



## The Doctors Company **GOVERNMENT RELATIONS**

July 2019

# Advocacy Update

The Doctors Company advocates relentlessly to establish and protect medical liability reforms in state legislatures and courts across the United States. This advocacy takes many forms, including in-person meetings with legislators, securing and preparing witnesses for testimony before committees, creating educational materials and issue briefs as well as building relationships with local leaders and organizations that support the practice of medicine and liability reforms. Additionally we form, maintain, and fund amicus curiae “friend of the court” committees that file briefs on behalf of the medical professional community.

## Summary

This issue of Advocacy Update reflects activities in the public policy arena from April through June 15, 2019.

The Doctors Company actively supports and opposes a significant number of bills each year. Many members participated in advocacy efforts, testifying before legislative committees, participating in one-on-one discussions, and educating legislators and regulators. One such story is spotlighted in this issue.

By July 2019, 36 state legislatures have adjourned for the year with five of those still within the governor’s signing period. Since New York and California enacted strict consumer privacy bills in response to mass consumer data thefts in 2018, a number of other states have followed suit with their own bills in 2019. Healthcare providers collect data that is considered consumer information and are, therefore, affected, so we have included a spotlight on these bills.

Due to the large number of adjourned legislatures, a larger sampling of bills is presented in this legislative update relative to previous editions. The selected bills focus on the practice of medicine and medical/civil liability.

State supreme courts continue to be active this year with decisions affecting healthcare liability. Most notable is an unexpected decision in Kansas that declared unconstitutional the state’s cap on non-economic damages in personal injury cases, including medical malpractice cases. The Kansas high court reversed itself only seven years after upholding the very same cap.



## Member Advocacy Spotlight

The following story illustrates The Doctors Company's members' efforts in 2019 in response to a dramatic increase in attacks on medical liability reforms.

### Member Advocacy Spotlight: New Mexico



In the 2019 legislative session, healthcare practitioners in New Mexico faced one of the toughest challenges in the last decade with the introduction of House Bill 629, a bill that would have dramatically changed New Mexico's Medical Malpractice Act (MMA) and would have severely impacted healthcare providers ability to practice their profession and care for their patients. HB 629 would have increased the limitation on non-medical damages for medical liability actions in New Mexico from the current level of \$600,000 for qualified individual healthcare practitioners (QHPs) to \$2,000,000 with an annual cost of living increase, and to \$25,000,000 for hospitals and medical facilities, also with an annual cost of living increase. The definition of "medical facility" would have incorporated the majority of small medical practices, effectively making the new \$25,000,000 with an annual cost of living adjustment for many of our members.

The Doctors Company fought to defeat or amend this bill in partnership with the New Mexico Hospital Association, the New Mexico Medical Society, specialty societies including orthopedic surgeons, ophthalmologists, podiatrists, obstetricians/gynecologists, and many more. The Doctors Company drafted amendments to the bill, lobbied the legislature, and mobilized our members, as did our advocacy partners. Hundreds of individual practitioners and practices flooded the legislature with email, phone calls and in-person contacts. Medical professionals made nearly 1,000 contacts with legislative representatives in the two weeks between the bill's introduction and its defeat. The outreach from the medical community was so great that when a hearing was held on the bill, one of the committee members said, "I've never received so many calls or emails on an issue in my entire career as a legislator." More than 25 medical professionals and/or organizations testified to the devastating impact that the legislation would have on their ability to provide healthcare to New Mexico patients.

Largely because of this massive outpouring of opposition from the medical community, the controversy reached the governor. Ultimately, a group including hospital CEOs, physicians, leadership from the Medical Society and others met with Governor Michelle Lujan Grisham and helped her understand that the bill would be a disaster for New Mexico healthcare. With the governor opposed, the bill died.





## Issue Spotlight: New Consumer Privacy Bills Introduced in U.S. (Cont.)

### CALIFORNIA

**CA AB 1760** – This bill, titled the “Privacy for All Act” would revise and recast the California Consumer Privacy Act of 2018 and would prohibit a business from sharing a consumer’s personal information unless the consumer has authorized that sharing. It prescribes various business requirements in connection with this new right to opt-in consent. Additionally, it prohibits discrimination against a consumer that exercises this right. Any violation is an injury and authorizes a consumer to bring suit on this basis. (Status: Pending)

### CONNECTICUT

**CT SB 1108** – This legislation does not enact a privacy act. It creates a task force to study what information businesses in Connecticut should be required to disclose to consumers concerning consumers’ personal information that is retained or sold by the business. The task force is specifically looking at California’s Consumer Privacy Act of 2018 to see what provisions of that act could be implemented in Connecticut. (Status: Enacted; Effective: 07/09/2019)

### HAWAII

**HI HCR 225** – This concurrent resolution creates a task force to study how best to protect the privacy interests of the citizens of Hawaii. The task force is specifically looking at both California’s Consumer Privacy Act of 2018 and Europe’s General Data Protection Regulations. (Status: Adopted)

**HI SB 418** – This legislation would require businesses to disclose to the consumer categories and specific pieces of identifying information collected about the consumer with a verified request. It also requires: disclosure of the types of information collected and the purpose of that collection; the deletion of the collected information upon receipt of a verified request; and prohibits the sale of information in certain circumstances. (Status: Pending)

### ILLINOIS

**IL HB 3358** – This bill creates the “Data Transparency and Privacy Act,” provides definitions, and states that consumers have a right to detailed information about the categories of information collected about the consumer and what categories of information about the consumer are disclosed. It also provides that consumers must have the right to “opt out” of having their personal information sold. There is no private right of action; only the state’s Attorney General may pursue an action under this legislation. (Status: Pending)

**IL SB 2263** – This bill would create the “Data Privacy Act.” It provides definitions around consumer privacy and for the regulation of the use and sale of consumer data. It further establishes consumer rights to copies of information held by persons who control and process data. Violations of this act are violations of the state’s Consumer Fraud and Deceptive Business Practices Act. The Attorney General may bring an action on behalf of the state or on behalf of state residents. The bill also provides for civil penalties. The “Consumer Privacy Fund” is created, with civil penalties used to fund state-directed privacy and data protection activities. (Status: Pending)



## Issue Spotlight: New Consumer Privacy Bills Introduced in U.S. (Cont.)

### MINNESOTA

**MN HB 2917** – This legislation requires controllers (defined as natural or legal persons that alone or jointly with others determine the purpose and means to process personal data) to provide, correct, or restrict processing of personal data upon a consumer's request; requires controllers to provide a privacy notice and document risk assessment; provides for liability and civil penalties; and provides the Attorney General with enforcement authority. (Status: Pending)

### MISSISSIPPI

**MS HB 1253** – This bill would have provided definitions of consumer privacy terms, outlined consumer rights and detailed obligations for businesses that collect or use personal consumer information. The legislation would have created a civil cause of action, provided for penalties for businesses who violated the act, and created a “Consumer Privacy Fund” collecting the proceeds of civil actions filed by the Attorney General’s office and used to offset the Attorney General’s costs. (Status: Failed)

### NEW MEXICO

**NM SB 176** – This proposed law would have provided definitions of consumer privacy terms, outlined consumer rights and detailed obligations for businesses that collect or use personal consumer information. The legislation would have created a civil cause of action, provided for penalties for businesses who violated the act, and created a “Consumer Privacy Fund” collecting the proceeds of civil actions filed by the Attorney General’s office and used to offset the Attorney General’s costs. (Status: Failed)

### NEW YORK

**NY AB 465** – This bill would create the “Personal Information Protection Act,” providing a “personal information bill of rights.” It provides safeguards, standards, protocols and best practices for the protection of personal information. Further, it creates a duty to protect personal information and provides comprehensive security program safeguards, standards, protocols, and best practices. Minimum standards are established for computer system security for businesses with more than 50 employees and/or more than 100 volunteers and/or more than \$1,000,000 in annual revenue. This bill provides for civil causes of action, civil penalties, and liability protection for those who follow all the required and recommended security procedures under this legislation. (Status: Pending)

**NY AB 7736** – This proposed law provides definitions regarding the collection of personally identifying data. It provides definitions of consumer data privacy terms and provides for the regulation of the use and sale of consumer data. In addition to Attorney General enforcement, it creates a private right of action for citizens. (Status: Pending)

**NY SB 5642** – This legislation would require companies to disclose their methods of de-identifying personal information, to place special safeguards around data sharing and to allow consumers to obtain the names of all entities with whom their information is shared. It would create a special account to fund a new Office of Privacy and Data Protection. (Status: Pending)



## Issue Spotlight: New Consumer Privacy Bills Introduced in U.S. (Cont.)

**NY SB 1749** – This bill creates a private right of action for the disclosure of a consumer's identifying information such as Social Security number, driver's license number, bank account number, credit or debit card number, personal identification number, automated or electronic signature, unique biometric data, account passwords or other information that can be used to access an individual's financial accounts or to obtain goods and services. (Status: Pending)

### NORTH DAKOTA

**ND HB 1485** – A legislative task force is created to study protections, enforcement, and remedies regarding the disclosure of consumers' personal data. The study must include a review of privacy laws of other states and applicable federal law. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations. (Status: Enacted; Effective: 08/01/19)

### OREGON

**OR HB 2866 | SB 703** – An “opt-in” consent is required from a consumer before collecting personal information including geolocation and audiovisual data. The bill also required that persons who collect personal information explain how they use that personal information. This bill proposed a ban on HIPAA-compliant transfers of de-identified data without individual consent. (Status: Failed)

### PENNSYLVANIA

**PA HB 1049** – The “Consumer Data Privacy Act” provides definitions of consumer data privacy terms and provides for the regulation of the use and sale of consumer data. In addition to Attorney General enforcement, it creates a private right of action for citizens. (Status: Pending)

### RHODE ISLAND

**RI HB 5930 | SB 234** – The “Consumer Privacy Protection Act” requires businesses that collect, maintain or sell personal information to notify consumers, who may opt out and have personal information deleted. (Status: Pending)

### TEXAS

**TX HB 4390** – This law amends existing law regarding the privacy of personal identifying information. It adds an additional reporting requirement for security breaches where the information of 250 or more residents of the state is involved. Additionally, the bill requires notification to the Attorney General within 60 days, including details of the breach, measures taken, and whether law enforcement is investigating. (Status: Enacted; Effective: 09/01/2019)

**TX HB 4518** – The “Texas Consumer Privacy Act” proposed definitions of consumer privacy terms, outlined consumer rights, and detailed obligations for businesses that collect or use personal consumer information. The legislation would have created a civil cause of action and penalties for businesses who violate the act. (Status: Failed)



## Issue Spotlight: New Consumer Privacy Bills Introduced in U.S. (Cont.)

### WASHINGTON

**WA HB 1854 | SB 5376** – Creates the “Washington Privacy Act.” Provides definitions of consumer privacy and provides for the regulation of the use and sale of consumer data. Establishes consumer rights to copies of information held by persons who control and process data. (Status: Pending)

## Legislative Update

Each year, more than 150,000 bills are introduced in legislatures across the country. The Doctors Company reviews introduced legislation and subsequent amendments, determines which bills should be monitored on behalf of our members, and prioritizes them for advocacy.

The following are brief summaries of a selection of bills active in the second quarter of 2019 dealing with civil and medical liability or the practice of medicine.

### KEY



Civil / Medical Liability Bills



Practice of Medicine Bills

## States



### Alabama



**AL HB 288** – Any member or employee of the medical profession is required to immediately report to law enforcement any injury resulting from a gunshot, or other act of violence, and to provide a written notation in the patient’s medical record. This law provides civil and criminal immunity for anyone who complies with this reporting requirement. (Status: Enacted; Effective: 09/01/19)

**AL HB 471** – An attending physician, nurse practitioner or physician assistant at a licensed state hospital is authorized to detain and provide emergency treatment to an individual with a mental illness for up to 72 hours under certain conditions. This bill provides protection from civil and criminal liability when acting in good faith for actions taken related to the admission or discharge of the patient. This bill applies only in Pike County. (Status: Enacted; Effective: 09/01/19)



**AL HB 381** – This bill provides for the provision of medical or mental health services to a person who is physically or mentally unable to consent, under certain circumstances. (Status: Enacted; Effective: 06/04/19)

*Please note: This update does not represent a full legislative analysis or the full extent of our tracking or engagement. Nothing in this report should be considered legal advice.*



<p><b>Alabama</b> <b>(cont.)</b></p>		<p><b>AL HB 310</b> – The scope of practice of podiatry would have been expanded to include the treatment of disorders of the foot, ankle, and lower leg. (Status: Failed)</p> <p><b>AL SB 114</b> – The Alabama Board of Optometry would have been authorized to be a certifying board. The bill provided a definition of ophthalmic surgery and provided an extensive, detailed list of procedures that are not included in the definition of the practice of optometry. (Status: Failed)</p> <p><b>AL SB 165</b> – The “Alabama Medical Imaging and Radiation Therapy Patient Safety Act” would have provided for standardized education and demonstration of competency by medical imaging and radiation therapy professionals. It would create the state Medical Imaging and Radiation Therapy Board which authorizes the board to license medical imaging and radiation therapy professionals. (Status: Failed)</p>
 <p><b>Arizona</b></p>		<p><b>AZ HB 2041</b> – Hospital employees may petition the court to order blood testing for a person who interfered with the employee’s official duties. Testing may include HIV, common bloodborne diseases, or other diseases specified in the petition if the person bit, spit, scratched, or transferred blood or other bodily fluids to the employee. Test results will be provided to the department of health services, the hospital employee, and chief medical officer of the hospital. “Hospital employee” is defined as a private hospital employee, volunteer or other person who is authorized to perform official duties at a private hospital. (Status: Enacted; Effective: 08/27/2019)</p> <p><b>AZ HB 2058</b> – A dental hygienist may practice under the general supervision of a licensed physician in an in-patient hospital setting if the physician is available for consultation. The physician does not need to be physically present at the in-patient hospital. Dental hygienists may also supervise dental assistants. (Status: Enacted; Effective: 08/27/2019)</p> <p><b>AZ HB 2068</b> – The Board of Nursing shall grant to a clinical nurse specialist prescription privileges if the CNS has the equivalent education and training of a registered nurse practitioner and a certification from a nationally recognized certification entity. A CNS may prescribe in a licensed healthcare facility if the facility’s rules permit it. A CNS may not prescribe Schedule II controlled substances, except under standing orders or other healthcare facility protocols. A CNS may not write prescriptions to patients to fill outside of the healthcare facility. The Board shall adopt rules for clinical nurse specialists to prescribe and dispense drugs and devices, consistent with the clinical nurse specialist disease or population focus. (Status: Enacted; Effective: 08/27/2019)</p>
 <p><b>Arkansas</b></p>	 	<p><b>AR HJR 1022   SJR 8   SJR 17</b> – These joint resolutions offered an amendment to the state constitution to allow the state legislature to enact limits on punitive damage awards in civil actions as well as limits on non-economic damages. (Status: Failed)</p> <p><b>AR HB 1267</b> – Advanced practice nurses may prescribe opioids if the prescription is only for a five-day period or less, or stimulants if the prescription meets the following criteria: the prescription was originally initiated by a physician, the physician has evaluated the patient within six months before the APN issued the prescription, and the prescription by the APN is to treat the same condition as the original prescription. (Status: Enacted; Effective: 08/01/19)</p>

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California  
(cont.)



qualified personnel that meet specific criteria. (Status: Pending)

**CA AB 528** – A pharmacy, clinic, or other dispenser is required to report the information mandated by the Controlled Substance Utilization Review and Evaluation System (CURES) database no more than one working day after a controlled substance is dispensed. This bill requires the dispensing of a controlled substance included on Schedule V to be reported to the department using the CURES database. (Status: Pending)

**CA AB 714** – This bill amends existing law requiring naloxone hydrochloride prescriptions and education to certain patients. One change requires a prescriber to provide naloxone if an opioid medication is prescribed within a year and/or the patient presents with an increased risk for opioid overdose. Prescribers no longer are required to provide opioid education to a patient who declines or has had education within the past 24 months. (Status: Pending)

**CA AB 845** – The Medical Board, in determining the continuing education requirements for physicians and surgeons, is required to consider including a course in maternal mental health. (Status: Pending)

**CA AB 888** – The requirement for a prescriber to discuss certain information when dispensing or issuing an initial prescription for a controlled substance to a minor is extended to all patients. The prescriber is required to discuss the availability of nonpharmacological treatments for pain and to offer a referral to a provider of nonpharmacological treatments for pain. This bill also requires informed written consent to be obtained. The bill also removes an exception to this requirement in the case of patients being treated for chronic pain and replaces it with an exception for patients currently receiving hospice care. (Status: Pending)

**CA AB 890** – The Advanced Practice Registered Nursing Board is established within the Department of Consumer Affairs. It authorizes a certified nurse practitioner recognized by the Board of Registered Nursing who practices in certain settings to perform specified functions without supervision by a physician and surgeon, including ordering and interpreting diagnostic procedures, certifying disability, and prescribing, administering, and dispensing controlled substances. (Status: Pending)

**CA AB 1264** – This proposed law specifies that an appropriate prior examination for the prescription of dangerous drugs does not require synchronous interaction between the patient and the licensee and can be achieved using telehealth, as specified, provided that the licensee complies with the appropriate standard of care. (Status: Pending)

**CA AB 1656** – This bill clarifies that a physician or authorized hospital staff may administer or dispense narcotic drugs in a hospital to maintain or detoxify a person incidental to medical or surgical treatment other than addiction, or to treat persons with intractable pain for which relief or cure is not possible or has not been found after reasonable efforts. (Status: Pending)

**CA SB 569** – A pharmacist, during a declared local, state, or federal emergency, where the Board waives application of the provisions of the Pharmacy Law, is permitted to fill a prescription for a controlled substance for use by a patient who cannot access medications as a result of such declared emergency. This bill requires the patient demonstrate their inability to access medications, would prohibit refills under these



California  
(cont.)



provisions and would limit the dispensing of a Schedule II controlled substance to a seven-day supply. (Status: Pending)

**CA SB 753** – This bill provides that, for purposes of the California Consumer Privacy Act, a business is not selling personal information in violation if the business, pursuant to a written contract, shares, discloses, or otherwise communicates to another business or third party a unique identifier only to the extent necessary to serve or audit a specific advertisement to the consumer. The bill requires the contract to prohibit the other business or third party from selling or otherwise communicating the information except as necessary to serve or audit advertisement from the business. (Status: Pending)

**CA AB 25, AB 873, AB 874, AB 950, AB 1138, AB 1146, AB 1395, AB 1564, AB 1758 | SB 444, SB 561** – These bills deal with consumer data privacy in California. Some enact other restrictions on California businesses, and some seek to modify or amend the California Consumer Privacy Act of 2018. We are part of a broad coalition working to have this legislation modified, amended, or defeated. (Status: Pending)



Colorado



**CO SB 193** – This legislation continues the Medical Practice Act in accordance with the Department of Regulatory Affairs (DORA). Our advocacy efforts included meeting with DORA staff multiple times to ensure that there was no attempt to increase physician liability. As a result, the DORA recommendations contained minor amendments. (Status: Enacted; Effective: parts on 07/01/2019 and 10/01/2019)

**CO SB 234** – This law renews peer review. Our advocacy included working with DORA as it conducted its research and prepared its report to ensure that peer review was protected from litigation discovery. The Colorado Trial Lawyers Association (CTLA) delayed consideration of the bill until the last days of the legislative session. However, CTLA failed to gather enough support for significant amendments. The result was that confidentiality provisions remained in place. (Status: Enacted; Effective: 08/01/2019)

**CO SB 109** – This bill increases the cap for non-economic damages for non-healthcare related claims by indexing the cap to the Consumer Price Index through bi-annual adjustments. We opposed this bill as a potential precursor to an attack on the non-economic damages cap in medical malpractice claims. The bill was sponsored by the Senate Majority Leader and the House Majority Leader who made it clear that legislators of their own party should not oppose it. The bill was never amended and sailed through the process. This bill sets up a medical malpractice cap fight for next year. We are working diligently to prepare. (Status: Enacted; Effective: 08/02/2019)

**CO SB 201** – “The Candor Act” creates an open protected discussion following an adverse healthcare incident within 180 days from discovery if the patient and healthcare professionals agree. This discussion would be privileged and confidential, not subject to discovery or admissible as evidence. The subjects discussed include how the adverse incident occurred and a determination if compensation is warranted. Any compensation provided under this act, pursuant to the act itself, would not constitute an admission of liability, a final judgment or settlement, or be reportable. However, the federal National Practitioner Data Bank has required entities in states with similar laws to report. (Status: Enacted; Effective: 07/01/2019)

**CO HB 1077** – This bill authorizes a pharmacist to dispense an emergency supply of a maintenance drug to a patient with a chronic condition without a prescription under



Colorado  
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certain specific conditions. The bill provides a limited grant of immunity from civil liability for a pharmacist, the pharmacist's employer, and the original prescriber of the drug for dispensing unless there is negligence, recklessness, or willful or wanton misconduct. (Status: Enacted; Effective: parts on 03/21/2019 and 10/01/2019)

**CO HB 1095** – This legislation makes physician assistants who have practiced at least three years liable for damages resulting from negligence in care, except if under direct orders from a supervising physician. The Act further requires a physician assistant to maintain professional liability insurance in an amount not less than \$1 million per claim and \$3 million in the aggregate. This bill also establishes that a licensed physician may be responsible for the direction and supervision of up to eight physician assistants at any one time if the licensed physician agrees to assume that responsibility. (Status: Enacted; Effective: parts on 08/02/2019 and 10/01/2019)



**CO HB 1041** – This bill requires surgical services and ambulatory surgical centers to prevent human exposure to surgical smoke through a smoke evacuation system. The Act defines “surgical smoke” as a gaseous by-product that is produced by energy-generating devices. The policy must be in effect not later than May 1, 2021. (Status: Enacted; Effective: 08/02/2019)

**CO HB 1208** – Licensed physical therapists with specific training in pediatric neurology or concussion evaluation and management are added to the pool of professionals who may make such evaluations. (Status: Enacted; Effective: 08/02/2019)

**CO SB 52** – Emergency medical service providers (EMS) are authorized to practice under the medical supervision of a licensed physician, physician assistant, advanced practice nurse or a registered nurse who is immediately available and physically present at the clinical setting where the EMS is performing tasks and procedures which are within the EMS provider’s scope of practice. The act further identifies prehospital settings where an EMS may perform patient care which is subject to the medical direction of a physician. (Status: Enacted; Effective: 08/02/2019)

**CO SB 79** – Healthcare practitioners with prescription authority are required to prescribe Schedule II, III, or IV controlled substances only via an electronically transmitted prescription unless specified exceptions apply. The requirement to electronically prescribe starts on July 1, 2021, for podiatrists, physicians, physician assistants, advanced practice nurses, and optometrists, and on July 1, 2023, for dentists and practitioners serving rural communities or in a solo practice. (Status: Enacted; Effective: parts on 08/02/2019; 10/01/2019; 07/01/2021; and 07/01/2023)



**CT HB 7190** – This bill creates Good Samaritan protection for a person or entity that provides or maintains automatic external defibrillators and opioid antagonists. That person or entity shall not be liable for negligence when a person or entity uses the defibrillator or antagonist, unless there is gross, willful or wanton negligence. (Status: Enacted; Effective: 10/01/2019)

**CT SB 795** – Physicians and surgeons who operate an automatic external defibrillator to render emergency medical care shall not be liable to that individual if the automatic external defibrillator malfunctions, as long as the physician’s or surgeon’s negligence did not cause the malfunction. (Status: Enacted; Effective: 10/01/2019)



<p><b>Connecticut (cont.)</b></p>		<p><b>CT SB 967</b> – Physicians or the senior clinician on duty in a mental health facility that has custody of an individual who is psychologically disabled may order medication for treatment of the patient’s psychiatric disability without consent if it would be medically harmful to delay. (Status: Enacted; Effective: 07/01/2019)</p> <p><b>CT SB 969</b> – As part of a coalition, we supported this bill to reduce economic damages in a personal injury or wrongful death action by the amount of collateral source payments received by the plaintiff. Due to opposition from the plaintiff attorneys, it failed in committee. (Status: Failed)</p>
 <p><b>Florida</b></p>		<p><b>FL HB 7077</b> – We worked with others in the medical and business communities to support this bill which would have revised medical malpractice laws, established a cap on non-economic damages, required accuracy in medical damages admissible before a jury in a medical malpractice claim, allowed pre-suit communication with treating physicians, and created an optional communication and resolution program. (Status: Failed).</p> <p><b>FL HB 17   SB 1320</b> – This was an “accuracy in damages” bill that provided for the calculation of damages for healthcare services, procedures, and equipment. (Status: Failed)</p> <p><b>FL HB 21   SB 1712</b> – This bill repealed the data filing requirements for Certificate of Need (CON) applications, the CON requirement for general hospitals, and the CON requirements for all hospital services effective July 1, 2019, and the CON process for specialty hospitals effective July 1, 2021. Hospitals with a high number of medical and surgical discharges related to cardiac, orthopedic or oncology specialties will still need to conform to the CON process. (Status: Enacted; Effective: 07/01/19)</p> <p><b>FL SB 732   HB 933</b> – This bill requires the Department of Health to issue an emergency order suspending or restricting the registration of certain facilities upon specified findings; requires an office in which a physician performs certain procedures or office surgeries to register with the department; and requires an office and physicians practicing at the office to meet certain financial responsibility requirements. (Status: Enacted; Effective: 01/01/20)</p> <p><b>FL HB 1035</b> – This bill required certain licensed facilities, providers, and healthcare practitioners to furnish and provide access to records and reports within a specified timeframe after receiving a request. It also authorized facilities, providers, and practitioners to charge reasonable costs associated with the records. (Status: Failed)</p> <p><b>FL HB 1253   SB 1700</b> – This bill grants the Florida Attorney General the authority to use the prescription drug monitoring database as follows: “(b) The Attorney General may introduce information from the system released pursuant to subparagraph (5)(b)2. as evidence in a civil, criminal, or administrative action against a dispenser, manufacturer, or a pharmacy.” (Status: Enacted; Effective: 07/01/19)</p>
		<p><b>FL HB 23   SB 1526</b> – This bill creates a definition of telehealth in Florida law and allows Florida-licensed healthcare providers and out-of-state healthcare providers who register in Florida to qualify as telehealth providers. (Status: Enacted; Effective: 07/01/19)</p>



<p><b>Florida (cont.)</b></p>		<p><b>FL HB 549   SB 648</b> – This bill requires dentists to complete a minimum of two hours of continuing education on prescribing of controlled substances. (Status: Enacted; Effective: 07/01/19)</p> <p><b>FL HB 375   SB 592</b> – This bill authorizes the Department of Health to enter into reciprocal agreements to share prescription drug monitoring information with specified federal agencies. It also exempts a prescriber or dispenser, or his or her designee, from state requirements to review a patient’s controlled substance dispensing history before prescribing or dispensing a controlled substance to that patient, if the patient has been admitted to hospice. (Status: Enacted; Effective: 07/01/19)</p>
 <p><b>Georgia</b></p>		<p><b>GA HB 128</b> – This legislation eliminates the requirement that an insurer report to the Georgia Composite Medical Board an agreement to settle a medical malpractice claim when the settlement resulted in the low payment under a high/low agreement. (Status: Enacted; Effective: 07/01/2019)</p> <p><b>GA SB 155</b> – This bill concerns what is commonly referred to as “phantom damages” in tort cases. Unfortunately, it has not received a hearing in the Senate Judiciary Committee. (Status: Pending)</p>
		<p><b>GA HB 198</b> – This bill proposes various reforms to the state’s Certificate of Need (CON) law for healthcare facilities. (Status: Pending)</p>
 <p><b>Hawaii</b></p>		<p><b>HI SB 1033</b> – The bill establishes a mandatory regulatory process for the midwifery profession, adopting an accreditation process from the U.S. Department of Education. A license is required, beginning July 1, 2020, for any practitioner who holds themselves out as a “midwife,” “licensed midwife,” or uses the abbreviation “L.M.” Exceptions include a student midwife under the direct supervision of a qualified midwife preceptor and a person rendering emergency assistance. (Status: Enacted; Effective: parts on 05/01/2019 and 07/01/2019)</p>
 <p><b>Idaho</b></p>		<p><b>ID HB 9</b> – This bill establishes that physician assistants are regulated, licensed, and disciplined under the same laws, rules, and regulations that govern physicians. The state board of medicine is the oversight board. (Status: Enacted; Effective: 07/01/2019)</p> <p><b>ID HB 244</b> – This bill creates a new section governing naturopathic practitioners, including licensing, scope of practice, and creation of a governing board. Naturopaths may provide primary care to patients, including ordering tests, prescribing medication on the naturopathic medical formulary, admitting patients to a hospital, and performing minor medical procedures in the office. (Status: Enacted; Effective: parts on 07/01/2019 and 07/01/2020)</p>
 <p><b>Illinois</b></p>		<p><b>IL HB 3116</b> – The Good Samaritan Act is amended to provide that a free medical clinic shall not be liable for civil damages as a result of acts or omissions in providing medical treatment, diagnosis, or advice, except for willful or wanton misconduct. (Status: Pending)</p>

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Illinois  
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**IL HB 2** – The Medical Patient Rights Act is amended to establish a comprehensive list of a woman's rights with regard to pregnancy and childbirth. It requires the Departments of Public Health, Healthcare and Family Services, Children and Family Services, and Human Services to post information about these rights on their publicly available websites. Every licensed healthcare provider, day care center, Head Start, and community center must also post this information on site and on websites. (Status: Pending Governor's signature)

**IL HB 2328** – The Hospital Licensing Act is amended to provide that employment agreements between hospitals and physicians may not contain any provision to restrict the ability of a physician to leave employment with the hospital or hospital affiliate and immediately continue to practice in the same field of medicine in the same geographic area. (Status: Pending)

**IL HB 2431** – The University of Illinois Hospital Act and the Hospital Licensing Act are amended to require interns, residents, or physicians that provide medical services at a hospital to have proper credentials and required certificates for ongoing training at the time of license renewal for the intern, resident, or physician. It also amends the Hospital Report Card Act to require hospitals to include in their quarterly reports the number of female patients who have died within the reporting period. (Status: Pending)

**IL HB 2432** – The Administration of Psychotropic Medications to Children Act is amended to allow the Department of Financial and Professional Regulation to revoke, suspend, place on probation, reprimand, refuse to issue or renew, or take any other disciplinary or non-disciplinary action as the Department may deem proper with regard to the license or permit of any person issued under the Administration of Psychotropic Medications to Children Act upon repeated acts of clearly excessive prescribing, furnishing, or administering psychotropic medications to a minor without a good faith prior examination of the patient and medical reason. (Status: Pending)

**IL HB 2433** – The Hospital Licensing Act and the University of Illinois Hospital Act is amended to require every hospital to ensure that it has the proper instruments available for taking a pregnant woman's blood pressure. It provides that the Department of Public Health shall adopt rules for the implementation of the requirement. (Status: Pending Governor's Signature)

**IL HB 2449 | SB 1973** – The Home Birth Safety Act provides for the licensure of midwives by the Department of Financial and Professional Regulation and sets certain limitations on the activities of licensed midwives. It also creates the Midwifery Board and sets forth provisions concerning application, qualifications, grounds for disciplinary action, and administrative procedures. (Status: Pending)

**IL HB 2511** – The Suicide Prevention Act provides that for a person 12 years of age or older who is receiving or has received mental health services for an attempted suicide, the person's therapist shall identify a family member or other person who shall consult with the therapist every 30 days following a suicide attempt for the period of one year. It also provides that the period may be extended by the therapist based on need. Civil and criminal liability protection is created for disclosing the recipient's therapy or for discussing the progress of the recipient toward mental health to a designated person. (Status: Pending)

**IL HB 2813** – The Nurse Practice Act provides that collaboration does not require an employment relationship between the collaborating physician, podiatric physician, or



Illinois  
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dentist and the advanced practice registered nurse. It also provides that, in the case of anesthesia services provided by a certified registered nurse anesthetist, an anesthesiologist, a physician, a dentist, or a podiatric physician must participate through discussion of and agreement with the anesthesia plan and remain available for diagnosis. (Status: Pending)

**IL HB 2895** – The Civil Administrative Code provides that the Department of Public Health shall ensure that all birthing facilities conduct continuing education yearly for providers and staff of obstetrics, emergency medicine, and other staff that may care for pregnant or postpartum women. It also requires the continuing education to include yearly educational modules regarding management of severe maternal hypertension and obstetric hemorrhage for units that care for pregnant or postpartum women. (Status: Pending Governor’s Signature)

**IL HB 3355 | SB 1725** – This proposed law provides that a physician licensed to practice medicine in all its branches may collaborate with a physician assistant and that a collaborative agreement shall be for services in the same area of practice or specialty as the collaborating physician. It also deletes language providing that a physician may enter into collaborative agreements with no more than seven full-time physician assistants and provides for other changes to provision of healthcare by physician assistants. (Status: Pending)

**IL HB 3484** – A patient or representative of the patient must give informed consent, or informed permission in the case of an infant, for biochemical testing for controlled substances unless there is a medical emergency and there is inadequate time to obtain consent. This bill sets forth the specific information that healthcare providers supply to a patient, or a patient's representative, before informed consent can be given. (Status: Pending)

**IL HB 3515** – The Youth Health Protection Act provides that a medical doctor shall not prescribe, provide, administer, or deliver puberty-suppressing drugs or cross-sex hormones and shall not perform surgical orchiectomy or castration, urethroplasty, vaginoplasty, mastectomy, phalloplasty, or metoidioplasty on biologically healthy and anatomically normal persons under the age of 18 for the purpose of treating the subjective, internal psychological condition of gender dysphoria or gender discordance. A violation of this provision will be considered professional misconduct and shall subject the healthcare provider to discipline by his or her licensing entity or disciplinary review board. (Status: Pending)

**IL SB 167** – This bill defines teledentistry and makes changes concerning the requirements that must be met by a dental assistant before the dental assistant may replace, carve, and finish amalgam restorations, place, pack, and finish composite restorations, and place interim restorations. It also provides the qualifications for a permit to administer anesthesia and sedation and requires the department to ensure that the dentist has completed and maintains certain certifications. (Status: Pending Governor’s Signature)

**IL SB 1135** – The Clinical Psychologist Licensing Act expands the medical education accreditation standards that must be met for licensing and provides that all prescriptions written by a prescribing psychologist must contain the name of the prescribing psychologist and his or her signature. (Status: Pending Governor’s Signature)





Indiana  
(cont.)



**IN SB 141** – This legislation specifies requirements for a healthcare provider that prescribes to a patient in an office-based opioid treatment setting. It requires the Medical Licensing Board to adopt rules or protocols concerning office-based opioid treatment providers and treatment agreements. (Status: Enacted; Effective: 07/01/19)

**IN SB 176 | SB 312** – Dentists, physicians, advanced practice registered nurses, optometrists, physician assistants, and podiatrists are required to issue a prescription for a controlled substance in an electronic format and by electronic transmission after a specified date. At the request of a patient, this law requires a pharmacy to transfer a prescription for the patient that the pharmacy has received but not filled to another pharmacy. (Status: Enacted; Effective: 07/01/19)

**IN SB 202** – A health provider was required to assess an individual's mental health before the individual may execute a physician order for scope of treatment form. This bill removed artificially administered nutrition from inclusion in the post form and required that there was space at the top of the post form to indicate whether an individual has designated a healthcare representative. (Status: Failed)

**IN SB 242** – This proposed legislation removed the restriction on the prescribing of ophthalmic devices through telemedicine and set conditions on when a provider may, through telemedicine, prescribe medical devices. It also prohibited the Indiana Optometry Board from setting standards for the practice of ocular telemedicine or ocular telehealth that were more restrictive than the standards established for in-person practice. (Status: Failed)

**IN SB 310** – This bill specified requirements for a healthcare provider in an office-based opioid treatment setting. (Status: Failed)

**IN SB 359** – Each psychiatric crisis center, psychiatric inpatient unit, and psychiatric residential treatment provider is required, upon request and without the consent of the patient, to disclose a patient's individualized mental health safety plan to certain licensed physicians and mental health providers. (Status: Enacted; Effective: 07/01/19)

**IN SB 378** – Addiction treatment teams and office-based opioid providers would have been required to use one of the three most effective medications as indicated by the federal Food and Drug Administration, unless contraindicated for the patient. The bill would have also required the coroner to notify the health department and a deceased individual's prescribing physician, physician assistant, or advanced practice registered nurse upon learning of the death of the individual in the coroner's jurisdiction. Other proposed rules regarding the prescription of opioids were provided. (Status: Failed)



Kansas



**KS HB 2291** – This proposed legislation increases caps on damages in wrongful death actions and escalates them annually based on the consumer price index. (Status: Pending)

**KS HB 2332** – This bill allows punitive and exemplary damages in a wrongful death action. (Status: Pending)

**KS HB 2348** – This legislation increases liability limits for the healthcare stabilization fund. (Status: Pending)



<p><b>Kansas</b> <b>(cont.)</b></p>		<p><b>KS HB 2119</b> – This law permits licensed pharmacists to administer certain drugs and authorizes certain business entities to hire physicians and chiropractors. It also requires electronic prescriptions for certain controlled substances. (Status: Enacted; Effective: 03/01/20)</p> <p><b>KS HB 2146   SB 120</b> – This bill allows for the corporate practice of medicine by certain business entities. (Status: Pending)</p> <p><b>KS HB 2344</b> – A written informed consent is required before administering an antipsychotic medication to an adult care home resident. (Status: Pending)</p> <p><b>KS HB 2402</b> – Certain business entities are permitted to hire physicians and chiropractors. (Status: Pending)</p>
 <p><b>Kentucky</b></p>		<p><b>KY BR 478</b> – This bill proposed an amendment to Section 54 of the Constitution of Kentucky to allow the General Assembly the power to limit non-economic damages for injuries resulting in death or for injuries to persons or property, and to provide a uniform statute of limitations. (Status: Failed)</p> <p><b>KY HB 429</b> – This law establishes a certificate of merit requirement for plaintiffs in certain medical malpractice actions and when an action is against a long-term care facility. It also repeals the Medical Review Panel Act. (Status: Enacted; Effective: 06/26/19)</p>
		<p><b>KY BR 440   HB 93</b> – Additional license renewal requirements for physician assistants with controlled substances prescriptive authority would have been required. This bill also required the board to review and approve or deny physician assistant applications within a certain number of days. It permits physician assistants to prescribe controlled substances with specific restrictions. (Status: Failed)</p> <p><b>KY HB 167</b> – The signature of a patient or a family member of the patient was required before implementing a do not resuscitate order written by a healthcare provider in a hospital setting. This bill permitted a hospital to request that a patient complete a Medical Order for Scope of Treatment Form. (Status: Failed)</p> <p><b>KY SB 84</b> – This law defines the following healthcare professionals: Advanced Practice Registered Nurses, certified nurse midwives, certified professional midwives, and licensed certified professional midwives. It also creates the Licensed Certified Professional Midwives Advisory Council under the Board of Nursing and establishes its membership. The bill further modifies rules around the practice of medicine by midwives. (Status: Enacted; Effective: 06/26/19)</p>
 <p><b>Louisiana</b></p>		<p><b>LA SB 177</b> – This legislation offered certain healthcare providers protection against unfair non-compete or non-solicitation agreements in some cases. (Status: Failed)</p> <p><b>LA HB 207</b> – This bill would have required the provision of certain information to patients or parents of patients prior to administration of an immunization or a vaccine. (Status: Failed)</p>



**ME HB 211** – A healthcare professional has a duty to warn or take reasonable precautions to protect third parties if communications with the patient create a reasonable belief that the patient may engage in violent behavior. To discharge this duty, the healthcare professional must either: (1) make a reasonable effort to contact potential victims; (2) notify a law enforcement agency; or (3) seek an involuntary hospitalization of the patient. A healthcare professional who complies with this law is immune against monetary liability and a cause of action for violation of patient privacy and confidentiality. (Status: Enacted; Effective: 09/19/2019)

**ME HB 615** – This new law increases the amount a jury may award in a wrongful death case from \$500,000 to \$750,000 for the following types of injury: loss of comfort, society, companionship, and emotional distress. (Status: Enacted; Effective: 09/18/2019)



**MD SB 773** – Advocating through our coalition, we prevented this bill on expert witnesses from becoming much worse. The bill could have eliminated the requirement that expert witnesses in personal injury actions practice medicine, as opposed to serving as full-time expert witnesses. Due to a hard-won compromise, the bill only provides a small increase, from 20% to 25%, in the amount of time that an expert can spend directly testifying in personal injury claims with some restrictions. Additionally, once a healthcare provider qualifies as an expert, the expert is deemed qualified during the pendency of the claim. (Status: Enacted; Effective: 10/01/2019)

**MD SB 813** – Through our coalition, we helped defeat this bill that sought to increase (1) the non-economic damages that three claimants may recover in a wrongful death claim from \$500,000 to \$1,000,000; (2) the non-economic damages that four claimants may recover in a wrongful death claim from \$500,000 to \$1,500,000; and (3) the non-economic damages that five or more claimants may recover in a wrongful death claim from \$500,000 to \$2,000,000. (Status: Failed)

**MD SB 322** – This bill would have prohibited a claim with the Healthcare Alternative Dispute Resolution office against a healthcare provider without 90-day notice of a claim. (Status: Failed)

**MD SB 323** – This bill would have permitted a defendant in a claim filed with the Healthcare Alternative Dispute Resolution Office to seek discovery as to the basis of a certificate of a qualified expert filed by the claimant or plaintiff without affecting later discovery. It would have prohibited deposition of a defendant healthcare provider until the claimant has filed a claim. (Status: Failed)



**MA HB 930** – This bill requires professional liability insurers to report to the optometrist licensing board any claim or action for damages for personal injuries alleged to have been caused by the error, omission, or negligence of the optometrist, if the claim resulted in a final judgement with a payment, settlement involving any amount, or final disposition without payment. (Status: Pending)

**MA HB 1382** – This bill extends the time for a minor child under the age of 18 to commence a medical malpractice case to within three years from the discovery of the act or omission, but no later than seven years after the injured party's twenty-first birthday, whichever is sooner. (Status: Pending)



<p><b>Massachusetts</b> <b>(cont.)</b></p>		<p><b>MA SB 956</b> – This bill creates an exception to the cap of \$100,000 on medical malpractice non-economic damages for charitable healthcare organizations if there is a finding of substantial or permanent loss or impairment of a bodily function or substantial disfigurement, wrongful death, or other special circumstances in the case which warrant a finding that imposition of such a limitation would deprive the plaintiff of just compensation for the injuries sustained. (Status: Pending)</p>
 <p><b>Michigan</b></p>		<p><b>MI HB 4108</b> – Physical therapists and physical therapist assistants are included as mandatory reporters of child abuse or neglect. (Status: Pending)</p> <p><b>MI HB 4371</b> – Criminal sentencing guidelines are created for physicians intentionally failing to maintain certain medical records. (Status: Pending)</p> <p><b>MI HB 4372   HB 4373</b> – This bill provides for permanent license revocation if convicted of sexual misconduct under the pretext of treatment. (Status: Pending)</p> <p><b>MI HB 4384</b> – Health professionals are required to disclose to patients that they have been placed on probation by a medical board. (Status: Pending)</p> <p><b>MI SB 111</b> – Public Health Code revised to modify the procedure for filing and responding to an allegation against a health professional with the Department of Licensing and Regulatory Affairs; modifies the information to be provided to the department during an investigation of a health professional and the procedures for obtaining the information. (Status: Pending)</p> <p><b>MI SB 219   SB 220</b> – Sexual contact and sexual penetration under the guise of medical treatment are prohibited and criminal penalties specified. (Status: Pending)</p> <p><b>MI SB 281</b> – The Department of Licensing and Regulatory Affairs is required to report certain misconduct by health professionals to law enforcement. (Status: Pending)</p>
		<p><b>MI HB 4217   SB 248   SB 254</b> – Physician or other licensee who writes prescriptions is required to electronically transmit to pharmacy under certain circumstances. (Status: Pending)</p> <p><b>MI HB 4225</b> – The bill creates an exemption for hospice that removes the requirement that prescribers obtain a State Automated Prescription System report before prescribing or dispensing a controlled substance. The bill also exempts hospice patients from bona fide prescriber patient relationship requirements for prescribing a controlled substance. (Status: Enacted; Effective: 07/08/19)</p> <p><b>MI SB 127</b> – Exempts hospice patients from requirement of a bona fide prescriber patient relationship for prescribing a controlled substance under certain circumstances. (Status: Pending)</p> <p><b>MI SB 217</b> – This bill requires having an additional individual present during certain examinations of minors and requires consent for treatment. (Status: Pending)</p> <p><b>MI SB 218</b> – This bill enacts sentencing guidelines for the crime of intentionally failing to document certain services in a medical record and for performing certain medical treatments on a minor without consent or another individual present. (Status: Pending)</p>



Minnesota



**MN HB 1262** – Marriage and family therapists must now disclose any history of malpractice when applying to practice in Minnesota from another state. The licensing board will take this history into account. The board has been granted additional powers to discipline marriage and family therapists, including imposing a civil penalty, not exceeding \$10,000, and fees to reimburse the board for all costs associated with the disciplinary action, censure or reprimand, or “to take any other action justified by the facts of the case.” In a disciplinary action against a therapist for sexual contact with a client or former client, the client’s previous sexual conduct shall not be considered as evidence. There are new reporting requirements for various professional entities and individuals regarding misconduct by marriage and family therapists. Reporters are immune from civil and criminal liability for fulfilling their obligations under the law. Additionally, HB 1262 creates a new section on the “Duty to Warn.” This duty is triggered when a patient communicates a threat against a specifically identifiable potential victim. This duty is discharged if reasonable efforts are made to communicate the threat. Good faith disclosures under the duty to warn do not constitute a breach of confidentiality and no cause of action or monetary liability or disciplinary action by the board may arise against a licensee if the duty to warn obligations are made in good faith. (Status: Enacted; Effective: 08/01/2019)

**MN SB 955** – This bill provides that the Board may issue a license to an individual who holds a current license or other credential in good standing from another jurisdiction if the Board finds that the individual has been in active practice for a specified number of years after receiving such licensure or other credential. The bill also expands the duty to warn. (Status: Enacted; Effective: 08/01/19)



**MN SB 2043** – Licensed physician assistant are permitted to practice without delegation agreements with physicians. The bill also delineates a physician assistant’s scope of practice and prescriptive authority. (Status: Pending)



Mississippi



**MS HB 517** – This bill proposed immunity from liability for any dentist who voluntarily provides dental services without expectation of payment. (Status: Failed)

**MS HB 977** – Team physicians for out-of-state athletic teams are authorized to provide medical treatment and evaluation for players and staff members of the team when participating in sporting events in the state, without having to be licensed in the state. The bill sets the conditions under which those physicians may practice in the state. It limits the extent of medical practice allowed for those physicians and provides that the practice of medicine outside of the circumstances authorized in this act constitutes illegal practice. (Status: Enacted; Effective: 03/21/19)



**MS HB 31** – This bill proposed that certain certified nurse practitioners with over 3,600 hours of clinical practice shall not be required to have a written collaborative agreement with a physician or be required to submit patient charts to a physician for review. (Status: Failed)

**MS HB 234 | SB 2409** – Advanced practice registered nurses would have been included in the statement of purpose of the Mississippi Nursing Practice Law. This bill also deleted certain definitions and revised certain definitions in the Nursing Practice Law. Further, it revised certain provisions relating to the practice of advanced nursing practice nurses and deleted the requirement that advanced practice registered nurses



Mississippi  
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work in a collaborative and consultative relationship with a licensed physician. (Status: Failed)

**MS HB 1120 | SB 2691** – This bill revised certain definitions under the Medical Practice Act and clarified certain procedures to obtain a license to practice medicine. It provided for electronic notice of license renewal and other modifications to the practice of medicine. (Status: Failed)

**MS HB 1491** – Certain licensed medical professionals who are in good standing would have been authorized to provide voluntary healthcare services. Additionally, civil immunity is provided for those services. (Status: Failed)

**MS SB 2060** – This bill would have placed practitioners of naturopathic medicine under the state board of medical licensure as well as provided licensure requirements and exceptions around the practice of naturopathic medicine. (Status: Failed)

**MS SB 2248** – This bill would have included certain additional licensed healthcare professionals under statutory immunity for providing charitable medical care or voluntary healthcare services without a fee and provided for continuing education credit for healthcare professionals providing such voluntary care. (Status: Failed)

**MS SB 2254** – Certified Registered Nurse Anesthetists with a certain number of years of practice in good standing would have not been required to have a written collaborative agreement with a physician or be required to submit patient charts to a physician for review. (Status: Failed)



Missouri



**MO SB 7** – The Venue and Joinder Reform bill reduces forum shopping in Missouri. Formerly, plaintiffs were “borrowing” proper venue from one properly venued plaintiff and the courts were enforcing that procedure. Providers often became defendants in improper venues with no connection, except for contracting with another defendant in the case. In some cases, defendants were brought in from all over Missouri to St. Louis, a plaintiff friendly venue. This bill requires that every plaintiff seeking to join in an existing suit must be able to file suit in the venue independent of the other plaintiffs. (Status: Enacted; Effective: 08/28/19)

**MO SB 224** – Missouri has been without limits on the type and scope of discovery in litigation. Runaway discovery raises the cost of litigation in Missouri. This long overdue change to the civil rules of procedure for discovery will make the Missouri rules more like the federal rules of discovery. With passage of SB 224, there will be limits on the type and amount of discovery a litigant can make absent leave of court. Our lobbyist for The Doctors Company was the key lobbyist and negotiator on both tort reform bills that passed this year. (Status: Enacted; Effective: 08/28/19)

**MO HB 307 | MO SB 352** – Certain healthcare professionals would have been required to complete two hours of cultural competency training. (Status: Failed)



**MO HB 491** – A physician would have been prohibited from prescribing opioids to a person under the age of 18, except under certain circumstances. (Status: Failed)

**MO HB 628** – This legislation would have placed restrictions on the authority of dentists to prescribe certain opioids. (Status: Failed)



<p><b>Missouri (cont.)</b></p>		<p><b>MO HB 887</b> – A physician, clinic or hospital would have been required to post notice of compensation received from an opioid manufacturer. (Status: Failed)</p> <p><b>MO SB 6</b> – This bill modified provisions relating to controlled substances, including the schedules and criminal provisions involving controlled substances. (Status: Failed)</p> <p><b>MO SB 353</b> – This proposed law modified provisions relating to practitioner-patient consultations for prescribed opioid controlled substances. (Status: Failed)</p> <p><b>MO SB 450</b> – Patients receiving treatment for sickle cell disease would have been excluded from initial opioid prescription limitations. (Status: Failed)</p>
<p> <b>Montana</b></p>		<p><b>MT LC 1648</b> – The bill attempted to revise medical malpractice laws but was never introduced. Our coalition created an unfriendly legislative climate. (Status: Never introduced)</p>
<p> <b>Nebraska</b></p>		<p><b>NE LB 62</b> – This bill adds trichomoniasis to the list of sexually transmitted diseases for which a healthcare professional may prescribe medication to the patient and patient’s sexual partners without examination. Additionally, drug samples may be prescribed. (Status: Enacted; Effective: 09/01/2019)</p>
<p> <b>Nevada</b></p>		<p><b>NV AB 248</b> – This bill makes illegal a settlement agreement from containing provisions that prohibit or restrict a party from disclosing certain information, including information regarding a sexual offense punishable as a felony under certain circumstances, discrimination on the basis of sex by an employer or an act of retaliation by such an employer for a claim of discrimination. (Status: Enacted; Effective: 07/01/2019)</p>
		<p><b>NV AB 85</b> – This bill requires the adoption of regulations and procedures for patients suffering from a mental illness crisis in certain situations, including the involuntary administration of medication, the discharge of a person admitted to the facility or hospital, and the handling of certain information concerning emergency admissions. (Status: Enacted; Effective: 05/15/2019)</p> <p><b>NV SB 457</b> – This bill requires certain healthcare facilities to report a fatality as a sentinel event and must include the date, time and a brief description of death. Death by natural causes is not required to be reported. Certain healthcare organizations are also required to report on a specified state website the licensing status and quality of their alcohol and drug abuse treatment facilities. (Status: Enacted; Effective: 10/01/2019)</p>



New Mexico



**NM SB 82** – This law establishes safe harbor for registered nurses and licensed practical nurses and requires employers to offer safe harbor to nurses who are requested to engage in practices that nurses believe to be in violation of their legal duties. It requires employers to develop a process for invoking safe harbor and prevents employers from disciplining nurses for invoking safe harbor. (Status: Enacted; Effective: 03/14/19)



**NM HB 230** – This bill clarifies the role of hospital and birthing center staff, contractors and volunteers regarding the reporting of child abuse and neglect based solely on a finding of drug use by a pregnant woman. The bill requires referral of a drug-exposed infant to a plan of care. (Status: Enacted; Effective: 06/14/19)

**NM HB 280** – This new law requires health facilities to grant certain privileges to certified nurse practitioners and certified nurse-midwives in parity with physician privileges. (Status: Enacted; Effective: 07/01/19)

**NM SB 9** – This bill updates provisions of the Professional Psychologist Act relating to prescribing psychologists and psychologists with a conditional prescription certificate. (Status: Enacted; Effective: 02/14/19)

**NM SB 135** – This new law provides for licensure of naturopathic doctors and their scope of practice. (Status: Enacted; Effective: 06/14/19)

**NM SB 349** – New sections of the Medical Practice Act and the Osteopathic Medicine Act provide a temporary exemption to licensure requirements to visiting physicians who provide care to out-of-state sports team members and staff during sporting events. (Status: Enacted; Effective: 06/14/19)



New York



**NY AB 1165 | SB 1800** – This bill extends the confidentiality provisions relating to discovery of testimony to apply to statements made by any person in attendance at peer review committee meetings who is a party to an action wherein the subject matter was reviewed at such meeting. (Status: Pending)

**NY AB 2370 | SB 6194** – This bill prohibits, in any action involving personal injury, medical, dental or podiatric malpractice, or wrongful death, a party from conducting ex parte interviews with an adverse party's treating physicians. The bill would bar defense attorneys from privately interviewing a plaintiff's non-party treating physician who rendered care to the plaintiff. We worked with our partners in the medical profession and the insurance community to stop this bill from advancing. (Status: Pending)

**NY AB 6903 | SB 4501** – We and our allies in the medical community are working to oppose this bill which would extend the statute of limitations in malpractice actions against a hospital where the hospital failed to file an incident report as mandated by the Public Health Law. It also would establish a private right of action for any person who has a hospital-acquired infection during hospital treatment. (Status: Pending)

**NY SB 293** – This bill prohibits any party to a medical malpractice action from destroying or altering a medical record. Any officer, director, member, employee or agent of a party or otherwise under the party's control, who intentionally destroys, mutilates or significantly alters any medical records would be subject to a civil penalty of not less than \$1,000 for each violation. (Status: Pending)



New York  
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**NY AB 974** – This bill requires physicians subject to proceedings for medical misconduct or actions for medical malpractice to include information regarding such proceedings and actions on advertisements. We are working with the medical profession to defeat this bill. (Status: Pending)

**NY AB 1142 | SB 2635** – This bill requires physicians subject to proceedings for medical misconduct or actions for medical malpractice to give notice to patients of such proceedings and actions. (Status: Pending)

**NY AB 128** – This proposed law directs the Commissioner of Health to notify certain patients upon the revocation, annulment, suspension, or surrender of a physician's license for medical misconduct which is not of a minor or technical nature and provides for necessary access to records and for promulgation of rules and regulations. (Status: Pending)

**NY AB 1758** – In medical malpractice actions where the plaintiff is not the patient of the defendant and the alleged malpractice is the result of the defendant's treatment or care of a third party, the defendant may make a motion to the court to compel the non-party patient to waive physician-patient privilege. This bill also states the court shall grant a waiver of the privilege in certain instances. (Status: Pending)

**NY AB 1970** – This bill lengthens the time for filing medical malpractice cases based upon allegations of reckless use of a syringe, needle or other sharp. (Status: Pending)

**NY AB 2140** – This bill adds a requirement for a certificate of merit in actions for damages, contribution or indemnity arising out of alleged negligence by a professional licensed pursuant to Title VII of the education law. This bill also establishes a party in an action for medical, dental or podiatric malpractice may not omit the name of certain experts in responding to a request and limits judgments for past and future damages in an action to recover damages for dental, medical or podiatric malpractice. (Status: Pending)

**NY AB 4858** – This proposed law requires licensed healthcare professionals and hospitals to make available to patients and prospective patients a printed copy of any medical malpractice convictions or information and provides civil and criminal penalties for failure to comply. (Status: Pending)

**NY AB 4897 | AB 5018** – The Medical Liability Reform Act requires that the attorney for plaintiff in a medical, dental or podiatric malpractice case include with the certificate of merit an affidavit of an appropriate medical professional licensed in the state that states that there is a reasonable basis for such malpractice action. It also provides that failure to file will result in dismissal. Additionally, this bill limits liability of joint defendants to the claimant's actual economic damages and non-economic damages which shall not exceed the defendant's equitable share. The bill also limits non-economic damages to \$250,000 that may be awarded in a medical malpractice case. (Status: Pending)

**NY AB 5909** – A statement of apology or regret, made by a healthcare provider, is excluded from evidence as an admission of liability in a medical, dental or podiatric malpractice lawsuit. (Status: Pending)

**NY AB 6903 | SB 4501** – This bill requires an incident report to be filed within one year of the required filing for actions related to acts or omissions of hospitals; other-



New York  
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wise, the statutes of limitations for filing a malpractice claim do not apply. (Status: Pending)

**NY SB 293** – This bill establishes a penalty for each intentional destruction, mutilation or significant alteration of a medical record by a party to a medical malpractice action, or by any officer, director, member, employee or agent of such party and also establishes a cause of action on behalf of any person injured as the result of such destruction, mutilation or significant alteration. (Status: Pending)

**NY SB 1796** – This proposed law grants immunity from liability to organizations which establish physician committees whose purpose is to confront and refer to treatment physicians who are thought to be suffering from addiction or mental illness. (Status: Pending)

**NY AB 537** – It is an unlawful, discriminatory practice for any physician, hospital or other healthcare provider to subject a patient with a disability to visual observation during the course of any physical examination by any person not necessary to the diagnosis or treatment of such patient or to any exhibition for medical education purposes without the patient or the parent, guardian, committee or conservator being informed. (Status: Pending)



**NY AB 608** – This bill establishes standards to advance the management and treatment of chronic pain and incorporates continuing education programs for healthcare professionals who treat patients that have chronic pain. (Status: Pending)

**NY AB 1152 | SB 4813** – Hospitals that offer medical residency training in obstetrics, gynecology, internal medicine, women's health and osteopathy shall provide training which follows the Accreditation Council on Graduate Medical Education or the American Osteopathic Association special requirements for obstetrics gynecology. The bill provides for experience with induced abortions and complications except where a residency program has a restriction which prohibits residents from performing such procedures. (Status: Pending)

**NY AB 1745 | AB 7100 | SB 2563 | SB 5885** – This proposed law establishes certification procedures for the profession of nurse anesthesia and provides for the issuance of a certification to practice as a certified registered nurse anesthetist upon the filing of an application, having a license as a registered professional nurse, having the appropriate educational requirements and paying the specified amount initial certification fee and the triennial specified amount registration fee. (Status: Pending)

**NY SB 3271** – When a patient is being treated for a controlled substance overdose, hospital and emergency room physicians are required to consult the prescription monitoring program registry and to notify the patient's prescriber. (Status: Pending)

**NY SB 4035** – Optometrists are required to meet certain standards, including the completion of a course to prescribe oral medications. (Status: Pending)



North Carolina



**NC HB 70** – This law extends the deadlines by which certain providers are required to connect to and participate in the Health Information Exchange Network. (Status: Enacted; Effective: 06/06/19)



<p><b>North Carolina (cont.)</b></p>		<p><b>NC HB 318</b> – This bill establishes the right of patients to elect non-opioid prescriptions and treatment, including a process by which patients may opt out of opioid prescriptions and treatment. (Status: Pending)</p> <p><b>NC HB 772   SB 325</b> – This proposed law creates the “Certified Professional Midwives” Act providing definitions, licensure requirements, etc. (Status: Pending)</p> <p><b>NC HB 993   SB 573</b> – This bill establishes licensure and education standards for the practice of naturopathic medicine. (Status: Pending)</p> <p><b>NC SB 544</b> – This bill directs healthcare providers to initiate acute or chronic pain management care with non-opioid treatment alternatives whenever possible and establishes a process for patients to voluntarily elect non-opioid pain management care. (Status: Pending)</p>
<p> <b>North Dakota</b></p>		<p><b>ND HB 1175</b> – This law codifies physician assistants’ scope of practice, including obtaining patient histories, performing physical exams, writing medical orders, pronouncing death, and prescribing medication. Physician assistants fall under the same authority as physicians regarding disciplinary proceedings. (Status: Enacted; Effective: 08/01/2019)</p> <p><b>ND HB 1433</b> – This bill establishes a new law protecting physicians who choose not to maintain a certification. Healthcare facilities may not deny staff privileges or employment if a physician fails to maintain a certification. There are some exceptions, including a facility that must maintain its own accreditation by differentiating between physicians with certifications and those without. Healthcare insurers are prohibited from denying reimbursement or discrimination through setting different reimbursement levels based on a physician’s decision to not maintain a certification. (Status: Enacted; Effective: 03/13/2019)</p>
<p> <b>Ohio</b></p>		<p><b>OH SB 46</b> – This bill expands the exemption from punitive or exemplary damages limitations with respect to torts resulting in a felony conviction. (Status: Pending)</p> <p><b>OH SB 108</b> – This legislation eliminates a provision of law that specifies some factors that a court may consider when it interprets an ambiguous statute when attempting to determine the intention of the legislature. This bill potentially creates a shift in how Ohio courts interpret Ohio tort law and caps on damages. (Status: Pending)</p> <p><b>OH HB 290   SB 166</b> – The bill prohibits unlawful sexual contact between healthcare professionals and patients. This bill also revokes professional licenses for criminal misconduct. (Status: Pending)</p> <p><b>OH SB 7</b> – This proposed law requires state occupational licensing agencies to issue temporary licenses or certificates to members of the military and spouses who are licensed in another jurisdiction and have moved, or will move, to Ohio under certain circumstances, but for not more than three years. (Status: Pending)</p> <p><b>OH SB 61</b> – This legislation expands the authority of a certified registered nurse anesthetist to select, order, direct, and administer drugs other than anesthesia. (Status: Pending)</p>

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<p><b>Ohio (cont.)</b></p>		<p><b>OH SB 141</b> – This bill prohibits the use of non-compete provisions in physician employment contracts. (Status: Pending)</p> <p><b>OH SB 88</b> – Certain healthcare professionals are required to complete instruction in cultural competency. (Status: Pending)</p> <p><b>OH HB 40</b> – A physician, physician assistant, or advanced practice registered nurse who provides prenatal care to a pregnant woman is required to test her for HIV, syphilis, and gonorrhea at certain times during the woman’s pregnancy, although a woman may refuse the testing. (Status: Pending)</p> <p><b>OH HB 177</b> – This legislation modifies rules regarding standard care arrangements entered into by advanced practice registered nurses. (Status: Pending)</p> <p><b>OH HB 224</b> – This bill modifies the rules regarding the practice of certified registered nurse anesthetists. (Status: Pending)</p> <p><b>OH SB 61</b> – This proposed law modifies the authority of certified registered nurse anesthetists to select, order and administer certain drugs. (Status: Pending)</p>
<p> <b>Oklahoma</b></p>		<p><b>OK SB 779</b> – This proposed law modifies requirements for the admissibility of certain statements or testimony related to medical bills of an injured party and prohibits admissibility of certain liens. (Status: Pending)</p>
		<p><b>OK HB 1452</b> – Pelvic examination of an anesthetized or unconscious female patient is prohibited unless certain exceptions apply. (Status: Pending)</p> <p><b>OK HB 1928</b> – This bill modifies advanced practice registered nurse licensure to include requirements for documentation of physician supervision. (Status: Pending)</p> <p><b>OK HB 2349</b> – This legislation modifies supervision requirements for advanced practice registered nurses. This bill provides for waiver of supervision and defines term and provides conditions for unsupervised advanced practice registered nurses. (Status: Pending)</p> <p><b>OK HB 2350   SB 296</b> – This bill relates to prescription limits and rules for opioid drugs and provides exceptions for prescription limits. (Status: Pending)</p> <p><b>OK SB 100   SB 902</b> – This new law removes certain grounds for determination of unprofessional or unethical conduct by an optometrist and provides that optometrists may rent areas and sell optical goods within a retail store. It also imposes requirements related to assessment mechanisms with respect to certain prescriptions. (Status: Enacted; Effective: 11/01/19)</p> <p><b>OK SB 839</b> – This proposed law modifies certain definitions regarding advanced practice registered nurses and modifies requirements for prescribing authority of certified nurse practitioners. (Status: Pending)</p> <p><b>OK SB 848</b> – This law modifies provisions relating to continuing education requirements for podiatrists, dentists, and physician assistants regarding opioid drugs. Pharmacists are required to fill certain prescriptions to the specified dose. There are</p>

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<p><b>Oklahoma (cont.)</b></p>		<p>sanctions for unprofessional conduct by allopathic physicians. This bill specifies that testifying experts must have certain credentials. (Status: Enacted; Effective: 5/21/19)</p> <p><b>OK SB 890   SB 917</b> – This bill modifies provisions relating to certified registered nurse anesthetists, including the authority of certified registered nurse anesthetists to administer anesthesia and controlled substances. The bill requires certain insurance policy coverage and provides for liability and immunity from liability. (Status: Pending)</p> <p><b>OK SB 892   SB 938   SB 1033</b> – These bills relate to prescription limits and rules for opioid drugs and delete certain restrictions. They also provide for subsequent acute pain medication under certain conditions. (Status: Pending)</p>
<p><b>Oregon</b></p>		<p><b>OR HB 2014   HB 2255   SB 592</b> – These bills were introduced this session to eliminate Oregon’s \$500,000 cap on non-economic damages for all civil claims including wrongful death claims. HB 2014 gained the most traction this session. Working with our partners in the healthcare industry and the Oregon Liability Reform Coalition, we were able to stop these bills from being enacted. (Status: Failed)</p> <p><b>OR SB 726</b> – It is unlawful for an employer to enter into an agreement that would prevent an employee from disclosing or discussing sexual harassment, discrimination, or sexual assault that occurred at work. Additionally, this new law extends the statute of limitations for these claims to five years. All employers must adopt a written policy to reduce and prevent discrimination and assault. We worked with coalition partners to amend this bill, which was more invasive when introduced. (Status: Enacted; Effective: 09/29/19)</p>
<p><b>Rhode Island</b></p>		<p><b>RI SB 463</b> – This bill expands the damages recoverable in a wrongful death action of a child, parent or spouse to include recovery for the emotional distress, grief, and loss of enjoyment of life. These damages were not previously permitted. (Status: Pending)</p>
<p><b>South Carolina</b></p>		<p><b>SC SB 7</b> – This proposed law increases the limits from a loss to one person arising from a single occurrence and increases the total limits from a loss arising out of a single occurrence, and requires the limits be adjusted annually in accordance with the consumer price index. (Status: Pending)</p> <p><b>SC HB 3760</b> – The Patients' Compensation Fund and the state's Medical Malpractice Joint Underwriting Association are merged. This new law establishes a surcharge fee for dentist and physician licenses to reduce the operating deficit of the state's Medical Malpractice Liability Joint Underwriting Association. (Status: Enacted; Effective: 05/16/19)</p>
		<p><b>SC HB 3728</b> – Requires hospital emergency department physicians and pharmacists to submit certain information to the Department of Health and Environmental Control for inclusion in the prescription monitoring program when a person is administered an opioid antidote. (Status: Enacted; Effective: 01/01/21)</p> <p><b>SC SB 563</b> – Advanced practice registered nurses may perform specific medical acts pursuant to approved written guidelines. The bill removes the supervision requirement</p>

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<p><b>South Carolina (cont.)</b></p>		<p>from the definition of approved written guidelines and certified registered nurse anesthetist (CRNA) practice. CRNAs must have completed at least a master’s level accredited program. (Status: Pending)</p>
<p> <b>South Dakota</b></p>		<p><b>SD SB 136</b> – This bill adds to existing law regulating healthcare professionals and telehealth. Some of the new requirements include a provision that the proper health provider-patient relationship be established by verifying the identity and location of the patient and receiving the necessary consent forms. The technology used must allow for a face-to-face exam, using real-time audio and visual systems, if a face-to-face visit would be required for a non-telehealth visit. (Status: Enacted; Effective: 07/01/2019)</p>
<p> <b>Tennessee</b></p>		<p><b>TN HB 995   SB 540</b> – This bill creates civil liability for an unlicensed person providing mental health psychotherapy services for treatment of a mental health disorder. (Status: Pending)</p>
		<p><b>TN HB 364   SB 202   SB 475</b> – These bills require Schedule II opioids, Schedule II stimulants, and Schedule IV benzodiazepines to be dispensed in a lockable vial. Exceptions are provided where it is not practicable to dispense the controlled substance in a lockable vial or there is a request from the user not to do so. (Status: Pending)</p> <p><b>TN SB 810</b> – All written, printed, or electronic prescription orders for a Schedule II controlled substance must contain all information required by law, and the healthcare prescriber must sign the written, printed, or electronic prescription order on the day it is issued. (Status: Enacted; Effective: 07/01/19)</p>
<p> <b>Texas</b></p>		<p><b>TX HB 531</b> – Hospitals may not destroy a medical record from the forensic medical examination of a sexual assault victim until the twentieth anniversary of the date the record was created. (Status: Enacted; Effective: 09/01/19)</p> <p><b>TX HB 1353</b> – This bill proposed changes to liability of healthcare providers who provide certain assistance in disaster situations. (Status: Failed)</p> <p><b>TX HB 1592</b> – This new law requires healthcare professional liability coverage for certain public institutions of higher education. This new law also revises provisions relating to the healthcare professional liability funds. (Status: Enacted; Effective: 09/01/19)</p> <p><b>TX HB 2362</b> – This legislation revises the standard of proof in healthcare liability claims involving emergency medical care and provides exceptions to certain requirements. (Status: Enacted; Effective: 06/14/19)</p> <p><b>TX HB 3017</b> – Nonconsensual pelvic examinations would have been prohibited. This bill also would have provided for medical board disciplinary action for violations. (Status: Failed)</p> <p><b>TX HB 3182</b> – This bill related to the status of certain medical residents and fellows as government employees for the purposes of the State Tort Claims Act. (Status: Failed)</p>

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Texas  
(cont.)



**TX HB 3248** – This proposed law related to the medical authorization required to release protected health information in a healthcare liability claim. (Status: Failed)

**TX SB 752** – Healthcare institutions are immune from civil liability for an act or omission by a volunteer healthcare provider providing care, assistance, or advice at a facility, if the provider is also immune and the institution does not have an expectation of compensation for care. (Status: Enacted; Effective: 09/01/19)



**TX HB 278** – This bill relates to the frequency and location of certain meetings required by a prescriptive authority agreement and requires meetings between the advanced practice registered nurse or physician assistant and the physician to take place at least once a month in a manner determined by the physician and the advanced practice registered nurse or physician assistant. (Status: Enacted; Effective: 09/01/19)

**TX HB 471** – This new law required certain healthcare practitioners to attend suicide prevention training. (Status: Failed)

**TX HB 871** – This new law relates to the use of telemedicine medical service by certain rural trauma facilities. (Status: Enacted; Effective: 09/01/19)

**TX HB 927** – This bill related to the independent practice of certain advanced practice registered nurses in certain rural counties. (Status: Failed)

**TX HB 1622** – This bill related to the authority of a physician to provide, dispense, and delegate authority to provide and dispense certain drugs. (Status: Failed)

**TX HB 1756 | SB 792** – This proposed law revised the practice of dentistry and the provision of teledentistry dental services. (Status: Failed)

**TX HB 1792** – This bill modified the authority of certain advanced practice nurses to practice and prescribe medications. (Status: Failed)

**TX HB 1798 | SB 1223** – This bill related to the practice of therapeutic optometry and required an occupational certificate to perform certain surgical procedures. (Status: Failed)

**TX HB 1866** – This proposed law would have modified rules for prescribing opioids for acute pain. (Status: Failed)

**TX HB 1899** – The new law creates requirements for the revocation or denial of certain healthcare professional licenses. (Status: Enacted; Effective: 09/01/19)

**TX HB 2174** – This legislation creates requirements and procedures for written, oral and telephonically communicated prescriptions. The new law also provides waivers from electronic prescribing. It requires continuing education, establishes opioid prescription limits and provides for reimbursement for medication-assisted treatment for opioid or substance use disorder. (Status: Enacted; Effective: 06/14/19)

**TX HB 2250 | SB 1308** – This bill related to the prescribing and ordering of Schedule II controlled substances by certain advanced practice registered nurses and physician assistants. (Status: Failed)



<p><b>Texas</b> <b>(cont.)</b></p>		<p><b>TX HB 2299</b> – An exemption from licensing requirements for physicians associated with certain sports teams is provided. This new law also provides an exemption from certain licensing requirements if the person is employed or designated as a team physician by a sports team visiting this state for a specific sporting event, is licensed to practice medicine in the team's home state, and limits the practice of medicine in this state to treating the team. (Status: Enacted; Effective: 06/02/19)</p> <p><b>TX HB 2454</b> – Continuing education for certain health professionals regarding pain management and the prescribing of opioids is required. (Status: Enacted; Effective: 09/01/19)</p> <p><b>TX HB 2766   SB 1233   SB 2316</b> – This bill related to electronically prescribing controlled substance prescriptions under the State Controlled Substances Act. (Status: Failed)</p> <p><b>TX HB 3284</b> – This new law modifies provisions relating to prescribing and dispensing controlled substances and monitoring the prescribing and dispensing of controlled substances under the State Controlled Substances Act. (Status: Enacted; Effective: 06/14/19)</p> <p><b>TX HB 3365</b> – Immunity from civil liability is provided to persons giving unpaid care, assistance, or advice during a disaster at the request of law enforcement, disaster relief agencies, or charitable organizations providing disaster relief. (Status: Enacted; Effective: 06/02/19)</p> <p><b>TX SB 268</b> – This bill was related to the prescriptive authority of certain psychologists. (Status: Failed)</p> <p><b>TX SB 2379</b> – This proposed law relates to the administration of anesthesia by a certified registered nurse anesthetist on the order of a dentist. (Status: Failed)</p>
 <p><b>Utah</b></p>		<p><b>UT HB 328</b> – This bill eliminates the general damages limit of \$100,000 when a wrongful death plaintiff or defendant dies while the case is pending. This bill passed with bipartisan support, with not even a single vote cast against it throughout the legislative process. (Status: Enacted; Effective: 05/14/2019)</p>
		<p><b>UT HB 336</b> – This bill specifies certain licensed nurse practitioners will have prescription authority for controlled substances. (Status: Enacted; Effective: 05/14/2019)</p> <p><b>UT HB 337</b> – A physician may not be required by a healthcare facility, managed care organization, or third party, for the purposes of employment, privileges or reimbursement, to take a cognitive test when a specified age is reached unless the test meets specified criteria or purposes. (Status: Enacted; Effective: 05/14/2019)</p> <p><b>UT SB 188</b> – A healthcare provider may not perform an examination involving the genitals of an anesthetized or unconscious patient without consent prior to performing the exam. (Status: Enacted; Effective 05/14/2019)</p>





West Virginia (cont.)		practice for physician assistants. (Status: Enacted; Effective: 06/04/19)
		<p><b>WV HB 2648</b> – This bill modified continuing education requirements for nurses and advanced nurse practitioners, exempting them from certain continuing education requirements. (Status: Failed)</p> <p><b>WV HB 2768</b> – Among other things, this new law places prescription limits on opioid drug prescriptions. (Status: Enacted; Effective: 03/26/19)</p> <p><b>WV HB 2947</b> – This law permits physician submitted Schedule II telemedicine prescriptions to be immediately administered in a hospital. (Status: Enacted; Effective: 06/07/19)</p> <p><b>WV HB 3089</b> – This bill modified licensing requirements for the practice of telemedicine and surgery or podiatry. (Status: Failed)</p> <p><b>WV SB 464</b> – This bill allowed a physician-patient or podiatrist-patient relationship to be established through the use of secure telephonic communication or similar secure real-time audio-only communication, if the physician determined that, based upon the patient’s presentation, the technology was sufficient to provide all necessary information to provide medical services to the patient, and the physician or podiatrist documented his or her determination that the technology met the standard of care. (Status: Failed)</p> <p><b>WV SB 574</b> – This bill would have permitted an authorized physician to order the involuntary hospitalization of an individual whom the physician believed was addicted or mentally ill and set forth a procedure. (Status: Failed)</p>

## Judiciary Update

The Doctors Company tracks judicial challenges to medical liability reform laws in all U.S. states. Plaintiffs’ lawyers consistently work to overturn medical liability reform laws in the courts. We are currently tracking 37 cases that will impact our members.

We are actively involved in formulating and supporting *amicus* (friend of the court) briefs to defend medical liability reform laws and advocate for our members in active cases before they have reached resolution. The Doctors Company is a member of several formal and informal state *amicus* committees across the nation. We join and help fund these committees in order to focus the committees’ attention on appellate court cases that affect medical liability reform, and with the committees’ help, to submit briefs and make court appearances to protect those reforms.

### Judicial Decisions

The following are brief summaries of selected judicial decisions handed down in the second quarter of 2019.

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## Delaware

Supreme Court	<b>Verrastro v. Bayhospitalists, LLC (2019)</b>
	The Supreme Court held that when a medical malpractice action is dismissed for filing outside the time for bringing an action, a timely filed action for employer vicarious liability does not fail, even if both claims are based on the same malpractice facts. Trial courts must look at the culpability of the employer defendant. Prior case law is overruled as to the portions that permit the dismissal of an employer vicarious liability claim. (Effective: 04/22/2019)

## Indiana

Supreme Court	<b>Morrison v. Vasquez   Indiana Univ. Health So. Indiana Phys. Inc. v. Noel (2019)</b>
	The Supreme Court combined two medical malpractice cases that had similar issues regarding whether the medical defendant should be sued in the county of their registered agent or where their actual principal office was located. The court held that the location of the registered agent no longer determined venue for either foreign or domestic corporations. (Effective: 07/27/2019)

## Kansas

Supreme Court	<b>Hilburn v. Enerpipe, Ltd. (2019)</b>
	The Supreme Court held that the cap on non-economic damages in personal injury cases, which includes medical malpractice cases, is an unconstitutional violation of the state's right to a jury trial. (Effective: 06/14/2019)

## Pennsylvania

Supreme Court	<b>Mitchell v. Shikora (2019)</b>
	The Supreme Court held that risks of surgical complications are admissible as evidence in a medical malpractice trial, because it is different from informed consent evidence, which may not be admissible under some circumstances. (Effective: 06/14/2019)
Supreme Court	<b>Bousamra v. Excelsa Health (2019)</b>
	The Supreme Court held that when the healthcare client received an attorney-client privileged communication and forwarded it to its third-party public relations firm, the privilege was waived, because the public relations firm was not necessary to the providing of the legal advice. (Effective: 06/18/2019)



## Conclusion

As long as personal injury trial lawyers continue to find new and inventive ways to undermine medical liability reforms, The Doctors Company will work to protect you and to safeguard your patients' access to healthcare.

### *More Information*

For more information please contact The Doctors Company's Government Relations team at [GovernmentRelations@TheDoctors.com](mailto:GovernmentRelations@TheDoctors.com).

Please visit the [Advocacy page](#) on [thedoctors.com](http://thedoctors.com) to get up to date legislative bill tracking information, government relations update articles, and past issues of the Advocacy update.

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## About The Doctors Company

Founded and led by physicians, The Doctors Company has always been guided by our mission: to advance, protect, and reward the practice of good medicine. The company was founded in 1976 in response to the medical malpractice insurance crisis in California that closed thousands of physician offices and threatened patient access to affordable care. After leading the charge for comprehensive tort reform, our founders established The Doctors Company to *continue the cause of advocating for physicians and advancing the practice of good medicine*.

The Doctors Company takes the mal out of malpractice insurance by helping practices of all sizes manage the complexities of today's healthcare environment—with expert guidance, resources, and coverage. The Doctors Company is the nation's largest physician-owned medical malpractice insurer, with more than 80,000 members, and is rated A by A.M. Best Company and Fitch Ratings. To learn more about data-driven insights and to stay up to date on industry trends, follow and subscribe to The Doctors Company on Twitter (@doctorscompany), YouTube, LinkedIn, Facebook, and Google+.