

State Legislative Update – September 6, 2024

For more information regarding ACS State Affairs Policy Priorities in your state, please contact Catherine Hendricks, State Affairs Manager, at chendricks@facs.org or Cory Bloom, State Affairs Associate, at cbloom@facs.org. To view a complete list of bills ACS State Affairs is tracking, visit our online [State Legislative Tracker](#).

STATE AFFAIRS WORKGROUP

Arnold Baskies, MD, FACS (NJ); Ali Kasraeian, MD, FACS (FL); Kevin Koo, MD, FACS (MN); and Kelly Swords, MD, FACS (CA). The Workgroup will play a critical role in identifying state advocacy priorities, setting new policy objectives, and evaluating state advocacy grant applications among other duties.

ACS STATE AFFAIRS PRIORITY ISSUES

- Trauma System Funding and Development
- Cancer Screening, Testing, and Treatment
- Insurance and Administrative Burden
- Professional Liability
- Criminalization of Physician Care
- Access to Surgical Care
- Health Equity

ACS GRANT PROGRAM

State Chapters are eligible to apply for ACS State Advocacy Grants and may use funds towards their annual state advocacy day, to hire a lobbyist, or other relevant advocacy functions such as travel costs for members, catering, venue rentals, printing, and more. To learn more information regarding the ACS State Advocacy Grants, apply [here](#).

IN THE NEWS

Pennsylvania begins issuing licenses through IMLC

Pennsylvania announced out-of-state physicians who are licensed in an Interstate Medical Licensure Compact ([IMLC](#)) member state and have a corresponding “letter of qualification” may designate Pennsylvania as a state where they want to practice, and apply for expedited licensure from the Pennsylvania medical or osteopathic board. Since implementing the IMLC, the medical board has issued 80 licenses to physicians from IMLC member states.

Pennsylvania is currently working to fully implement the IMLC and become a State of Principal Licensure (SPL). In July, the state enacted [HB 2200](#), which allows applicants for licensure to submit fingerprints to the Pennsylvania State Police, to be checked against state and national criminal records to verify identity and ascertain criminal history, who then forward the information back to the Department of State. Read more [here](#).

4 Things to Know about Breast Density

This month, a new [Food and Drug Administration \(FDA\) regulation](#) goes into effect requiring all mammography facilities in the U.S. to notify women of their level of breast density. Although many centers have already been doing this for several years, the FDA regulation expands the requirement to all breast centers across the country.

With the new regulation, many women may have questions about what exactly breast density is and how it impacts their risk of developing breast cancer. Radiologists on the board of the American College of Surgeons' National Accreditation Program for Breast Centers ([NAPBC](#)) offered insight into what women should know about breast density and why it matters. [Read more](#)

UnitedHealthcare's national gold-card program: 5 things to know

UnitedHealthcare [released](#) more details about its national gold-card program set to take effect on Oct. 1. Here are five things to know:

1. Providers will not have to apply for the gold-card program but must meet certain eligibility requirements:
 - Be in-network for at least one UnitedHealthcare commercial, individual exchange, Medicare Advantage or community (Medicaid) plan.
 - Meet a minimum annual volume of at least 10 prior authorizations each year for two consecutive years across gold-card-eligible codes.
 - Have a prior authorization approval rate of 92% or more across all gold-card eligible codes for each of the review years.
2. Providers who earn gold-card status are required to complete advance notification for services, but no clinical information will be requested.
3. The full gold-card-eligible procedure code list can be found [here](#).
4. UnitedHealthcare will [conduct](#) annual evaluations for gold-card qualification. Gold-card status determinations will be effective Oct. 1 every year.
5. Providers may lose gold-card status because of patient safety issues, failure to cooperate with quality and patient safety activities, failure to make timely responses to requests for information, or they no longer meet program requirements.

States are writing their own rules for Artificial Intelligence in health care

Artificial Intelligence (AI) is health care's biggest wild card and is drawing hundreds of millions of dollars in investment and health care [companies](#) and insurers are using it without oversight. Given the lack of movement at the federal level, regulation of AI is falling to the states to take action.

Colorado enacted the first comprehensive state AI laws (SB 205), placing limits on developers of AI systems that make "consequential decisions," including in health care. The law requires disclosures and limits on AI used in insurance. Utah is working to regulate mental health chatbots and health care professionals have to disclose when they have generative AI interact with a consumer. Read more [here](#).

REGULATORY NEWS

ALABAMA

On July 31, the Alabama Board of Medical Examiners announced it was accepting applications for its Bridge Year Graduate Physician (BYGP) program, implementing [SB 155](#) (2023), which creates a one-year license for individuals who completed medical school within the previous year, but have not been accepted into a postgraduate or residency training. BYGPs must practice under the on-site supervision of a licensed physician, who would report at the end of the license

period on the graduate physician's performance and whether they should be recommended for a residency slot. The license is valid for one year and can be renewed for an additional year.

NEVADA

The Nevada Board of Medical Examiners adopted [regulations](#) regarding a number of issues.

1. Require physicians and physician assistants (PAs) to obtain and document the informed consent of a patient or their representative before providing any procedure or invasive treatment, except in an emergency situation.
2. Licensees who wish to initiate a new medical specialty, must notify the Board of the change, and the licensee must be certified in the new specialty by the American Board of Medical Specialties (ABMS) *and* completed an ACGME-approved PGT program in the new specialty area; or if the specialty has no ABMS specialty board, the licensee must provide the Board with evidence of training and expertise of comparable rigor.
3. Require two hours of CME on evidence-based suicide prevention and awareness within the first two years of licensure, and every four years thereafter.
4. The Board will no longer issue a license by endorsement if the applicant has been disciplined by or has a disciplinary action pending in another jurisdiction, or had their license suspended, revoked, refused, or denied previously.
5. Anesthesiologist assistants, physicians, PAs, respiratory therapists, and perfusionists are explicitly prohibited from engaging in sexual impropriety toward a patient "including, without limitation, engaging in behavior that is seductive, sexually suggestive, disrespectful of a patient's privacy or sexually demeaning."
6. PAs will be authorized to practice "within the scope of the *medical specialty area* of his or her supervising physician" rather than "within the scope of *practice* of his or her supervising physician." Read more [here](#) and [here](#).

WISCONSIN

The Wisconsin Naturopathic Medicine Examining Board adopted regulations addressing the practice of naturopathy. The new regulations define "minor office procedure" and a list of procedures they are not allowed to do, and set guidelines for licensee advertisement, requiring licensees to clearly state the type of license they hold and any applicable limitations. Read more [here](#).

STATUS OF LEGISLATIVE SESSIONS

The following state legislatures remain in session: Michigan, New Jersey, Ohio, and Pennsylvania. California is in special session.

Montana, Nevada, North Dakota, and Texas have no regular session in even-numbered years. Legislative session information can be found [here](#).

LEGISLATIVE TRACKING

CALIFORNIA

[SCR 80](#) – Cancer **ADOPTED**

Introduced by Senator Richard Roth (D), SCR 80 designates September 2024 as Childhood Cancer Awareness Month to emphasize support for finding cures and less toxic treatments and

highlight funding efforts to combat childhood cancer in the state. The bill was adopted August 28.

ILLINOIS

[HB 778](#) – Licensure **ENACTED**

Introduced by Representative Emanuel Welch (D), HB 778 creates a new licensure pathway and support program for international medical graduate physicians after the licensee successfully completes a supervision period and satisfies other established qualifications effective January 1, 2025; creates a clinical readiness program for IMGs “seeking to reestablish their medical careers and obtain residency” in the state, including helping applicants navigate the state’s licensing process and ensuring culturally- and linguistically-appropriate services effective January 1, 2026. Governor Jay Pritzker (D) signed the bill into law August 2.

NEW YORK

[A 5729A](#) – Cancer **ENACTED**

Introduced by Assemblymember Amy Paulin (D), A 5729 requires health insurers to provide coverage for the tattooing of the nipple-areolar complex as part of breast reconstruction as performed by a licensed physician. Governor Kathy Hochul (D) signed the bill into law August 26.

OHIO

[HB 68](#) – Criminalization **ENACTED**

Introduced by Representative Gary Click (R), HB 68 prohibits physicians from performing gender reassignment surgery on a minor and prescribing cross-sex hormone treatment; violations can be subject to disciplinary action from the appropriate licensing board. Governor Mike DeWine (R) signed the bill into law April 24.

[HB 179](#) – Professional Liability **ENACTED**

Introduced by Representative Adam Mathews (R), HB 179 allows for a tolling of the statute of repose during the defendant’s absence or concealment; defines vicarious liability in professional liability lawsuits. Governor Mike DeWine (R) signed the bill into law July 15.