laws, requiring practitioners to inform patients of their right to consent to voluntary treatment in writing in addition to orally, and to furnish the patient and one designee with a copy of the executed written consent.

Reproductive Care

[New Jersey S 3831](#) and [A 5000](#) - Requires NJ FamilyCare (Medicaid) to cover, at no cost, fertility preservation services for beneficiaries with iatrogenic infertility (caused by a medical procedure), as defined within the statute.

Women's Health

[New Jersey A 1973](#) and [S 2218](#) - Requires every hospital, birthing center, FQHC, and health care professional providing perinatal care to refer the woman for an endometriosis screen, if they have been diagnosed with preeclampsia and later shows symptoms of endometriosis.

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 7-8, 2024: [FSMB Board Attorneys Workshop](#),
Reno, Nevada



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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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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