

Examples of State Regulation on Use of Artificial Intelligence by Mental Health Practitioners

Illinois – Enacted 2025 HB 1806 “Wellness and Oversight for psychological Resources (WOPR) Act

- Bans AI-only therapy: AI systems cannot independently perform or advertise therapy, counseling, or psychotherapy, unless clearly tied to oversight by a licensed professional.
- Prohibits misleading advertising claims, treating “AI therapy,” “chatbot counselor,” or “virtual psychotherapist” as misleading and unlawful unless the AI has direct clinician oversight.
- Makes professional oversight required: Licensed mental health providers can use AI tools only if they review and approve any therapeutic output. AI cannot independently make decisions or interact with clients therapeutically.
- Allows AI for admin or support, but only under human review—tasks like scheduling, transcribing, or summarizing, with written, revocable client consent.
- Fines up to \$10,000 per violation enforced by the Department of Financial and Professional Regulation.

Nevada – Enacted 2025 AB 406

- Forbids AI systems from providing mental or behavioral healthcare or claiming they can do so.
- Human providers may still use AI, but only for administrative functions, and with independent review of any AI output.
- Violations can bring up to \$15,000 fines.

Utah – Enacted 2025 HB 452

- Mandates safeguards like clear disclosure that the chatbot is AI, privacy protections prohibiting data sale, and marketing restrictions.
- Bars AI therapy chatbots from selling or sharing user data.
- *Note:* Separately, in 2024, Utah also created an Office of AI Policy.
 - o 4 staff members: (1) Director, (2) Head of Research, (3) Lead AI Legal and Policy Analyst, and (4) Head of Stakeholder Outreach
 - o Offers 54-page Guidance Letter “*Best Practices for the Use of Artificial Intelligence by Mental Health Therapists.*”

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Wellness and Oversight for Psychological Resources Act.

Section 5. Purpose. The purpose of this Act is to safeguard individuals seeking therapy or psychotherapy services by ensuring these services are delivered by qualified, licensed, or certified professionals. This Act is intended to protect consumers from unlicensed or unqualified providers, including unregulated artificial intelligence systems, while respecting individual choice and access to community-based and faith-based mental health support.

Section 10. Definitions. In this Act:

"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:

- (1) managing appointment scheduling and reminders;
- (2) processing billing and insurance claims; and
- (3) drafting general communications related to therapy

logistics that do not include therapeutic advice.

"Artificial intelligence" has the meaning given to that term in Section 2-101 of the Illinois Human Rights Act.

"Consent" means a clear, explicit affirmative act by an individual that: (i) unambiguously communicates the individual's express, freely given, informed, voluntary, specific, and unambiguous written agreement, including a written agreement provided by electronic means, and (ii) is revocable by the individual. "Consent" does not include an agreement that is obtained by the following:

(1) the acceptance of a general or broad terms of use agreement or a similar document that contains descriptions of artificial intelligence along with other unrelated information;

(2) an individual hovering over, muting, pausing, or closing a given piece of digital content; or

(3) an agreement obtained through the use of deceptive actions.

"Department" means the Department of Financial and Professional Regulation.

"Licensed professional" means an individual who holds a valid license issued by this State to provide therapy or psychotherapy services, including:

(1) a licensed clinical psychologist;

(2) a licensed clinical social worker;

(3) a licensed social worker;

- (4) a licensed professional counselor;
- (5) a licensed clinical professional counselor;
- (6) a licensed marriage and family therapist;
- (7) a certified alcohol and other drug counselor authorized to provide therapy or psychotherapy services;
- (8) a licensed professional music therapist;
- (9) a licensed advanced practice psychiatric nurse as defined in Section 1-101.3 of the Mental Health and Developmental Disabilities Code; and
- (10) any other professional authorized by this State to provide therapy or psychotherapy services, except for a physician.

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

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

"Supplementary support" means tasks performed to assist a licensed professional in the delivery of therapy or psychotherapy services that do not involve therapeutic communication and that are not administrative support.

"Supplementary support" includes, but is not limited to, the following:

(1) preparing and maintaining client records, including therapy notes;

(2) analyzing anonymized data to track client progress or identify trends, subject to review by a licensed professional; and

(3) identifying and organizing external resources or referrals for client use.

"Therapeutic communication" means any verbal, non-verbal, or written interaction conducted in a clinical or professional setting that is intended to diagnose, treat, or address an individual's mental, emotional, or behavioral health concerns.

"Therapeutic communication" includes, but is not limited to:

(1) direct interactions with clients for the purpose of understanding or reflecting their thoughts, emotions, or experiences;

(2) providing guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes;

(3) offering emotional support, reassurance, or empathy in response to psychological or emotional distress;

(4) collaborating with clients to develop or modify therapeutic goals or treatment plans; and

(5) offering behavioral feedback intended to promote psychological growth or address mental health conditions.

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

Section 15. Permitted use of artificial intelligence.

(a) As used in this Section, "permitted use of artificial intelligence" means the use of artificial intelligence tools or systems by a licensed professional to assist in providing administrative support or supplementary support in therapy or psychotherapy services where the licensed professional maintains full responsibility for all interactions, outputs, and data use associated with the system and satisfies the requirements of subsection (b).

(b) No licensed professional shall be permitted to use artificial intelligence to assist in providing supplementary support in therapy or psychotherapy where the client's therapeutic session is recorded or transcribed unless:

(1) the patient or the patient's legally authorized representative is informed in writing of the following:

(A) that artificial intelligence will be used; and

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

(2) the patient or the patient's legally authorized representative provides consent to the use of artificial

intelligence.

Section 20. Prohibition on unauthorized therapy services.

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

(b) A licensed professional may use artificial intelligence only to the extent the use meets the requirements of Section 15. A licensed professional may not allow artificial intelligence to do any of the following:

- (1) make independent therapeutic decisions;
- (2) directly interact with clients in any form of therapeutic communication;
- (3) generate therapeutic recommendations or treatment plans without review and approval by the licensed professional; or
- (4) detect emotions or mental states.

Section 25. Disclosure of records and communications. All records kept by a licensed professional and all communications between an individual seeking therapy or psychotherapy services and a licensed professional shall be confidential and shall not be disclosed except as required under the Mental

Health and Developmental Disabilities Confidentiality Act.

Section 30. Enforcement and penalties.

(a) Any individual, corporation, or entity found in violation of this Act shall pay a civil penalty to the Department in an amount not to exceed \$10,000 per violation, as determined by the Department, with penalties assessed based on the degree of harm and the circumstances of the violation. The civil penalty shall be assessed by the Department after a hearing is held in accordance with Section 2105-100 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. An individual, corporation, or entity found in violation of this Act shall pay the civil penalty within 60 days after the date of an order by the Department imposing the civil penalty. The order shall constitute a judgment and may be filed and executed in the same manner as any judgment from a court of record.

(b) The Department shall have authority to investigate any actual, alleged, or suspected violation of this Act.

Section 35. Exceptions. This Act does not apply to the following:

- (1) religious counseling;
- (2) peer support; and
- (3) self-help materials and educational resources that are available to the public and do not purport to offer

Public Act 104-0054

HB1806 Enrolled

LRB104 07364 AAS 17404 b

therapy or psychotherapy services.

Section 99. Effective date. This Act takes effect upon becoming law.

CHAPTER.....

AN ACT relating to health; prohibiting certain uses of artificial intelligence in public schools; requiring the Department of Education to develop a policy concerning certain uses of artificial intelligence; imposing certain restrictions relating to the marketing and programming of artificial intelligence systems; prohibiting certain persons from representing themselves as qualified to provide mental or behavioral health care; imposing certain restrictions relating to the use of artificial intelligence by providers of mental or behavioral health care; providing civil penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes the authority and duties of a school counselor, school psychologist and school social worker. (NRS 391.293, 391.294, 391.296) **Section 2** of this bill prohibits a public school from using artificial intelligence to perform the functions and duties of a school counselor, school psychologist or school social worker which relate to the mental health of pupils. **Section 2** additionally requires the Department of Education to develop a policy for the use of artificial intelligence by such school employees while providing therapy, counseling or other mental or behavioral health services to pupils. **Section 2** requires the policy to include a method for the Department to examine the accuracy and efficacy of the use of artificial intelligence for such purposes.

Existing law: (1) regulates the practice and requires the licensure of certain mental health professionals, including psychiatrists, psychologists, marriage and family therapists, clinical professional counselors, registered nurses, social workers, alcohol and drug counselors and problem gambling counselors; and (2) prohibits unlicensed persons from engaging in the practices of those professions. (Chapters 630, 632, 633 and 641-641C of NRS) **Section 7** of this bill prohibits, with certain exceptions, an artificial intelligence provider from offering to users in this State an artificial intelligence system that is specifically programmed to provide a user with a service or an experience that would constitute the practice of professional mental or behavioral health care if provided by a natural person. **Section 7** also prohibits, with certain exceptions, an artificial intelligence provider or a natural person who is not licensed to practice professional mental or behavioral health care from making certain representations that would lead a person to believe that the provider, the artificial intelligence system operated by the provider or the natural person is capable of or qualified to provide mental or behavioral health care. **Section 8** of this bill imposes certain restrictions and prohibitions on the use of an artificial intelligence system by a licensed provider of mental and behavioral health care.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A public school, including, without limitation, a charter school or university school for profoundly gifted pupils, shall not use artificial intelligence to perform the functions and duties of a school counselor, school psychologist or school social worker as prescribed in NRS 391.293, 391.294 and 391.296, respectively, which relate to the mental health of pupils.

2. The Department shall develop a policy for the use of artificial intelligence by a school counselor, school psychologist, school social worker or other educational personnel while providing therapy, counseling or other mental or behavioral health services to pupils. The policy developed pursuant to this subsection must include, without limitation, a method for the Department to examine the accuracy and efficacy of any artificial intelligence used for such purposes. The Department may collaborate with the Division of Public and Behavioral Health of the Department of Health and Human Services in developing the policy.

3. The provisions of subsection 1 do not prohibit a school counselor, school psychologist, school social worker or other educational personnel from using artificial intelligence in accordance with the policy developed pursuant to subsection 2 or to perform tasks for administrative support, which may include, without limitation:

- (a) Scheduling;*
- (b) Managing records;*
- (c) Analyzing data for operational purposes; and*
- (d) Organizing, tracking and managing files or notes pertaining to a pupil.*

4. As used in this section, "artificial intelligence" means a machine-based system that, for any explicit or implicit objective, infers from the inputs the system receives how to generate outputs, including, without limitation, content, decisions, predictions or recommendations, that can influence physical or virtual environments.

Secs. 3-6. (Deleted by amendment.)



Sec. 7. Chapter 433 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An artificial intelligence provider shall not make any representation or statement or knowingly cause or program an artificial intelligence system made available for use by a person in this State to make any representation or statement that explicitly or implicitly indicates that:

(a) The artificial intelligence system is capable of providing professional mental or behavioral health care;

(b) A user of the artificial intelligence system may interact with any feature of the artificial intelligence system which simulates human conversation in order to obtain professional mental or behavioral health care; or

(c) The artificial intelligence system, or any component, feature, avatar or embodiment of the artificial intelligence system is a provider of mental or behavioral health care, a therapist, a clinical therapist, a counselor, a psychiatrist, a doctor or any other term commonly used to refer to a provider of professional mental health or behavioral health care.

2. An artificial intelligence provider shall not make available for use by a person in this State an artificial intelligence system that is specifically programmed to provide a service or experience to a user that would constitute the practice of professional mental or behavioral health care if provided by a natural person.

3. A natural person shall not represent himself or herself as being qualified to provide professional mental or behavioral health care, including, without limitation, by using the title of "therapist," "psychotherapist" or "counselor," or any similar title, if the person does not possess a valid credential issued by a governmental entity that authorizes the person to practice professional mental or behavioral health care in this State.

4. The Division:

(a) May investigate potential violations of this section.

(b) May bring an action to recover a civil penalty pursuant to subsection 5.

(c) Shall deposit any money received from a civil penalty into the State General Fund.

(d) Shall develop and disseminate to the public educational materials which contain:

(1) Information describing how a person may obtain professional mental or behavioral health care from a licensed or certified provider of professional mental or behavioral health care.



(2) Information about free or low-cost services or options that are available to persons in this State who are experiencing a mental or behavioral health crisis.

(3) Recommended best practices relating to the use or potential use of artificial intelligence by a person who is seeking care or relief from a mental or behavioral health condition, or who is experiencing a mental or behavioral health event, which may include, without limitation, recommendations concerning the circumstances under which such a person should seek the assistance or care of a provider of professional mental or behavioral health care.

5. A person who violates any provision of subsection 1, 2 or 3 is subject to a civil penalty not to exceed \$15,000 per violation.

6. This section shall not be construed to prohibit:

(a) Any advertisement, statement or representation for or relating to materials, literature and other products which are meant to provide advice and guidance for self-help relating to mental or behavioral health, if the material, literature or product does not purport to offer or provide professional mental or behavioral health care.

(b) Offering or operating an artificial intelligence system that is designed to be used by a provider of professional mental or behavioral health care to perform tasks for administrative support in conformity with subsection 2 of section 8 of this act.

7. As used in this section:

(a) "Artificial intelligence provider" means a person who operates or provides an artificial intelligence system.

(b) "Artificial intelligence system" means a machine-based system that, for any explicit or implicit objective, infers from the inputs the system receives how to generate outputs, including, without limitation, content, decisions, predictions or recommendations, that can influence physical or virtual environments.

(c) "Professional mental or behavioral health care":

(1) Means mental or behavioral health care or services relating to the diagnosis, treatment or prevention of mental illnesses or emotional or behavioral disorders which are typically provided by a provider of mental or behavioral health care within his or her authorized scope of practice.

(2) Includes, without limitation, the practice of:

(I) Psychology, as defined in NRS 641.025.

(II) Clinical professional counseling, as defined in NRS 641A.065.



(III) Marriage and family therapy, as defined in NRS 641A.080.

(IV) Social work and clinical social work, as defined in NRS 641B.030.

(V) Counseling persons with alcohol and other substance use disorders and counseling persons with an addictive disorder related to gambling, as defined in NRS 641C.100 and 641C.105, respectively.

(VI) Psychiatry.

Sec. 8. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided by subsection 2 and, where applicable, the policy adopted by the Department of Education pursuant to section 2 of this act, a provider of mental and behavioral health care shall not use an artificial intelligence system in connection with providing professional mental and behavioral health care directly to a patient.

2. A provider of mental and behavioral health care may use an artificial intelligence system to assist the provider with performing tasks for administrative support, which may include, without limitation:

(a) Scheduling appointments;

(b) Managing records;

(c) Billing patients and managing records relating to billing;

(d) Analyzing data for operational purposes; and

(e) Organizing, tracking and managing files or notes relating to an individual session with a patient.

3. If a provider of mental and behavioral health care uses an artificial intelligence system for any purpose authorized in subsection 2, the provider shall ensure that such use complies with all applicable federal and state laws governing patient privacy and the security of electronic health records, health-related information and other related data, including, without limitation:

(a) The Health Information Technology for Economic and Clinical Health Act, 42 U.S.C. §§ 300jj et seq. and 17901 et seq.;

(b) The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended; and

(c) The provisions of NRS 439.581 to 439.597, inclusive.

4. A provider of mental and behavioral health care shall independently review the accuracy of any report, data or other information compiled, summarized, analyzed or generated by an artificial intelligence system for a purpose described in paragraph (c) or (e) of subsection 2.



5. *A provider of mental and behavioral health care who violates any provision of this section is guilty of unprofessional conduct and is subject to disciplinary action by the board, agency or other entity in this State by which he or she is licensed or certified.*

6. *As used in this section:*

(a) *“Artificial intelligence system” means a machine-based system that, for any explicit or implicit object, infers from the inputs the system receives how to generate outputs, including, without limitation, content, decisions, predictions or recommendations, that can influence physical or virtual environments.*

(b) *“Professional mental and behavioral health care” means psychotherapy, psychiatry, counseling, therapy or other care or services relating to the diagnosis, treatment or prevention of mental illnesses or emotional or behavioral disorders which are provided by a provider of mental and behavioral health care within his or her authorized scope of practice.*

(c) *“Provider of mental and behavioral health care” means:*

(1) *A psychiatrist licensed to practice medicine in this State pursuant to chapter 630 or 633 of NRS;*

(2) *A psychologist licensed to practice in this State pursuant to chapter 641 of NRS;*

(3) *A social worker licensed in this State as an independent social worker or a clinical social worker pursuant to chapter 641B of NRS;*

(4) *A registered nurse holding a master’s degree in the field of psychiatric nursing and licensed to practice professional nursing in this State pursuant to chapter 632 of NRS;*

(5) *A marriage and family therapist or clinical professional counselor licensed in this State pursuant to chapter 641A of NRS;*

(6) *An alcohol and drug counselor or problem gambling counselor who is licensed or certified pursuant to chapter 641C of NRS; and*

(7) *A person who provides counseling services as part of his or her training for any of the professions listed in subparagraphs (1) to (6), inclusive.*

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 9, inclusive, of this act become effective:



- (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
- (b) On July 1, 2025, for all other purposes.



1

Artificial Intelligence Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jefferson Moss

Senate Sponsor: Kirk A. Cullimore

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3

LONG TITLE

4

General Description:

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This bill enacts provisions relating to the regulation of mental health chatbots that use artificial intelligence technology.

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Highlighted Provisions:

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This bill:

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▸ defines terms;

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▸ establishes protections for users of mental health chatbots that use artificial intelligence technology;

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▸ prohibits certain uses of personal information by a mental health chatbot;

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▸ requires a mental health chatbot to make certain disclosures to users;

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▸ provides enforcement authority to the Division of Consumer Protection;

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▸ establishes requirements for creating and maintaining policies for mental health chatbots;

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▸ creates rebuttable presumptions for suppliers who comply with policy requirements; and

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▸ provides a severability clause.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

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None

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Utah Code Sections Affected:

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AMENDS:

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13-2-1, as last amended by Laws of Utah 2024, Chapter 132

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ENACTS:

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13-72a-101, Utah Code Annotated 1953

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13-72a-201, Utah Code Annotated 1953

- 28 **13-72a-202**, Utah Code Annotated 1953
 29 **13-72a-203**, Utah Code Annotated 1953
 30 **13-72a-204**, Utah Code Annotated 1953
 31 **13-72a-301**, Utah Code Annotated 1953
 32 **58-60-118**, Utah Code Annotated 1953

33

34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **13-2-1** is amended to read:

36 **13-2-1 . Consumer protection division established -- Functions.**

- 37 (1) There is established within the Department of Commerce the Division of Consumer
 38 Protection.
- 39 (2) The division shall administer and enforce the following:
- 40 (a) Chapter 10a, Music Licensing Practices Act;
- 41 (b) Chapter 11, Utah Consumer Sales Practices Act;
- 42 (c) Chapter 15, Business Opportunity Disclosure Act;
- 43 (d) Chapter 20, New Motor Vehicle Warranties Act;
- 44 (e) Chapter 21, Credit Services Organizations Act;
- 45 (f) Chapter 22, Charitable Solicitations Act;
- 46 (g) Chapter 23, Health Spa Services Protection Act;
- 47 (h) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 48 (i) Chapter 26, Telephone Fraud Prevention Act;
- 49 (j) Chapter 28, Prize Notices Regulation Act;
- 50 (k) Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter
 51 Transaction Information Act;
- 52 (l) Chapter 34, Utah Postsecondary School and State Authorization Act;
- 53 (m) Chapter 41, Price Controls During Emergencies Act;
- 54 (n) Chapter 42, Uniform Debt-Management Services Act;
- 55 (o) Chapter 49, Immigration Consultants Registration Act;
- 56 (p) Chapter 51, Transportation Network Company Registration Act;
- 57 (q) Chapter 52, Residential Solar Energy Disclosure Act;
- 58 (r) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 59 (s) Chapter 54, Ticket Website Sales Act;
- 60 (t) Chapter 56, Ticket Transferability Act;
- 61 (u) Chapter 57, Maintenance Funding Practices Act;

- 62 (v) Chapter 61, Utah Consumer Privacy Act;
- 63 [~~(w)~~] ~~Chapter 63, Utah Social Media Regulation Act;~~
- 64 [~~(x)~~] (w) Chapter 64, Vehicle Value Protection Agreement Act;
- 65 [~~(y)~~] (x) Chapter 65, Utah Commercial Email Act;
- 66 [~~(z)~~] (y) Chapter 67, Online Dating Safety Act;
- 67 [~~(aa)~~] (z) Chapter 68, Lawyer Referral Consultants Registration Act;
- 68 [~~(bb)~~] (aa) Chapter 70, Automatic Renewal Contracts Act~~[-and]~~ ;
- 69 [~~(ee)~~] (bb) Chapter 71, Utah Minor Protection in Social Media Act~~[-]~~ ; and
- 70 (cc) Chapter 72a, Artificial Intelligence Applications Relating to Mental Health.
- 71 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 72 division may make rules to establish:
- 73 (a) a public list that identifies a person who:
- 74 (i) violates a chapter described in Subsection (2);
- 75 (ii) without proper legal justification, fails to comply with an order, subpoena,
- 76 judgment, or other legal process issued by:
- 77 (A) the division; or
- 78 (B) a court of competent jurisdiction; or
- 79 (iii) breaches a settlement agreement, stipulation, assurance of voluntary compliance,
- 80 or similar instrument signed by the person and the division; and
- 81 (b) a process by which a person may be removed from the list the division establishes as
- 82 described in Subsection (3)(a).

83 Section 2. Section **13-72a-101** is enacted to read:

84 **CHAPTER 72a. ARTIFICIAL INTELLIGENCE APPLICATIONS RELATING TO**

85 **MENTAL HEALTH**

86 **Part 1. General Provisions**

87 **13-72a-101 . Definitions.**

88 As used in this chapter:

- 89 (1) "Artificial intelligence" means the same as that term is defined in Section 13-72-101.
- 90 (2) "Artificial intelligence technology" means the same as that term is defined in Section
- 91 13-72-101.
- 92 (3) "Confidential communications" means the same as that term is defined in Section
- 93 58-60-102.

- 94 (4) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 95 (5) "Division" means the Division of Consumer Protection created in Section 13-2-1.
- 96 (6) "Generative artificial intelligence" means an artificial intelligence technology system
97 that:
- 98 (a) is trained on data;
- 99 (b) is designed to simulate human conversation with a consumer through one or more of
100 the following:
- 101 (i) text;
- 102 (ii) audio; or
- 103 (iii) visual communication; and
- 104 (c) generates non-scripted outputs similar to outputs created by a human, with limited or
105 no human oversight.
- 106 (7) "Health care provider" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 107 (8) "Health plan" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- 108 (9) "Individually identifiable health information" means any information, whether oral or
109 recorded in any form or medium, that relates to the physical or mental health or
110 condition of an individual.
- 111 (10)(a) "Mental health chatbot" means an artificial intelligence technology that:
- 112 (i) uses generative artificial intelligence to engage in interactive conversations with a
113 user of the mental health chatbot similar to the confidential communications that
114 an individual would have with a licensed mental health therapist; and
- 115 (ii) a supplier represents, or a reasonable person would believe, can or will provide
116 mental health therapy or help a user manage or treat mental health conditions.
- 117 (b) "Mental health chatbot" does not include artificial intelligence technology that only:
- 118 (i) provides scripted output, such as guided meditations or mindfulness exercises; or
119 (ii) analyzes an individual's input for the purpose of connecting the individual with a
120 human mental health therapist.
- 121 (11) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- 122 (12) "Personal data" means the same as that term is defined in Section 63A-19-101.
- 123 (13) "Scientific research development" means research:
- 124 (a) conducted by a researcher affiliated with:
- 125 (i) an institution of higher education;
- 126 (ii) a research organization; or
- 127 (iii) a healthcare facility; and

- 128 (b) that is:
129 (i) approved by an institutional review board; and
130 (ii) conducted in accordance with applicable ethics requirements for human subject
131 research.

132 (14) "Supplier" means the same as that term is defined in Section 13-11-3.

133 (15) "Utah user" means an individual located in the state at the time the individual accesses
134 or uses a mental health chatbot.

135 (16) "User input" means content provided to a mental health chatbot by a Utah user.

136 Section 3. Section **13-72a-201** is enacted to read:

137 **Part 2. Protections for Users of Mental Health Chatbots**

138 **13-72a-201 . Protection of personal information.**

139 (1) A supplier of a mental health chatbot may not sell to or share with any third party any:

140 (a) individually identifiable health information of a Utah user; or

141 (b) user input of a Utah user.

142 (2) Subsection (1) does not apply to individually identifiable health information:

143 (a) requested by a health care provider with the consent of the Utah user;

144 (b) provided to a health plan of a Utah user upon request of the Utah user; or

145 (c) shared in compliance with Subsection (3).

146 (3)(a) A supplier may share individually identifiable health information necessary to
147 ensure the effective functionality of the mental health chatbot with another party with
148 which the supplier has a contract related to such functionality.

149 (b) When sharing information under Subsection (3)(a), the supplier and the other entity
150 shall comply with all applicable privacy and security provisions of 45 C.F.R. Part
151 160 and 45 C.F.R. Part 164, Subparts A and E, as if the supplier were a covered
152 entity and the other entity were a business associate, as such terms are defined in 45
153 C.F.R. 160.103.

154 Section 4. Section **13-72a-202** is enacted to read:

155 **13-72a-202 . Restrictions on advertising.**

156 (1) A supplier may not use a mental health chatbot to advertise a specific product or service
157 to a Utah user in a conversation between the Utah user and the mental health chatbot
158 unless the mental health chatbot:

159 (a) clearly and conspicuously identifies the advertisement as an advertisement; and

160 (b) clearly and conspicuously discloses to the Utah user any:

161 (i) sponsorship;

- 162 (ii) business affiliation; or
- 163 (iii) agreement that the supplier has with a third party to promote, advertise, or
- 164 recommend the product or service.
- 165 (2) A supplier of a mental health chatbot may not use a Utah user's input to:
- 166 (a) determine whether to display an advertisement for a product or service to the Utah
- 167 user, unless the advertisement is for the mental health chatbot itself;
- 168 (b) determine a product, service, or category of product or service, to advertise to the
- 169 Utah user; or
- 170 (c) customize how an advertisement is presented to the Utah user.
- 171 (3) This section does not prohibit a mental health chatbot from recommending that a Utah
- 172 user seek counseling, therapy, or other assistance from a licensed professional, including
- 173 a specific licensed professional.

174 Section 5. Section **13-72a-203** is enacted to read:

175 **13-72a-203 . Disclosure requirements.**

- 176 (1) A supplier of a mental health chatbot shall cause the mental health chatbot to clearly
- 177 and conspicuously disclose to a Utah user that the mental health chatbot is an artificial
- 178 intelligence technology and not a human.
- 179 (2) The disclosure described in Subsection (1) shall be made:
- 180 (a) before the Utah user may access the features of the mental health chatbot;
- 181 (b) at the beginning of any interaction with the Utah user if the Utah user has not
- 182 accessed the mental health chatbot within the previous seven days; and
- 183 (c) any time a Utah user asks or otherwise prompts the mental health chatbot about
- 184 whether artificial intelligence is being used.

185 Section 6. Section **13-72a-204** is enacted to read:

186 **13-72a-204 . Violations -- Enforcement authority.**

- 187 (1) The division shall administer and enforce the provisions of this chapter in accordance
- 188 with Chapter 2, Division of Consumer Protection.
- 189 (2) The attorney general shall:
- 190 (a) upon request, give legal advice to the division; and
- 191 (b) act as counsel for the division in the exercise of the division's responsibilities under
- 192 this chapter.
- 193 (3) In addition to the division's enforcement powers under Chapter 2, Division of Consumer
- 194 Protection:
- 195 (a) the division director may impose an administrative fine of up to \$2,500 for each

- 196 violation of this chapter; and
- 197 (b) the division may bring an action in a court of competent jurisdiction to enforce a
- 198 provision of this chapter.
- 199 (4) In a court action by the division to enforce a provision of this chapter, the court may:
- 200 (a) declare that an act or practice violates a provision of this chapter;
- 201 (b) issue an injunction for a violation of this part;
- 202 (c) order disgorgement of money received in violation of this chapter;
- 203 (d) order payment of disgorged money to an injured purchaser or consumer;
- 204 (e) impose a fine of up to \$2,500 for each violation of this chapter; or
- 205 (f) award other relief that the court determines reasonable and necessary.
- 206 (5) If a court awards judgment or injunctive relief to the division, the court shall award the
- 207 division:
- 208 (a) reasonable attorney fees;
- 209 (b) court costs; and
- 210 (c) investigative fees.
- 211 (6) A court may impose a civil penalty of no more than \$5,000 for each violation of an
- 212 administrative or court order issued for a violation of this chapter.
- 213 (7) The attorney general may bring a civil action on behalf of the division to collect a civil
- 214 penalty imposed under this section.
- 215 (8) The division shall deposit all fines and civil penalties collected under this section into
- 216 the Consumer Protection Education and Training Fund created in Section 13-2-8.

217 Section 7. Section **13-72a-301** is enacted to read:

218 **Part 3. Severability**

219 **13-72a-301 . Severability.**

- 220 (1) If any provision of this chapter or the application of any provision of this chapter to any
- 221 person or circumstance is held invalid by a final decision of a court of competent
- 222 jurisdiction, the remainder of this chapter shall be given effect without the invalid
- 223 provision or application.
- 224 (2) The provisions of this chapter are severable.

225 Section 8. Section **58-60-118** is enacted to read:

226 **58-60-118 . Mental health chatbots -- Affirmative defense.**

- 227 (1) As used in this section:
- 228 (a) "Mental health chatbot" means the same as that term is defined in Section 13-72a-101.
- 229 (b) "Supplier" means the same as that term is defined in Section 13-11-3.

- 230 (2) It is an affirmative defense to liability in an action brought under Subsection 58-1-501(1)
231 or Subsection 58-1-501(2) if the supplier demonstrates that the supplier:
- 232 (a) created, maintained, and implemented a policy that meets the requirements of
233 Subsection (3);
- 234 (b) maintains documentation regarding the development and implementation of the
235 mental health chatbot that describes:
- 236 (i) foundation models used in development;
237 (ii) training data used;
238 (iii) compliance with federal health privacy regulations;
239 (iv) user data collection and sharing practices; and
240 (v) ongoing efforts to ensure accuracy, reliability, fairness, and safety;
- 241 (c) filed the policy with the division as described in Subsection (4); and
242 (d) complied with all requirements of the filed policy at the time of the alleged violation.
- 243 (3) A policy described in Subsection (2)(a) must:
- 244 (a) be in writing;
- 245 (b) clearly state:
- 246 (i) the intended purposes of the mental health chatbot; and
247 (ii) the abilities and limitations of the mental health chatbot; and
- 248 (c) describe the procedures by which the supplier:
- 249 (i) ensures that licensed mental health therapists are involved in the development and
250 review process;
- 251 (ii) ensures the mental health chatbot is developed and monitored in a manner
252 consistent with clinical best practices;
- 253 (iii) conducts testing, prior to making the mental health chatbot publicly available and
254 regularly thereafter, to ensure that the output of the mental health chatbot poses no
255 greater risk to a user than that posed to an individual in therapy with a licensed
256 mental health therapist;
- 257 (iv) identifies reasonably foreseeable adverse outcomes to, and potentially harmful
258 interactions with, users that could result from using the mental health chatbot;
- 259 (v) provides a mechanism for a user to report any potentially harmful interactions
260 from use of the mental health chatbot;
- 261 (vi) implements protocols to assess and respond to risk of harm to users or other
262 individuals;
- 263 (vii) details actions taken to prevent or mitigate any such adverse outcomes or

- 264 potentially harmful interactions;
- 265 (viii) implements protocols to respond in real time to acute risk of physical harm;
- 266 (ix) reasonably ensures regular, objective reviews of safety, accuracy, and efficacy,
- 267 which may include internal or external audits;
- 268 (x) provides users any necessary instructions on the safe use of the mental health
- 269 chatbot;
- 270 (xi) ensures users understand they are interacting with artificial intelligence;
- 271 (xii) ensures users understand the intended purpose, capabilities, and limitations of
- 272 the mental health chatbot;
- 273 (xiii) prioritizes user mental health and safety over engagement metrics or profit;
- 274 (xiv) implements measures to prevent discriminatory treatment of users; and
- 275 (xv) ensures compliance with the security and privacy provisions of 45 C.F.R. Part
- 276 160 and 45 C.F.R. Part 164, Subparts A, C, and E, as if the supplier were a
- 277 covered entity, and applicable consumer protection requirements, including
- 278 Sections 13-72a-201, 13-72a-202, and 13-72a-203.
- 279 (4) To file a policy with the division under this section, a supplier of a mental health
- 280 chatbot:
- 281 (a) shall provide to the division:
- 282 (i) the name and address of the supplier;
- 283 (ii) the name of the mental health chatbot supplied by the supplier;
- 284 (iii) the written policy described in Subsection (3); and
- 285 (iv) a fee set in accordance with Section 63J-1-504;
- 286 (b) shall file in a manner established by the division; and
- 287 (c) may provide to the division:
- 288 (i) any revisions to a policy filed under this section; or
- 289 (ii) any other documentation the supplier elects to provide.
- 290 (5) The division:
- 291 (a) shall provide a means for a supplier of a mental health chatbot to file under this
- 292 section; and
- 293 (b) may impose an annual filing fee set in accordance with Section 63J-1-504.
- 294 (6) The affirmative defense described in this section applies only in an administrative or
- 295 civil action alleging a violation of:
- 296 (a) Subsection 58-1-501(1); or
- 297 (b) Subsection 58-1-501(2).

298 (7) Nothing in this section shall be construed to:
299 (a) bar the division from bringing an action under Subsection 58-1-501(1) or Subsection
300 58-1-501(2) against the supplier of a mental health chatbot; or
301 (b) recognize a mental health chatbot as a licensed mental health therapist.
302 Section 9. **Effective Date.**
303 This bill takes effect on May 7, 2025.