

American College of Physicians –
Montana Chapter

Health Policy Update

- 2025 Montana Legislature

2025 Montana Legislature

- Montana Legislative Overview
- Key Issues
- Outcomes

- * Governor Gianforte (R)
- * Attorney General Knudsen (R)
- * Secretary of State Jacobsen (R)
- * State Auditor Brown (R)
- * Superintendent Hedalen (R)



Legislative Makeup



This Photo by Unknown Author is licensed under [CC BY-SA](#)

House of Representatives
(100)

- 58 Republicans
- 42 Democrats

Senate (50)

- 32 Republicans
- 18 Democrats

Key Issues

- Medicaid Expansion
- Behavioral Health
- Prior Authorization
- Cost/Economic Issues
- Budget

Legislative Politics

- Republicans had solid majorities in both the House (58R-42D) and Senate (32R-18D).
 - Republicans continued to be fractured between very conservative Freedom Caucus members and more moderate Solutions Caucus.
 - Similar fracture is occurring in Democrat caucus, between the more blue-collar Democrats, and the Progressive wing.
- Leadership in both the House and Senate opposed continuing Medicaid Expansion. Despite Republican leadership objections, 12 Republican Senators joined 18 Democrats in supporting Medicaid Expansion and in the House 21 Republican Representatives joined the 42 Democratic Representatives to continue the program.
- In the Senate, 9 Republican Senators, consistently joined with the 18 Democrats to defeat harmful bills this coalition of Democrats and “The Nine” Republicans controlled the Senate from start to finish.
- 1,520 bills were introduced, with approximately 280 designated as dealing with Healthcare.

Medicaid Expansion

What was anticipated as being one of the significant battles of the Legislature, ended up passing relatively smoothly.

Medicaid Expansion

- [HB245](#) by Rep. Ed Buttrey (R-Great Falls) eliminates the sunset of June 30, 2025 and does not include a new sunset. It makes minor changes to a program that helps Medicaid Expansion members find and improve employment prospects. Medicaid Expansion was included in the Governor's Budget. HB 245 **passed** and was signed into law by the Governor.
- [HB880](#) by Rep. Mary Caferro (D-Helena) would create a Medicaid stabilization fund by placing 50% of remaining appropriations for Medicaid to revert to a Medicaid stabilization fund and 50% to budget stabilization fund. If the budget stabilization fund is 100%, then 100% of remaining Medicaid appropriations can go to the Medicaid stabilization fund. Transfers \$6 million from long range building program to the Medicaid stabilization fund. The fund is meant to stabilize Medicaid programs when there is a downturn in the economy. After it had been killed earlier in the session, the bill was resurrected in the final days and passed by the legislature but was **vetoed**.
- [HB687](#) by Rep. Bill Mercer (R-Billings) increase the age Medicaid Expansion members are required to engage in community engagement, including work requirements, from 55 years of age to 62 years. The bill impacts 1,674 current ME enrollees that would need to comply with the bill. Became law.

Medicaid Expansion (Cont.)

- [SB62](#) by Sen. Carl Glimm (R-Kila) would have phased out Medicaid Expansion by prohibiting the state from enrolling any new Medicaid Expansion members after September 1, 2025, and requires the state to seek a waiver from CMS to implement the bill should it become law. Once a Medicaid Expansion recipient leaves the program they cannot be reenrolled under the bill. If granted the waiver, Medicaid Expansion would end when no more members are on the program. The bill **failed** in the Senate 20-30.
- [SB199](#) by Sen. Jeremy Trebas (R-Great Falls) is a draft anti-Medicaid Expansion bill that would eliminate some of the ways an individual on Medicaid Expansion could meet work requirement in current state law. Those work requirements have not been adopted as CMS did not act on a waiver requested in 2019. Removing the options to volunteer or provide community service would likely create a barrier for some Medicaid Expansion participants to continue the program. Sen. Trebas has tried to eliminate Medicaid Expansion altogether in the previous legislative session. The bill would increase administrative costs and decrease enrollment. The bill **died** in the Senate 23-27.
- [HB230](#) by Rep. Mary Caferro (D-Helena) would have continued the Medicaid Expansion program and add benefits for the Medicaid Expansion members. The bill was the Democrats proposal to continue Expansion and was **tabled** early in the session.
- [SB334](#) by Sen. Matt Regier (R-Kalispell) would have enacted stricter work requirements and limited the program to those making 100% FPL or below, kicking thousands off the program. The bill **died** in the Senate 24-26.

Other Issues

Hospitals and Healthcare Providers faced a number of other issues.

- **Behavioral Health** - The Legislature again made significant investments in behavioral and mental health. This included \$124 million in state spending and \$40 million in federal funds over the next biennium. The funds will support a new state-owned mental health facility, add more beds at the existing state hospital in Warm Springs, and fund more community crisis beds.
- [HB912](#) Rep. Steve Kelly would build a secure forensic behavior and mental health facility in Eastern Montana with at least 70 beds. While this bill did not pass, the appropriation for the new facility was included in the Long-Range Building Appropriations in [HB5](#), which did pass.
- [SB244](#) Sen. Mike Yakawich (R-Billings) requires payers, including the state employee health plan, to cover behavioral health assessments with no out-of-pocket costs for the insured or member. The bill was amended to require the patient to be informed that behavioral health assessment is optional. Additional amendments addressed concerns by payers that it would violate federal health savings account rules that require some cost sharing. The bill passed the legislature but was vetoed.
- [SB430](#) Sen. Jon Esp (R-Big Timber) original intent was to make it more difficult for counties and hospitals to place patients at the Montana State Hospital. The bill was amended significantly to address most of the concerns shared by hospitals with acute care psych beds and county attorneys. The amendments put on in the Senate, which passed the bill changed legal time for a non-voluntary hold from 24 hours to 72 hours, before a person is transferred to a mental health facility or the state hospital the facility must be notified and can be admitted only if there is a bed available. If the patient must go to the state hospital and a bed is not available, then the state hospital must let the facility caring for the patient know when a bed may become available. Passed.

Behavioral Health (cont.)

- [HB574](#) by Rep. Jane Gillette (R-Three Forks) requires DPHHS to create a Certified Community Behavioral Health Clinic model to provide more community behavioral health services in locations across the state. Passed.
- [HB949](#) by Rep. Mary Caferro (D-Helena) requires DPHHS to develop a fee schedule for payment of costs associated with the commitment of a person to a behavioral health inpatient facility or community facility. Passed.
- [HB884](#) by Rep. SJ Howell (D-Missoula) would create a behavioral health endowment fund to support grants and appropriations to support behavioral health services, including capital projects and establishing crisis care. A board would create a plan and oversee grants to non-profits and public organizations. Appropriates \$75 million to the endowment fund. The bill did not pass.

Behavioral Health (cont.)

- [HB237](#) by Rep. James Reavis (D-Billings) would prohibit sentenced criminal defendants who suffer from mental disease or disability from being sent to the state forensic mental health facility at Galen. There is concern by opponents that there are currently no resources in Montana communities other than at Galen to place these sentenced criminal defendants. The bill did not pass.
- [SB307](#) by Sen. Tom McGillivray (R-Billings) would redirect the taxes paid on marijuana sales to support addiction and recovery treatment, law enforcement and the general fund. This would change the voter approved initiative legalizing recreational marijuana and allocate a large portion of the tax revenue to conservation. Sen. McGillivray has been critical of the healthcare industry for not opposing the legalization of recreational marijuana. The bill did not pass.

Abortion

- [SB154](#) by Sen. Daniel Emrich (R-Great Falls) includes defines "human fetal tissue" as tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion or after a stillbirth, from being sold for research, education, transplant, therapy, and other uses identified in the bill. Became law.
- [HB723](#) by Rep. Lee Deming (R-Laurel) establishes annual reporting requirements for medical facilities regarding infants born alive following an abortion or attempted abortion. Each medical facility must submit a report by February 28 each year detailing the number of such infants born alive in the previous calendar year. The report must include information on the gestational age of infants, medical actions taken to preserve their lives, outcomes, and any medical conditions present before and after the attempted abortion. DPHHS is authorized to impose civil penalties on facilities that fail to submit these reports on time and must publish an annual aggregate report by June 30. The bill was amended to include reports even when a "medical facility" had "zero" infants born alive, as described in the bill. Became law.
- [HB316](#) by Rep. Lee Deming (R-Laurel) would amend the Montana Constitution to define person as all members of mankind at any stage of development, starting from fertilization or conception, regardless of age, health, level of functioning, or condition of dependency. Additionally, it states that no cause of action can arise from harm caused to an unborn baby by an unintentional act of its mother. The legislature is tasked with implementing this section through appropriate legislation. The bill includes provisions for severability, ensuring that if any part of the act is deemed invalid, the remaining valid parts will still be in effect. Two-thirds of the vote from the legislature is required for the amendment to pass. It failed with only 91 total votes in favor.

Abortion (cont.)

- [HB555](#) by Rep. Kerrie Seekins-Crowe (R-Billings) regulates abortion drugs and sets out what a provider must do if they do prescribe an abortion drug. While it is aimed at interstate prescriptions it appears to also set new parameters around the provider giving in-person care. There is an exemption for chemical abortions necessary to preserve life of the mother and for “verified” ectopic pregnancy. The bill was tabled by the committee
- [SB479](#) by Sen Theresa Manzella (R-Hamilton) is nearly identical to HB555 that regulated abortion drugs. The supporters argued that the drugs pollute our waterways. The bill died on the Senate floor 25-25.

Medical Malpractice

- [HB195](#) by Rep. Bill Mercer (R-Billings). The bill raises the current \$250,000 cap on non-economic damage awards by \$50,000 each year beginning this year, reaching an upper limit of \$500,000 starting January 1, 2029. The bill would then require the cap to be adjusted by 2% of the limit each year after. The bill was heard in House Business and Labor on 1/17. Opponents threatened a ballot initiative to remove the cap if the cap was not lifted immediately to \$500,000. Passed.
- [HB342](#) by Rep. Bill Mercer (R-Billings) revises laws related to medical malpractice and the duty of care owed by healthcare providers. It establishes that the foreseeability of risks, including specific risks, does not alter or increase the duty of care beyond the reasonable standard expected of medical providers. This clarification aims to provide consistency in how medical malpractice cases are evaluated in relation to the duty of care. The bill would be effective immediately if approved, and it specifies that the new regulations will apply to medical malpractice actions filed on or after the effective date. Passed.
- [HB458](#) by Rep. Jodee Etchart (R-Billings) would apply the medical malpractice non-economic damage limits being debated in HB195 to physician assistants. Passed.

Malpractice (cont.)

- [HB682](#) by Rep Greg Kmetz (R-Miles City) It revises laws concerning gender transition treatment for minors, establishing a statute of limitations for tort actions related to such treatments. Individuals can file claims within 4 (was 25) years of reaching adulthood or within four years of discovering an injury linked to gender transition treatment. The bill defines "gender transition treatment" to encompass various surgical procedures and hormone therapies for both female and male minors. It also mandates that insurance policies covering gender transition treatment must provide reciprocal coverage for de-transition treatment, ensuring access to necessary care for individuals who choose to de-transition. Additionally, the bill amends existing laws to clarify insurance coverage requirements, particularly for Medicaid and Healthy Montana Kids, ensuring that de-transition treatment is covered under certain circumstances. Passed.
- [SB218](#) by Sen. John Fuller (R-Kalispell) establishes a private cause of action for individuals who suffer injuries because of medical interventions related to the treatment of gender dysphoria. The bill was amended heavily in the House to include language that lawsuits could only be brought if the provider deviated from the "applicable medical standard of care". Health care professionals and physicians are strictly liable for any injuries, including physical, psychological, emotional, or physiological harms, that is caused by deviation from applicable medical standards. The bill outlines the types of medical treatments that can lead to liability, specifically surgical procedures and hormone therapies provided to individuals based on their gender identity. It also includes provisions for a statute of limitations, allowing individuals or their guardians to file civil actions within 2 years after discovering the injury and its causal relationship to the treatment. It includes definitions for key terms such as "female," "male," "gender," and "health care professional," and clarifies that the liability provisions do not apply to treatments for individuals with medically verifiable disorders of sex development or for infections and injuries exacerbated by the specified medical treatments, or for any other clinically appropriate or evidence-based basis for treatment. Passed.
- [SB293](#) by Sen. Andrea Olson (D-Missoula) would allow anyone preparing to bring a claim to receive information on liability insurance limits held by the entity they are preparing to bring the claim against. Lots of opposition to the bill and the bill was tabled. The bill did not pass.

Licensing/Contracts

- [HB502](#) by Rep. Greg Oblander (R-Billings) takes three existing, separate boards - radiology techs, respiratory care practitioners, and clinical lab science practitioners- and consolidates them into one board with 7 members. The board will have one public member and two members from the previous boards.
- [HB238](#) by Rep. Jodee Etchart (R-Billings) empowers a medical professional licensing board to require an appropriate mental or physical evaluation of a licensee or license applicant by an appropriate medical provider if there is objective and reasonable belief that a licensee or license applicant presents a significant risk of substantial harm to public health and safety. The department may suspend a license or application for licensure based on the evaluation.
- [HB442](#) by Rep. Vallerie Moore eliminates the requirement that the Montana Medical Legal Panel send a copy of potential medical malpractice case decisions to the involved health care provider's professional licensing boards. Passed.
- [HB850](#) would license community health workers under a Dept of Labor program The bill would also allow doulas to be licensed as community health workers, should SB319 not pass. The bill passed the House and was amended to remove the Medicaid reimbursement eligibility. Vetoed.
- [SB497](#) by Sen. Wendy McKamey (R-Cascade) would protect providers who seek a "professional program" to address issues related to career fatigue and provider burnout. Passed

Licensing/Contracts (cont.)

- [SB518](#) by Sen. Derek Harvey (D-Butte) moves the licensing of emergency medical providers to a new program under the Dept of Labor and Industry. It currently is under the Board of Medical Examiners. Passed.
- [HB797](#) by Rep. Greg Oblander (R-Billings) would remove barriers that prevent high-quality, internationally licensed physicians from filling vacancies in the state, including in rural and primary care settings, by eliminating unnecessary training duplication. All other standards of care and licensing remain unchanged, and the state medical examiners board is empowered to continue to perform its role to ensure that all internationally licensed applicants have the requisite knowledge and experience to practice medicine in the state. Bill **did not** pass.
- [HB198](#) by Rep. Jodee Etchart (R-Billings) would add naturopaths, physician assistants, and nurses to an existing ban on non-compete agreements. HB198 passed was signed by the governor and is effective immediately.
- [HB620](#) by Rep. Steve Gist (R-Cascade) prohibits noncompete agreements for all physicians. It was amended to allow repayment provisions for certain costs when a physician leaves their contracts early, extends the effective date of the law to 1/1/2026, and clarifies the changes in the law would apply to new contracts only. Passed.

Medical Records

- [HB377](#) by Rep. Nelly Nicol (R-Billings) gives holders of medical records TEN days to produce a child's medical record without charge when requested by a parent or guardian. The sponsor's intent is to also make it easier for a parent to view their child's record, but the bill does not address exceptions in state law where a minor can keep certain records private. The bill was amended to also include more options for when a provider can withhold releasing the record when the child may be in danger. The bill passed the House and was defeated on the Senate floor 25-25 and did not pass.
- [HB653](#) by Rep. Nelly Nicol (R-Billings) is nearly identical to HB377 and would require a teens healthcare record to be produced for their parents within 10 business days of the request. The bill passed by the Judiciary Committee without the HIPPA amendments in HB377. There were questions about introducing identical bills, and the bill died on the House floor.
- [HB397](#) by Rep. Katie Sullivan (D-Missoula) creates privacy protections for individuals using mental health digital services by establishing confidentiality standards and remedies for noncompliance. The bill passed and was signed by the governor, effective 10/1/25.
- [HB590](#) by Rep. Greg Oblander (R-Billings) puts into statute federal regulations for EHR requirements for insurance companies. The bill also includes a provision that delays input of certain test results in a patient's EHR for 72-hours or when a provider says it is OK to put the result in the EHR, whichever is soon. The purpose was stated to allow providers to deliver adverse test results to a patient in person or over the phone before they see the results in their EHR. The bill was amended to be effective July 1, 2026 and defined "electronic health record". The bill passed.

Prior Authorization/Utilization Review

- [HB398](#) by Rep. Jonathan Karlin (D-Missoula) mandates health insurance issuers or their utilization review organizations to honor certifications for health care services granted by previous issuers for at least the first three months when a covered person changes health plans. Additionally, it specifies that only licensed physicians can make adverse determinations or review grievances, ensuring that these decisions are made by qualified professionals with relevant specialties. The bill also changes the time that a prior authorization is valid from 3 months to 6 months and to 12 months for chronic conditions. Passed.
- [HB399](#) by Rep. Jonathan Karlin (D-Missoula) prohibits prior authorization for specific prescription drugs, including oral and inhaled generic drugs, inhaled prescription drugs for asthma, chronic obstructive pulmonary disease, chronic lung disease, and insulin. The bill clarifies payers cannot impose prior authorization requirements on these medications after a covered person has been prescribed them for a continuous period of six months. The bill mandates that if an insurer makes an adverse determination regarding a prescription drug, they must provide a written notice that includes a list of reasonable therapeutic alternatives covered by the insurer's formulary. This ensures that patients have access to necessary medications without unnecessary delays and that they are informed of alternative options if their prescribed medication is not approved. The bill specifies that adverse determinations must be made by a physician specializing in the relevant condition, enhancing the oversight of the prior authorization process. Passed
- [HB544](#) by Rep. Ed Buttrey (R-Great Falls) makes approved prior authorizations final and insurance issuers cannot rescind approval once it is made. Biologic therapies can be prescribed for patients under 18 years of age. Passed.
- [HB610](#) requested by Rep. Kerrie Seekins-Crowe (R-Billings) prohibits Montana Medicaid from requiring prior authorization for FDA approved antipsychotic drugs. **Vetoed.**

Prior Authorization (cont.)

- [SB317](#) by Sen. Dennis Lenz (R-Billings) prohibits health insurers from performing prior authorization on ANY drugs, including psychiatric, in shortage or discontinued per USFDA shortage list. Prohibits predatory pricing for any shortage specified in the bill. Passed.
- [SB446](#) by Sen. Vince Ricci (R-Billings) The bill requires that denials from an insurer must come from a provider with expertise in the relevant treatment area so decisions are made by qualified professionals, not generic reviewers. The bill also improves the appeals process and requires that if an insurer does not comply with the rules, the service is considered approved. It also allows the State Auditor's, aka Insurance Commissioner, Office to levy fines against non-compliant insurers. The bill also bans prior authorization for prescriptions to treat substance abuse disorders. Passed.
- [SB447](#) by Senator Vince Ricci (R—Billings) extending the duration of prior authorization certifications and prohibiting prior authorization for certain prescriptions. Includes a new definition of "chronic condition," which is defined as a condition lasting one year or more that requires ongoing medical attention or limits daily activities. Additionally, it establishes that prior authorization for the treatment of a chronic condition will be valid for the duration of that condition, eliminating the need for re-certification if the condition persists. The bill extends the validity of prior authorization certifications from three months to twelve months, with the exception that certifications for chronic conditions remain valid for the duration of the condition. It also prohibits prior authorization for certain prescription drugs, including generic drugs not listed as controlled substances after six months of uninterrupted use, and specific medications for substance use disorders. The bill ensures that if an adverse determination is made during prior authorization, the health insurance issuer must provide a written notice that includes a list of reasonable therapeutic alternatives covered by the insurer's formulary. Amended to coordinate with HB 399. Passed.

Other issues:

- Community Benefit
- Doulas
- Vaccines
- Pricing
- Illegal Immigration (transporting or harboring)
- Workers Compensation
- Medical Education/Residencies

Thank you

Steve Wade

Browning, Kaleczyc, Berry & Hoven,
P.C.

406-443-6820

stevew@bkbh.com

www.bkbh.com