



February 25, 2025

The Honorable Pamela Beidle
Senator, Senate District 32
Chair, Maryland Senate Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

RE: ATA Action Comments on [SB 936](#)

Dear Chair Beidle, Chair and members of the Maryland Senate Finance Committee,

On behalf of the ATA Action, I am writing to offer feedback on SB 936, the High-Risk Artificial Intelligence Developer Act. ATA Action appreciates the work that stakeholders have done thus far on this bill and write specifically with comments on the bill's provision regarding use of AI in delivering or administering healthcare services.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

As artificial intelligence (AI) has continued to become more refined, healthcare entities have begun to utilize this technology in many aspects of care delivery due to its potential to improve quality and service capacity at every state of the care journey. AI-powered technologies are being deployed to analyze data quickly and accurately to assist providers in making better informed decisions and identifying diseases earlier. AI is also helping healthcare entities streamline administrative tasks-- such as improving patient scheduling or medication refill requests--which frees up more time for patient care. Accordingly, legislators and regulators have begun to consider the proper guardrails for the use of AI in healthcare, allowing for increased innovation and efficiency while ensuring patient care is not compromised. With this in mind, last year the ATA adopted [AI Principles](#) to help guide policies that enhance patient and provider trust, safety, and efficacy of AI adoption as a tool in healthcare, including in telehealth.

Section 14-47A-02(3) of SB 936 makes clear that the bill's provisions do not apply to HIPAA covered entities providing (I) providing healthcare recommendations through AI that require a provider to implement those recommendations and (II) using AI powered services for administrative, financial, quality measurement, security, or performance improvement functions. ATA Action appreciates and supports this exemption. Indeed, health care entities—and the technology partners and vendors they work with—already must follow a number of complex federal and state frameworks that address the intent of SB 936. This exemption avoids HIPAA covered entities from being subject to additional, duplicative, and potentially inconsistent regulation, which creates unnecessary and inappropriate burdens and cost. Further, many of the bill's provisions could be difficult to operationalize in healthcare settings, where AI powered tools are often embedded into clinical workflows.

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While we support the exemption, ATA Action believes it must also include those non-HIPAA covered entities providing or supporting healthcare services, such as Maryland licensed healthcare providers that do not take insurance and the third-party services providers perform functions on their behalf. As currently drafted, the bill will subject Maryland healthcare providers and entities to two different standards without justification. In some cases, the same health care provider could be subject to two different statutory regimes based on the patients' forms of payment for services received. Moreover, low cost telehealth providers that are not HIPAA covered likely will be subject to additional administrative hurdles just to obtain or use AI-powered software, making these innovation solutions more expensive (at a minimum) and potentially unavailable. To resolve this issue, we recommend adding the following amendment to Section 14-471-02(3):

The provisions of this chapter shall not apply to a developer, integrator, distributor, deployer, or other person that ~~is a covered entity within the meaning of the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et seq.) and the regulations promulgated under such federal act, as both may be amended from time to time,~~ and is providing (i) health care recommendations that (a) are generated by an artificial intelligence system and (b) require a health care provider to take action to implement the recommendations or (ii) services to or for a healthcare entity using an artificial intelligence system for an administrative, financial, quality measurement, security, or performance improvement function.

ATA Action hopes you will favorably consider and adopt these changes. Thank you for your support of telemedicine. We encourage you and your colleagues to consider amendments to SB 936 to ensure easy and efficient access to high-quality health care services in Maryland.

Please do not hesitate to let us know how we can be helpful to your efforts to advance common-sense telemedicine policy. If you have any questions or would like to discuss the telemedicine industry's perspective further, please contact me at kzebley@ataaction.org.

Kind regards,

Kyle Zebley
Executive Director
ATA Action