

LC004589

## IN GENERAL ASSEMBLY

**JANUARY SESSION, A.D. 2026**

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND  
HOSPITALS -- OVERSIGHT OF ARTIFICIAL INTELLIGENCE TECHNOLOGY IN  
MENTAL HEALTH CARE ACT

Date Introduced: January 28, 2026

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

SECTION 1. Title 40.1 of the General Laws entitled "BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND HOSPITALS" is hereby amended by adding thereto the following chapter:

OVERSIGHT OF ARTIFICIAL INTELLIGENCE TECHNOLOGY IN MENTAL HEALTH

CARE ACT

This chapter shall be known and may be cited as the "Oversight of Artificial Intelligence Technology in Mental Health Care Act".

For the purposes of this chapter:

(1) "Administrative support" means tasks performed to assist a licensed professional in the delivery of therapy or psychotherapy services that do not involve communication. "Administrative support" includes, but is not limited to, the following:

(i) Managing appointment scheduling and reminders;

(ii) Processing billing and insurance claims; and

(iii) Drafting general communications related to therapy logistics that do not include  
therapeutic advice.

1           (2) "Artificial intelligence", "artificial intelligence technology", or "AI" means a machine-  
2 based system that can, for a given set of human-defined objectives, make predictions,  
3 recommendations, or decisions influencing real or virtual environments, and that uses machine and  
4 human-based inputs to perceive real and virtual environments, abstract such perceptions into  
5 models through analysis in an automated manner, and use model inference to formulate options for  
6 information or action.

7           (3) "Consent" means an affirmative written agreement, including by electronic means,  
8 which unambiguously communicates the individual's explicit, express, freely given, informed,  
9 voluntary, and specific agreement, and which is revocable by the individual. "Consent" does not  
10 include an agreement that is obtained by the following:

11           (i) The acceptance of a general or broad terms of use, agreement, or a similar document  
12 that contains descriptions of artificial intelligence along with other unrelated information;

13           (ii) An individual hovering over, muting, pausing, or closing a given piece of digital  
14 content; or

15           (iii) Using deceptive actions.

16           (4) "Director" means the director of the department of health.

17           (5) "Licensed professional" means an individual who holds a valid license, credential, or  
18 certification issued by this state to practice as a psychologist, social worker, mental health  
19 practitioner, professional substance use counselor, professional substance use prevention  
20 practitioner, or to otherwise provide therapy or psychotherapy services including:

21           (i) A licensed mental health counselor;

22           (ii) A licensed marriage and family therapist;

23           (iii) A licensed creative arts therapist;

24           (iv) A licensed psychoanalyst;

25           (v) A licensed master social worker;

26           (vi) A licensed clinical social worker;

27           (vii) A credentialed alcoholism and substance abuse counselor;

28           (viii) A credentialed prevention professional;

29           (ix) A credentialed prevention specialist;

30           (x) A credentialed alcoholism and substance abuse counselor, credentialed prevention  
31 professional, or credentialed prevention specialist with an additional gambling designation;

32           (xi) A certified problem gambling counselor;

33           (xii) A credentialed alcoholism and substance abuse counselor trainee;

34           (xiii) Any other person holding any other credential that may be overseen by units or

1 divisions providing addiction services and supports; or

2 (xiv) Any other professional licensed, credentialed, certified, or otherwise authorized by  
3 this state to provide therapy or psychotherapy services, except for a physician.

4 (6) "Peer support" means services provided by individuals with lived experience of mental  
5 health conditions or recovery from substance use or gambling that are intended to offer  
6 encouragement, understanding, and guidance without clinical intervention.

7 (7) "Permitted use of artificial intelligence" means the use of artificial intelligence tools or  
8 systems by a licensed professional to assist in providing administrative support or supplementary  
9 support in therapy or psychotherapy services where the licensed professional maintains full  
10 responsibility for all interactions, outputs, and data use associated with the system and satisfies the  
11 requirements of this chapter.

12 (8) "Religious counseling" means counseling provided by clergy members, pastoral  
13 counselors, or other religious leaders acting within the scope of their religious duties if the services  
14 are explicitly faith-based and are not represented as clinical mental health services or therapy or  
15 psychotherapy services.

16 (9) "Supplementary support" means tasks performed to assist a licensed professional in the  
17 delivery of therapy or psychotherapy services that do not involve therapeutic communication and  
18 that are not administrative support. "Supplementary support" includes, but is not limited to, the  
19 following:

20 (i) Preparing and maintaining client records, including therapy notes;

21 (ii) Analyzing anonymized data to track client progress or identify trends, subject to review  
22 by a licensed, credentialed, or certified professional; and

23 (iii) Identifying and organizing external resources or referrals for client use.

24 (10) "Therapeutic communication" means any verbal, non-verbal, or written interaction  
25 conducted in a clinical or professional setting that is intended to diagnose, treat, or address an  
26 individual's mental, emotional, or behavioral health concerns. "Therapeutic communication"  
27 includes, but is not limited to:

28 (i) Direct interactions with clients for the purpose of understanding or reflecting their  
29 thoughts, emotions, or experiences;

30 (ii) Providing guidance, therapeutic strategies, or interventions designed to achieve mental  
31 health outcomes;

32 (iii) Offering emotional support, reassurance, or empathy in response to psychological or  
33 emotional distress;

34 (iv) Collaborating with clients to develop or modify therapeutic goals or treatment plans;

1 and

2 (v) Offering behavioral feedback intended to promote psychological growth or address  
3 mental health conditions.

4 (11) "Therapy or psychotherapy services" means services provided to diagnose, treat, or  
5 improve an individual's mental health or behavioral health. "Therapy or psychotherapy services"  
6 does not include religious counseling or peer support.

7 **40.1-5.5-3. Use of artificial intelligence in mental health care.**

8 (a) No licensed professional shall be permitted to use artificial intelligence, designed to  
9 simulate emotional attachment, bonding, or dependency or artificial intelligence companions for  
10 mental health or emotional support, to assist in providing supplementary support in therapy or  
11 psychotherapy services where the client's therapeutic session is recorded or transcribed unless the  
12 patient or the patient's parent, guardian or other legally authorized representative is informed in  
13 writing of the following:

14 (1) That artificial intelligence will be used;

15 (2) The specific purpose of the artificial intelligence tool or system that will be used; and

16 (3) The patient or the patient's parents, or other legally authorized representative, provides  
17 consent to the use of artificial intelligence.

18 (b) An individual, corporation, or entity may not provide, advertise, or otherwise offer  
19 therapy or psychotherapy services, including through the use of Internet-based artificial  
20 intelligence, to the public in this state unless the therapy or psychotherapy services are conducted  
21 by an individual who is a licensed professional.

22 (c) A licensed professional may use artificial intelligence only to the extent that such use  
23 meets the requirements of subsection (a) of this section. A licensed professional may not allow or  
24 otherwise use artificial intelligence to do any of the following:

25 (1) Make independent therapeutic decisions;

26 (2) Directly interact with clients in any form of therapeutic communication;

27 (3) Generate therapeutic recommendations or treatment plans; or

28 (4) Detect emotions or mental states.

29 **40.1-5.5-4. Confidentiality of records.**

30 All records kept by a licensed professional and all communications between an individual  
31 seeking therapy or psychotherapy services and a licensed professional shall be confidential and  
32 shall not be disclosed except as provided pursuant to the provisions of § 40.1-5-26.

33 **40.1-5.5-5. Penalties.**

34 (a) The penalties pursuant to § 5-37.3-9 shall apply to any violation of the confidentiality

1 provisions of this chapter.

2 (b) The director shall have authority to investigate any actual, alleged, or suspected  
3 violation of this chapter.

4 (c) This chapter shall not apply to the following:

5 (1) Religious counseling;

6 (2) Peer support; and

7 (3) Self-help materials and educational resources that are available to the public and do not  
8 purport to offer therapy or psychotherapy services.

9 **40.1-5.5-6. Rules and Regulations.**

10 The director of the department of health is authorized to promulgate rules and regulations  
11 to carry out the intent of this chapter.

12 SECTION 2. This act shall take effect upon passage.

=====  
LC004589  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND  
HOSPITALS -- OVERSIGHT OF ARTIFICIAL INTELLIGENCE TECHNOLOGY IN  
MENTAL HEALTH CARE ACT

\*\*\*

- 1           This act would establish regulations regarding the use of artificial intelligence in mental
- 2   healthcare treatments.
- 3           This act would take effect upon passage.

=====

LC004589

=====