

State Legislative Update – February 2, 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.

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 & Development
- Cancer Screening, Testing, and Treatment
- Insurance & 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. Funds provided through the grant can be applied towards expenses such as travel costs for members, catering, venue rentals, printing, and more. To learn more information regarding the ACS State Advocacy Grants, apply [here](#).

UPCOMING EVENTS

Puerto Rico Advocacy, San Juan, February 22-24, 2024

Virginia Chapter Surgeons' Advocacy Day, Richmond, January 23; Medical Society of Virginia Lobby Days, Richmond, January 16 and 23, February 7 and 19

STATE MEDICAL BOARDS

Scammer Alerts

Several state medical boards are warning their licensees about scammers. This often includes people pretending to be officers of the board performing investigations and requesting funds as part of the process. These scams can involve a phone call that looks like it comes from the state board office by spoofing the number, or written communications on what looks like board letterhead. In many cases you are told not to share the information with others, a major red flag. Be aware the state licensure board will never ask you for funds during an investigation.

Scammers are endlessly inventive. One of the newest scams involves QR codes. The use of QR codes became more popular during COVID when restaurants began using them instead of physical menus. Unfortunately, in some cases criminals paste fake QR codes over the real ones or insert them in a text message to install malware into your phone or steal credit information if the code leads you to what looks like a legitimate place to enter payment data.

One way to make sure you are not being scammed is to call your licensure board directly and ask to speak to the investigations office. Do not use a web link or phone number from the “communications” you received. If you are unsure about a communication from your licensure board, call your licensure board and verify the source and the issue.

STATUS OF LEGISLATIVE SESSIONS

Forty-five legislatures are in regular or special session. Montana, Nevada, North Dakota, and Texas have no regular session in even-numbered years. Wyoming only considers budget issues in its brief (20 day) session. Legislative session information can be found [here](#).

LEGISLATIVE TRACKING

ALASKA

[HB 285](#) – Cancer

Introduced by Representative Zach Fields (D), HB 285 mandates coverage for mammography screening, diagnostic breast examinations, and supplemental breast examinations may not impose cost sharing, a deductible, coinsurance, a copayment obligation, or another similar out-of-pocket expense on an insured for coverage. The bill was introduced in the House and referred to the Health and Social Services Committee.

ARIZONA

[HB 2411](#) – Cancer

Introduced by Representative David Cook (R), HB 2411 provides for no cost-sharing diagnostic and supplemental breast examinations. The bill was introduced in the House and is pending referral to a committee.

[HB 2512](#) – Prior Authorization

Introduced by Representative Amish Shah (D), HB 2512 states newborn male circumcision does not require prior authorization. The bill was introduced in the House and is pending referral to a committee.

[HB 2517](#) – Bariatric Surgery

Introduced by Representative Amish Shah (D), HB 2517 requires health insurance plans cover comprehensive obesity treatment, including coverage for bariatric surgery; and prior authorization must be made in the same manner as any other treatment or illness, condition, or disorder. The bill was introduced in the House and is pending referral to a committee.

[HB 2599](#) – Insurance

Introduced by Representative David Livingston (R), HB 2599 sets out the health care insurance carrier internal and external utilization review and appeals process, whether in whole or in part of a service. The bill was introduced in the House and is pending referral to a committee.

[SB 1696](#) – Insurance

Introduced by Senator Sally Gonzales (D), SB 1696 mandates insurers offering individual health care plans must cover essential health care benefits, limit cost-sharing, and extend coverage for preventive care. The bill was introduced in the Senate and is pending referral to a committee.

CALIFORNIA

[SR 55](#) – Cancer **ADOPTED**

Introduced by Senator Marie Alvarado-Gil (D), SR 55 proclaims January 2024 as Cervical Cancer Awareness Month. The bill was introduced in the Senate and referred to the Rules Committee. The bill was adopted January 25.

COLORADO

[SB 86](#) – Cancer

Introduced by Senator Dafna Michaelson Jenet (D), SB 86 transfers \$500,000 from the breast and cervical cancer prevention and treatment fund to the breast cancer screening fund for fiscal year 2024-25. The bill was introduced in the Senate and referred to the Finance Committee.

GEORGIA

[SB 419](#) – Scope of Practice

Introduced by Senator Larry Walker (R), SB 419 amends state law to allow anesthesia to be administered by a certified registered nurse anesthetist pursuant to an order by a licensed physician. The bill was introduced in the Senate and referred to the Health and Human Services Committee.

HAWAII

[HB 2194](#) – Step-Therapy

Introduced by Representative Gregg Takayama (D), HB 2194 prohibits a health insurer from requiring an insured diagnosed with stage two through stage five cancer to undergo step-therapy prior to covering the insured for certain drugs prescribed by the insured's health care provider. The bill was introduced in the House and referred to the Consumer Protection and Commerce Committee.

[HB 2223](#) – Biomarker

Introduced by Representative Cory Chun (D), HB 2223 requires health insurers to provide coverage for biomarker testing. The bill was introduced in the House and is pending referral to a committee.

[HB 2283](#) – Workplace Violence

Introduced by Representative Darius Kila (D), HB 2283 establishes heightened penalties for the assault and terroristic threats of healthcare workers; and clarifies the definition of terroristic threatening to include the methods of contact. The bill was introduced in the House and is pending referral to a committee.

[HB 2775](#) – Professional Liability

Introduced by Representative Micah Aiu (D), HB 2775 seeks to establish a “candor process” which provides a voluntary framework for health care providers and facilities to offer compassionate, honest, timely, and thorough responses to patients who experience an adverse health care incident and is not intended to limit a patient’s ability to seek redress through the legal process nor does it constitute an admission of liability. The bill was introduced in the House and is pending referral to a committee.

[SB 17](#) – Informed Consent

Introduced by Senator Karl Rhoads (D), SB 17 requires the medical board to establish standards for physicians to ensure a patient’s consent is informed consent; requires informed consent for medical or surgical treatment or a diagnostic or therapeutic procedure; provides timeframes for obtaining informed consent. The bill was introduced in the Senate and referred to the Health and Human Services Committee.

[SB 3330](#) – Professional Liability

Introduced by Senator Donna Kim (D), SB 3330 establishes a “candor process” to provide a voluntary framework for health care providers and facilities to offer compassionate, honest, timely, and thorough responses to patients who experience an adverse health care incident and is not intended to limit a patient’s ability to seek redress through the legal process nor does it constitute an admission of liability. The bill was introduced in the Senate and is pending referral to a committee.

ILLINOIS

[HB 4574](#) – Workplace Violence

Introduced by Representative Bradley Fritts (R), HB 4574 provides for additional weight in imposing a term of imprisonment or imposing a more severe punishment if an individual commits an offense on the grounds of a hospital, ambulatory surgical center, physician’s office, or other medical facility and if it was a crime of violence against a health care practitioner or employee. The bill was introduced in the House and is pending referral to a committee.

[SB 2890](#) – Professional Liability

Introduced by Senator Jil Tracy (R), SB 2890 seeks to change how non-economic damages are determined; provides for bifurcated trials before the same jury in cases involving punitive damages, if requested by a defendant; and provides for post-trial review of non-economic damage awards. The bill was introduced in the Senate and is pending referral to a committee.

INDIANA

[SB 208](#) – Criminalization

Introduced by Senator Shelli Yoder (D), SB 208 allows the revocation of a physician's license for the performance of an abortion. The bill was introduced in the Senate and referred to the Health and Provider Services Committee.

[SB 258](#) – Anti-Kickback

Introduced by Senator Justin Busch (R), SB 258 prohibits a referring physician from receiving compensation or incentive from a health care entity or another physician, in the same network as the referring physician, for referring a patient to the health care entity or other physician; and rules regarding the all payer claims data base must include a requirement that health payers report physician reimbursement rates for each contract and specify a process for health payers to report the physician reimbursement rates. The bill was introduced in the Senate and referred to the Health and Provider Services Committee.

[SB 273](#) – Biomarker

Introduced by Senator Ed Charbonneau (R), SB 273 requires health care insurance carriers cover biomarker testing for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition when biomarker testing is supported by medical and scientific evidence. The bill was introduced in the Senate and referred to the Insurance and Financial Committee.

IOWA

[SF 2038](#) – Adverse Event

Introduced by Senator Kevin Alons (R), SF 2038 defines the reporting of serious reportable events, including hospitals, ambulatory surgical center, and pregnancy resource centers; outlines the reporting requirements; requires a root cause analysis of the event and a corrective action plan; and provides for filing by electronic means. The bill was introduced in the Senate and referred to the Health and Human Services Committee.

[SSB 3001](#) – Biomarker

Introduced by the Senate Commerce Committee, SSB 3001 requires a health insurance carrier to offer coverage for biomarker testing for a covered person. The study bill was introduced in the Senate and referred to the Commerce Committee.

KENTUCKY

[HB 202](#) – Certificate of Need

Introduced by Representative Marianne Proctor (R), HB 202 modifies conditions under which a person must acquire a certificate of need, including establishing a health facility, making changes in bed capacity or health services, or acquiring major medical equipment. The bill was introduced in the House and referred to the Committee on Committees.

[HB 318](#) – Prior Authorization

Introduced by Representative Matt Locket (R). HB 318 requires health care insurers to offer a program to reduce or eliminate prior authorization requirements. The bill was introduced in the House and referred to the Committee on Committees.

[HB 323](#) – Cancer

Introduced by Representative Deanna Frazier (R), HB 323 establishes a program to reimburse firefighters for out-of-pocket expenses for cancer screenings. The bill was introduced in the House and referred to the Committee on Committees.

[SB 136](#) – Certificate of Need

Introduced by Senator Gex Williams (R), SB 136 requires all health services, equipment, programs, centers, facilities, beds, agencies, technologies, or hospitals listed in the state health plan to be granted a non-substantive review of an application for certificate of need by the Cabinet for Health and Family Services. The bill was introduced in the Senate and referred to the Committee on Committees.

LOUISIANA

[HB 24](#) – Professional Liability

Introduced by Representative Michael Mereine (R), HB 24 eliminates the presumption of causation established by lack of prior history of an injury or illness and shall not create a presumption that an illness or injury was caused by the act subject to the claim. The bill was introduced in the House and referred to the Civil Law and Procedure Committee.

MARYLAND

[SB 119](#) – Criminalization

Introduced by Senator Clarence Lam (D), SB 119 protects state licensed health care practitioners for providing, procuring, or aiding an individual legally protected health care services which are not a crime in the state from criminal persecution, civil liability, or administrative sanction in another state. The bill was introduced in the Senate and is pending referral to a committee.

[SB 167](#) – Scope of Practice

Introduced by Senator Mary Beth Carozza (R), SB 167 seeks to change the delegation agreement to collaborative agreement; allows a physician to actively collaborate with up to eight physician assistants; allows for preparing and dispensing a prescription; allows for ordering, performing, and interpreting diagnostic studies, therapeutic procedures, and laboratory tests; performing physical exams; writing medical orders; and authenticating any document a physician may authenticate; and does not allow for anesthesia duties. The bill was introduced in the Senate and referred to the Finance Committee.

[SB 487](#) – Insurance

Introduced by Senator Clarence Lam (D), SB 487 ties the reimbursement rate for non-participating health care practitioners to the inflated Medicare economic index from 2019 to the current year. The bill was introduced in the Senate and referred to the Commerce and Labor Committee.

MISSISSIPPI

[SB 2140](#) – Prior Authorization

Introduced by Senator Walter Michel (R), SB 2140 proposes wide ranging changes to prior authorization protocols including: requiring health insurers maintain a complete list of services for which prior authorization is required, make requirements and restrictions for prior authorization available online, set requirements for the clinical review of prior authorization criteria and make statistics available online. The bill was introduced in the Senate and referred to the Insurance Committee.

[HB 420](#) – Prior Authorization

Introduced by Representative Henry Zuber (R), HB 420 creates the prior authorization reform act which provides a regulatory framework around prior authorization including: mandating the disclosure and review of requirements for prior authorization; making a standardized electronic prior authorization request transaction process; and periodically review prior authorization. The bill was introduced in the House and referred to the Public Health and Human Services Committee.

[HB 425](#) – Medicaid/Insurance

Introduced by Representative John Hines (D), HB 425 mandates reimbursement rates for capitated services; prohibits organizations from imposing specific pharmacies; outlines a uniform credentialing process for providers; and establishes procedures for denial of coverage. The bill was introduced in the House and referred to the Medicaid Committee.

[HB 775](#) – Prior Authorization

Introduced by Representative Samuel Creekmore (R), HB 775 proposes wide ranging changes to prior authorization protocols including: requiring health insurers maintain a complete list of services for which prior authorization is required, make requirements and restrictions for prior authorization available online, set requirements for the clinical review of prior authorization criteria and make statistics available online. The bill was introduced in the House and referred to the Public Health and Human Services Committee.

MISSOURI

[HB 2534](#) – Scope of Practice

Introduced by Representative Lisa Thomas (R), HB 2534 seeks to require truth in advertising for health care practitioners; any advertisement must include full name, title, and any board certifications, which must list the entire name of the board that issued the certification; practitioner must display their license in a prominent place visible to patients; name badges need to list the name of the practitioner, type of license, registration, or certification; and medical staff position, if applicable. The bill was introduced in the House and is pending referral to a committee.

MONTANA

[SB 1313](#) – Truth in Advertising

Introduced by Senator Tony Luetkemeyer (R), SB 1313 modifies advertising rules for health care practitioners including: advertisements for a health care practitioner must include the health care practitioner's full name and title; any board certification of a health care practitioner shall include the entire name of the board issuing the certification; and no advertisement shall include fraudulent misrepresentations. The bill was introduced in the Senate and referred to the Governmental Accountability Committee.

NEW HAMPSHIRE

[SB 440](#) – Scope of Practice

Introduced by Senator Ruth Ward (R), SB 440 seeks to allow optometrists to prescribe hydrocodone in combination with analgesics limited to 72 hours with no refills; to treat glaucoma; would allow for laser treatment of lumps and bumps around the eye. The bill was introduced in the Senate and referred to the Executive Departments and Administration Committee.

NEW JERSEY

[A 2286](#) – Scope of Practice **FAILED SINE DIE**

Introduced by Assemblymember Nancy Munoz (R), A 2286 allows advanced practice nurse (APN) anesthesia who has completed either 24 months or 2,400 hours providing anesthesia services may work without supervision by a licensed physician. The bill failed to be enacted before the end of the legislative session.

[S 1522](#) – Scope of Practice **FAILED SINE DIE**

Introduced by Senator Joseph Vitale (D), S 1522 allows advanced practice nurse (APN) anesthesia who has completed either 24 months or 2,400 hours providing anesthesia services may work without supervision by a licensed physician. The bill failed to be enacted before the end of the legislative session.

NEW MEXICO

[HB 185](#) – Step-Therapy

Introduced by Representative Elizabeth Thomson (D), HB 185 amends state law to mandate step-therapy, including cancer, autoimmune disorders, and behavioral health conditions, will not be subject to prior authorization and establishes clinical review criteria for certain step-therapy protocols. The bill was introduced in the House and referred to the Health and Human Services Committee.

[HB 234](#) – Professional Liability

Introduced by Representative Dayan Hochman-Vigil (D), HB 234 creates a medical malpractice premium assistance fund; the fund shall reimburse health care practitioners and hospitals a percentage of the cost of medical malpractice insurance; and health care practitioners and hospitals must submit an application to receive funds. The bill was introduced in the House and was referred to the Health and Human Services Committee.

[SB 135](#) – Step-Therapy

Introduced by Senator Elizabeth Stefanics (D), SB 135 establishes guidelines relating to step-therapy for cancer; and eliminates step therapy requirements for certain conditions. The bill was introduced in the Senate and sent to the Committee on Committees.

NEW YORK

[A 8877](#) – Medicaid

Introduced by Assemblymember Amy Paulin (D), A 8877 requires notice and additional review for managed care providers of the methodologies and fee schedule and other materials used for determining Medicaid reimbursement rates. The bill was introduced in the Assembly and referred to the Health Committee.

[A 8883](#) – Cancer

Introduced by Assemblymember Amy Paulin (D), A 8883 provides per diem rates of payment by governmental agencies for inpatient services provided by facilities designated as exempt extended neoplastic disease care hospitals. The bill was introduced in the Assembly and referred to the Health Committee.

[S 8360](#) – Medicaid

Introduced by Senator James Skoufis (D), S 8360 requires notice and additional review for managed care providers of the methodologies, fee schedules, and other materials used for determining Medicaid reimbursement rates. The bill was introduced in the Senate and referred to the Health Committee.

OHIO

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

Introduced by Representative Gary Click (R), HB 68 bans physicians from performing gender reassignment surgery on a minor and prescribing cross-sex hormone treatment. The bill passed both the House and Senate and will become effective April 24 unless the governor vetoes it.

[SB 129](#) – Scope of Practice

Introduced by Senator Jerry Cirino (R), SB 129 expands the scope of optometry to allow for surgical removal of chalazion; removal and biopsy of a skin lesion; excision or drainage, or both, of a conjunctival cyst or concretion; laser surgery consisting of capsulotomy, trabeculoplasty, or peripheral iridotomy; optometry board must develop rules regarding training requirements around the additional procedures. The bill was introduced in the Senate and was referred to the Health Committee.

PENNSYLVANIA

[HB 1944](#) – Cancer

Introduced by Representative Gina Curry (D), HB 1944 requires health care insurance policies to include coverage for breast imaging and mandates coverage for supplemental breast screenings for individuals believed to be at an increased risk of breast cancer due to various factors. The bill was introduced in the House and referred to the Insurance Committee.

RHODE ISLAND

[SB 2179](#) – Telehealth

Introduced by Senator Pamela Lauria (D), SB 2179 allows an out-of-state health care practitioner to provide telehealth services to a patient located in state if the services are consistent with the practitioner's scope and state and federal professional standards. The bill was introduced in the Senate and referred to the Health and Human Services Committee.

[SB 2196](#) – Professional Liability

Introduced by Senator Roger Picard (D), SB 2196 provides the interest in civil actions would be calculated a rate equal to the coupon issue yield equivalent, as determined by the United States secretary of the treasury, of the average accepted auction price for the last auction of 52 week United States treasury bills settled immediately preceding the date of the filing of the action. The bill was introduced in the Senate and referred to the Judiciary Committee.

[S 2229](#) – Professional Liability

Introduced by Senator Pamela Lauria (D), SB 2229 provides statements by a health care provider to a patient or patient’s representative regarding the unanticipated outcome of the patient’s medical care and treatment, such as an apology, will not be considered an admission in any action against the provider. The bill was introduced in the Senate and referred to the Judiciary Committee.

TENNESSEE

[HB 2076](#) – Insurance

Introduced by Representative Brock Martin, HB 2076 limits payment recoupment by a health care insurance carrier to six months after the health care practitioner submits a claim, exceptions for fraud; details the process for the insurer to follow when seeking recoupment; payment recoupment must not be withheld from the health care practitioner until all appeals are exhausted. The bill was introduced in the House and is pending referral to a committee.

[HB 2318](#) – Scope of Practice

Introduced by Representative Ryan Williams (R), HB 2318 permits physician assistants to perform specified minor procedures including: laceration repair, excision, and various medical interventions, plan and initiate therapeutic regimens, including non-pharmacological interventions. The bill was introduced in the House and is pending referral to a committee.

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[SB 2328](#) – Insurance

Introduced by Senator Ken Yager (R), SB 2328 limits payment recoupment by a health care insurance carrier to six months after the health care practitioner submits a claim, exceptions for fraud; details the process for the insurer to follow when seeking recoupment; payment recoupment must not be withheld from the health care practitioner until all appeals are exhausted. The bill was introduced in the Senate and is pending referral to a committee.

UTAH

[HB 377](#) – Scope of Practice

Introduced by Representative Paul Cutler (R), HB 377 seeks to allow a podiatrist to provide wound care, including debridement, cleansing, and dressing on any part of the body. The bill was introduced in the House and is pending referral to a committee.

VERMONT

[S 233](#) – Scope of Practice

Introduced by Senator Alison Clarkson (D), S 233 revises the scope of practice for optometrists; and creates a specialty endorsement license to allow qualified optometrists to perform surgery to remove lesions from the eye, excision and repair of the eye, and the repair of eyelids. The bill was introduced in the Senate and referred to the Health and Welfare Committee.

VIRGINIA

[HB 1322](#) – Scope of Practice

Introduced by Delegate Mark Sickles (D), HB 1322 removes the supervision requirement of certified registered nurse anesthetist. The bill was introduced in the House and referred to the Health and Human Services Committee.

[SB 33](#) – Scope of Practice

Introduced by Senator Mamie Locke (D), SB 33 clarifies that supervision of a certified nurse anesthetist (CRNA) requires a licensed doctor of medicine, osteopathy, podiatry, or dentistry is present during an operation or is immediately available to respond and provide patient care as needed; and creates a work group of the relevant licensure boards to evaluate and make recommendations to increase the anesthesia provider workforce in the state. The bill was introduced in the Senate and referred to the Education and Health Committee.

[SB 493](#) – Professional Liability

Introduced by Senator William Stanley (R), SB 493 amends the cap on damages in medical malpractice claim to not apply to a verdict where the injury occurred against a patient aged ten or younger. The bill was introduced in the Senate and referred to the Courts of Justice Committee.

WEST VIRGINIA

[HB 4617](#) – Cancer

Introduced by Delegate Sean Hornbuckle (D), HB 4617 requires health insurance plans to cover breast cancer screenings. The bill was introduced in the House and referred to the Banking and Insurance Committee.

[HB 4953](#) – Informed Consent

Introduced by Representative Kayla Young (D), HB 4953 requires health care practitioners participating in or overseeing a professional instruction, owes a duty to the patient to obtain specific informed consent, verbally or written, before performing a pelvic, rectal, or prostate exam, unless the exam is necessary during a medical emergency; failure to obtain informed consent can result in a licensure board investigation. The bill was introduced in the House and referred to the Health and Human Resources Committee.

[HB 4956](#) – Cancer

Introduced by Delegate Matthew Rohrbach (R), HB 4956 mandates health insurance plan to provide coverage for oral health procedures necessary to receive or are the result of cancer. The bill was introduced in the House and referred to the Banking Insurance Committee.

[HB 5286](#) – Certificate of Need

Introduced by Delegate Evan Worrell (R), HB 5285 eliminates the ability to sub-contract under Certificate of Need. The bill was introduced in the Senate and referred to the Health and Human Resources Committee.

[HB 5303](#) – Certificate of Need

Introduced by Delegate Don Forsht (R), HB 5303 provides an exemption for neighborhood hospitals, ambulatory health care facilities, and ambulatory surgical facilities from requiring a certificate of need. The bill was introduced in the House and referred to the Health and Human Resources Committee.

[SB 499](#) – Telehealth

Introduced by Senator Laura Chapman (R), SB 499 allows providers who were permitted to practice telehealth across state lines during the COVID-19 state of emergency to continue practicing telehealth. The bill was introduced in the Senate and referred to the Health and Human Resources Committee.

WYOMING

[HB 76](#) – Criminalization

Introduced by Representative Mike Yin (D), HB 76 physicians providing an abortion would be guilty of a misdemeanor punishable by imprisonment for 1 year or less, a fine not to exceed \$5,000.00, or both. The bill was introduced in the House and is pending referral to a committee.

To view a complete list of bills ACS State Affairs is tracking, visit our online [State Legislative Tracker](#).