Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 995 (Delegate Woods, *et al.*)

Health

Health Occupations - Behavioral Health Care Providers - Use of Artificial Intelligence

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This bill prohibits a behavioral health care provider from using artificial intelligence (AI) to provide behavioral health care to a patient, including for (1) assessment, diagnosis, treatment, or counseling; (2) development of a treatment plan; (3) case management; or (4) "therapeutic communications." A behavioral health care provider may use a system that employs AI to assist in "administrative support tasks" if the provider takes specified actions for the security of health data and patient confidentiality. A provider that uses a system that employs AI for administrative support tasks must (1) independently review the accuracy of any data, report, or information that the AI compiles, summarizes, analyzes, or generates and (2) if the system that employs AI could materially affect patient-facing services or clinical decision-making, obtain written informed consent from each patient. A violation of the bill is subject to disciplinary action by the appropriate health occupations board. The bill does not prohibit a provider from disseminating self-help or educational materials that do not claim to provide behavioral health care.

Fiscal Summary

State Effect: The Maryland Department of Health can monitor compliance using existing budgeted resources. To the extent health occupations boards assess civil penalties as disciplinary action for a violation of the bill, special fund revenues are not anticipated to be materially affected.

Local Effect: None.

Small Business Effect: Potential minimal.

<center>**Analysis**</center>

Bill Summary: "Administrative support tasks" include scheduling appointments; managing patient records and billing records; billing patients or insurers; analyzing data for operational purposes; and organizing, tracking, and managing files or notes related to a patient's session.

"Therapeutic communication" means any verbal or written interaction between a behavioral health care provider and patient that is intended to diagnose, treat, or address a patient's emotional or behavioral health. It includes (1) direct interactions with clients for the purpose of understanding their thoughts, emotions, or experiences; (2) the provision of 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) collaboration 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.

If using a system that employs AI for administrative support tasks, the provider must:

- ensure compliance with all State and federal laws regarding patient confidentiality and the security of health records, health-related information, and other related data;
- sign an agreement with the system owner to ensure that (1) protected health information will be kept confidential and (2) information accessed through the use of AI will not be used to train any AI; and
- provide written and verbal notice to each patient (1) that the provider uses a system that employs AI for administrative support tasks and (2) of the potential risks associated with AI use, including breach of confidentiality.

Current Law: "Artificial intelligence" means a machine-based system that (1) can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments; (2) uses machine and human-based inputs to perceive real and virtual environments and abstracts those perceptions into models through analysis in an automated manner; and (3) uses model inference to formulate options for information or action.

"Behavioral health care" includes prevention, screening, early intervention, treatment recovery, support, wraparound, and rehabilitation services, for individuals with substance related disorders, addictive disorders, mental disorders, or a combination of these disorders.

Generally, a health occupations board may place a licensee or certificate holder on probation, reprimand any licensee or certificate holder, or suspend or revoke a license or certificate for certain violations. Some boards may also impose civil penalties.

For more information on AI in the State, including for use in healthcare, see **Appendix – Artificial Intelligence**.

Small Business Effect: A behavioral health care provider must follow the AI guidelines under the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Information Technology; Maryland Department of Health; Department of Legislative Services

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Appendix – Artificial Intelligence

Artificial Intelligence – Generally

Artificial intelligence (AI) is a broad field of computer science that deals with the creation of "intelligent" systems that can reason, learn, and act autonomously. There are many different branches of AI, each with its own focus and set of techniques, such as machine learning, neural networks, robotics, expert systems, fuzzy logic, and natural language processing. AI research has been successful in developing algorithms for solving a wide range of problems, from game playing to conversation simulation.

AI use has expanded significantly in recent years. Many of the largest technology companies have each developed their own AI systems and have integrated the systems into their respective companies' products and services. AI's ability to quickly synthesize and summarize vast amounts of data and apply the results have made it a useful tool in modern society while also raising questions about its use. The following list briefly describes a few of the impacts of and issues surrounding AI.

- Related to education, AI may have potential benefits to help tutor or otherwise provide additional resources to assist students in their studies. However, some students use AI to cheat on their schoolwork;
- Related to energy use, the significant power draw necessary to run the data systems that host AI systems has contributed to localized energy shortages and increased energy costs;
- Regarding environmental issues, these data centers require a significant amount of water for cooling and increasingly have been using freshwater resources for this purpose;
- Related to criminal justice, AI image and video generation systems can be used to make "deep fake" pictures and videos that may be difficult or impossible to differentiate from actual events;
- AI's reliance on information from the internet has raised concerns regarding the accuracy of AI-generated content as well as copyright infringement and data privacy.
- Related to health, AI is being used to assist doctors in developing medical diagnoses, but is also being used by insurance companies to screen requests for care and claims;
- Related to labor and employment, the expansion of AI has led to concerns about employees being replaced by AI systems as a means to save money on labor costs.

Governance at the State Level

The State defines AI as a machine-based system that (1) can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments; (2) uses machine and human-based inputs to perceive real and virtual environments and abstracts those perceptions into models through analysis in an automated manner; and (3) uses model inference to formulate options for information or action. At the State level, AI is governed primarily by the Department of Information Technology (DoIT) and the Governor's AI Subcabinet. This governance structure was established by Chapter 496 of 2024 and, broadly speaking:

- requires DoIT to adopt policies and procedures, in consultation with the Governor's AI Subcabinet, concerning the development, procurement, deployment, use, and ongoing assessment of systems that employ high-risk AI by a unit of State government;
- prohibits units of State government from procuring or deploying a new system that employs AI unless the system complies with the policies and procedures adopted by DoIT;
- requires each unit of State government to conduct a data inventory to identify data that meets criteria established by the Chief Data Officer and that is (1) necessary for the operations of the unit or otherwise required to be collected as a condition to receive federal funds or by federal or State law and (2) in a form prescribed by the Chief Data Officer, including when the data is used in AI; and
- requires each unit of State government to conduct an inventory of systems that employ high-risk AI.

Most recently, DoIT and the subcabinet have released the 2025 Maryland AI Enablement Strategy & AI Study Roadmap, which includes plans for studying opportunities, risks, and next steps associated with the use of AI in State services. Additionally, in November 2025, the Governor's Office announced a State partnership with two AI companies to integrate certain AI systems into a portion of the State's workforce.

Other Recent State Laws and Policies

In addition to the direct governance effectuated by Chapter 496, various other laws and policies address some of the issues posed by AI.

Chapter 105 of 2025 established the Workgroup on AI Implementation to monitor issues and make recommendations related to AI, including (1) the regulation of AI used in decisions that significantly impact the livelihood and life opportunities of individuals in the State; (2) deployer and developer obligations related to labor and employment and

protection of individual privacy rights; (3) protection of consumer rights; (4) current private sector use of AI; (5) general AI disclosures for all consumers; (6) enforcement authority for the Office of the Attorney General's Consumer Protection Division; and (7) the impact of the use of AI in the determination of government benefits. The first report from the workgroup is due July 1, 2026.

Chapter 747 of 2025 requires a carrier (*i.e.*, insurance company or another organization that provides health benefit plans), pharmacy benefits manager, or a private review agent that uses AI, algorithms, or other software tools for utilization review (including working through an entity that uses such tools) to ensure that such tools are used in a specified manner. Notably, the Act specifies that an AI, algorithm, or other software tool may not deny, delay, or modify health care services and that carriers must submit in their quarterly appeals and grievance reports whether an AI, algorithm, or other software tool was used in making an adverse decision.

Chapter 17 of the 2025 special session established an AI Evidence Clinic Pilot Program in the Administrative Office of the Courts to provide expertise in AI to the circuit courts and the District Court in the form of expert testimony on the authenticity of electronic evidence that a court determines may have been created or altered using AI.

Regarding education, the Maryland State Department of Education has begun an AI initiative to develop policies and procedures for AI use by students and teachers. Additionally, Chapter 237 of 2025 specifies that, for school years 2025-2026 through 2027-2028, certain requirements for the procurement and use of digital tools to assure equivalent access to technology for students with disabilities do not apply to digital tools that use AI.

Federal Action

The National Artificial Intelligence Initiative Act of 2020 became law on January 1, 2021. The aim of the Act is to promote U.S. leadership in AI research and development with the goal of accelerating the nation's economic prosperity and national security through the development and use of trustworthy AI in the public and private sectors and preparation of the workforce for the inevitable integration of AI systems. This multi-agency initiative has included work by the U.S. Department of Energy, in consultation with the National Institute of Standards and Technology, to develop the AI Risk Management Playbook as a reference guide to support responsible and trustworthy AI use and development. Though not a binding document, the playbook addresses common AI risks and steps that AI leaders, practitioners, and procurement teams can take to manage data privacy and bias risks.

Other Executive Orders guiding and governing AI use of the federal level signed during the previous administration were revoked under the current administration. Moreover, an

Executive Order signed in December 2025 generally expresses the federal government's attempt to preempt State AI laws and regulations, directs certain federal agencies to penalize states that are found to not be in compliance with the preemption, and directs certain federal entities to prepare a legislative recommendation establishing a uniform federal policy framework for AI that preempts state AI laws.