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February 23, 2026

To: The Honorable Heather Bagnall, Chair
Health Committee

From: Irnise F. Williams, Deputy Director, Health Education and Advocacy Unit

Re: House Bill 0995 - Health Occupations - Behavioral Health Care Providers - Use
of Artificial Intelligence – **SUPPORT IN CONCEPT**

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports HB995, in concept, which establishes critical guardrails for the use of artificial intelligence (AI) by behavioral healthcare providers. This legislation reflects an important step toward safeguarding patient care and ensuring transparency in an era of rapidly evolving technology. Behavioral healthcare services require a high degree of professional judgment and human interaction. AI lacks the ability to holistically consider a patient's complex personal history, cultural context, and varied symptoms and factors among other things. The use of unregulated AI in these areas poses significant risks to patient safety, confidentiality, and autonomy. The prohibitions in this bill are rooted in ensuring patient safety, clinical accountability, ethical responsibility and data privacy. Until AI tools undergo rigorous validation oversight, and liability frameworks, they should not be used in mental health clinical decision-making contexts.

Accordingly, this bill addresses those concerns by:

- Prohibiting AI from delivering behavioral healthcare services while allowing its use for certain administrative tasks (with independent outcome review);
- Protecting patient data by barring its use for AI development or training;
- Enhancing transparency and consent through verbal and written disclosures when AI is used administratively; and
- Reaffirming confidentiality standards under federal and state law.

These provisions are similar to actions taken in other states, including [Illinois](#), [Nevada](#), and [California](#), which have recognized the need to regulate AI in behavioral health to prevent harm and maintain trust in care delivery.

While we support the bill’s intent, we believe the following changes are warranted:

1. Change to the definition of “artificial intelligence.”

We prefer a broader definition like that contained in the Insurance Article. The bill’s definition does not adequately address two aspects of artificial intelligence. First, by referring only to “predictions, recommendations, or decisions,” and omitting any reference to content, the definition may not clearly encompass systems whose primary function is the generation of content or other original outputs. Although content generation can be described in technical terms as a form of prediction, that characterization is not readily apparent from the term’s ordinary meaning. Second, by restricting the objectives to those that are “human-defined,” the definition does not clearly encompass implicit objectives—goals not explicitly coded but learned from data or inferred from behavior.

These omissions risk creating regulatory gaps and may undermine the effectiveness of the legislation as applied to contemporary and future artificial intelligence models. As artificial intelligence systems generate content and increasingly operate with varying degrees of autonomy, the HEAU recommends the definition found in the Maryland Insurance Code:

“Artificial intelligence” means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. Md. Code Ann., Ins. § 15-10B-05.1.

This definition aligns with the definition used in many other state artificial intelligence regulations. *See, e.g.*, California’s CA Gov’t Code § 11546.45.5 (2024) and Colorado’s C.R.S. § 6-1-1701(2)). This definition also provides sufficient flexibility to accommodate both existing technology and future developments.

2. On page 3, strike lines 19-22 and replace with “Ensures that a written business associate agreement, compliant with 45 C.F.R. § 164.504(e), is in place with the AI system provider.” Though covered by lines 15-18, this language makes clear that privacy and security protections extend to the AI system.
3. On page 3, at the beginning of line 23 enter “Ensures that”
4. On page 4, lines 9-13, clarify the intention of this section. As drafted, it suggests that the provider can use AI in a way that “could materially affect clinical decision-making services or patient-facing services” with patient consent. We do not support that approach, and it is inconsistent with prohibition of using AI for clinical decision making.

Behavioral healthcare decisions are highly nuanced, involving ethics, patient context, and subjective judgment—areas where AI shows instability and bias. Studies have shown that AI can shift its recommendations based on external incentives, which is dangerous in behavioral health where trust and patient-centered care are critical. AI lacks consistent

moral reasoning, making it unsuitable for decisions that affect patient well-being and rights.

<https://dbmi.hms.harvard.edu/news/ai-making-medical-decisions-whom>

These changes will improve the bill's clarity and enforceability while preserving its core purpose: protecting patients from inappropriate AI use in behavioral healthcare.

Thank you for considering these concerns and proposed amendments in review of HB995.

cc: Delegate Jamila J. Woods
Delegate Julian Ivey
Delegate Aaron M. Kaufman
Delegate Cheryl E. Pasteur
Delegate Edith J. Patterson
Delegate Denise Roberts
Delegate Gary Simmons