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Telehealth Policy to Transform Healthcare

March 23, 2026

The Honorable Victoria Gu
Chair, Senate Committee on Artificial Intelligence & Emerging Technology
Rhode Island Senate
82 Smith Street
Providence, RI 02903

**RE: ATA ACTION COMMENTS ON S 2197**

Dear Chair Gu and member of the Senate Committee on Artificial Intelligence & Emerging Technology,

On behalf of ATA Action, I am writing to share our association's perspective on S 2197, the Oversight of Artificial Intelligence Technology in Mental Health Care Act. Our organization appreciates the General Assembly's focus on patient protection and the quality of mental health services, and we are broadly supportive of the intent of this legislation. However, we are concerned that, as written, this proposal could unintentionally prohibit physicians from providing therapy, cause confusion for providers due to overly broad definitions, restrict licensed clinicians from using beneficial AI tools consistent with their scope of practice, and fails to account for FDA-cleared products.

ATA Action is the affiliated policy and legislative advocacy arm of the American Telemedicine Association. ATA Action is the leading advocacy organization dedicated to advancing policy and accelerating the adoption of technology-enabled healthcare. Working collaboratively with federal and state legislators and policymakers, our organization drives industry momentum by influencing legislative and regulatory developments in telehealth, virtual care, remote patient monitoring, artificial intelligence in health, health data privacy, private sector healthcare investment, and more. We represent a diverse membership – including hospital systems, technology companies, professional associations, direct-to-consumer digital health providers, payers, pharmaceutical manufacturers, digital therapeutics developers, and remote monitoring organizations.

ATA Action has followed and engaged in the development of state policies regarding the use of AI in healthcare, including the recently enacted Illinois AI mental health framework (HB 1806)–which appears to have served as the inspiration for S 2197. Illinois enacted HB 1806 with significant flaws in place, over our opposition, including an unintentional ban on physicians delivering therapy, a failure to consider FDA-cleared products, overly broad definitions, and arbitrary restrictions that limit licensed clinicians from using AI tools consistent with their scope of practice and the standard of care. Unfortunately, S 2197 appears to have imported many of these issues, and we believe amendments are necessary if this bill is to be advanced.

**The Bill Unintentionally Prohibits Physicians from Providing Therapy**

The definition of "licensed professional" in § 40.1-5.5-2(5) explicitly excludes physicians. This exclusion creates a significant problem when read alongside § 40.1-5.5-3(b), which states that only licensed professionals may provide, advertise, or offer therapy or psychotherapy services. The combined effect is an unintentional prohibition on physicians providing therapy – a result that would upend established medical practice and create real confusion for patients and providers.

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Physicians regularly provide therapy and psychotherapy services within their scope of practice, and there is no policy rationale for excluding them here. We urge the Committee to strike the physician exclusion from the definition of "licensed professional." Our suggested revision is below:

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

**The Definition of "Therapeutic Communication" Is Overly Broad**

The definition of "therapeutic communication" in § 40.1-5.5-2(10) captures everyday, non-clinical speech that unlicensed persons, health coaches, and community health workers routinely use in communications with individuals about their mental or emotional health. Because significant restrictions in the bill attach to whether an interaction constitutes "therapeutic communication," an overly expansive definition will sweep in interactions and tools that pose no patient safety concern.

We believe the definition should be carefully tailored to capture what is truly clinical, therapeutic speech delivered by a licensed professional, rather than any interaction that "addresses" mental or emotional health concerns in some general sense. Our suggested revisions are below:

> (10) "Therapeutic communication" means any verbal, non-verbal, or written interaction conducted in a clinical or professional setting that is intended to diagnose~~, or~~ treat, ~~or address~~ an individual's mental, emotional, or behavioral health concerns. "Therapeutic communication" includes, but is not limited to:
>
> (i) Direct interactions with clients that constitute the delivery of therapy or psychotherapy services ~~for the purpose of understanding or reflecting their thoughts, emotions, or experiences;~~
>
> (ii) Providing independent clinical guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes;
>
> (iii) Offering emotional support, reassurance, or empathy in response to suicidal or self-harm ideation ~~psychological or emotional distress;~~
>
> (iv) Collaborating with clients to develop or modify therapeutic goals or treatment plans; and
>
> (v) Offering behavioral feedback that constitutes the delivery of therapy or psychotherapy services ~~intended to promote psychological growth or address mental health conditions.~~
>
> (vi) "Therapeutic communication" does not include general wellness education, instruction, or guidance that is intended to promote overall health and well-being rather than to diagnose or treat a specific mental, emotional, or behavioral health concern.

**The Definition of "Therapy or Psychotherapy Services" Should Be Narrowed**

Similarly, the definition of "therapy or psychotherapy services" in § 40.1-5.5-2(11) includes services that "improve" an individual's mental health or behavioral health – a standard so broad it could capture a wide range of resources, products, or services not currently provided by licensed professionals. The relevant mental health professional associations do not define therapy or psychotherapy so expansively. Given that

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the bill's significant requirements and prohibitions flow from this definition, we believe it should be narrowed as follows:

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

**Consent Requirements Should Apply to All AI Uses, Not Just Supplementary Support**

As currently drafted, § 40.1-5.5-3(a) limits the written informed consent requirement to situations where a licensed professional uses AI "to assist in providing supplementary support." ATA Action believes that all potential uses of AI in a therapeutic context should be subject to the same consent requirements, not just one category. We suggest striking the limiting phrase so the consent provision applies broadly:

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

**The Prohibition on AI-Assisted Oversight of Patient Wellbeing Will Harm Patients**

Section 40.1-5.5-3(c) contains blanket prohibitions for licensed professionals on using AI that we believe will have unintended consequences. ATA believes that licensed professionals should be able to use AI tools in their practice consistent with their license, the standard of care, and proper oversight. We recommend three changes.

First, we recommend adding "without direction or oversight from a licensed professional" to subsection (ii) to make clear that the prohibition on direct client interaction is targeted at autonomous AI interactions, not AI tools used under active clinical supervision. Second, we recommend changing "generate" to "determine" in subsection (iii), as "determine" more precisely captures the concern – that AI should not independently reach therapeutic conclusions – while preserving the ability of licensed professionals to use AI to assist in drafting treatment documentation that the professional then reviews and approves.

Finally, we recommend removing the prohibition on detecting emotions or mental states in subsection (iv). Removing the ability of a licensed professional to deploy tools that detect emotions or mental states will be a net loss for patients. Such tools are helpful at checking in with patients between sessions or gauging emotions over time. Further, many states are considering requiring chatbots to have this precise functionality. The language here could thus have the unintended effect of an AI system not being able to recognize suicidal ideation and then routing the patient to the appropriate emergency resources.

Our suggested revisions are below:

> (2) Directly interact with clients in any form of therapeutic communication without direction or oversight;
>
> (3) ~~Generate~~ Determine therapeutic recommendations or treatment plans; or

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(4) ~~Detect emotions or mental states.~~

**The Requirement to Anonymize Patient Data for Progress Tracking Is Counterproductive**

Section 40.1-5.5-2(9)(ii) limits AI-assisted analysis of client data to "anonymized" data for the purpose of tracking client progress or identifying trends. Tracking an individual patient's progress over time necessarily requires that the data be linked to that patient – anonymizing it removes the very information that makes patient-level progress tracking clinically meaningful. Existing privacy and confidentiality frameworks are more than adequate to protect patient data without this additional restriction. We suggest removing the word "anonymized":

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

**The Bill Fails to Account for FDA-Cleared Products**

As currently drafted, S 2197 does not distinguish between FDA-cleared AI products and unregulated consumer applications, treating all products the same. We believe this is potentially harmful to patient care and inconsistent with sound regulatory policy.

FDA-regulated digital therapeutics and AI tools are held to rigorous standards, including quality management systems, cybersecurity requirements, and mandatory adverse event reporting, ensuring both safety and efficacy. Our organization represents Digital Therapeutics – clinically validated, FDA-regulated Software as a Medical Device products that incorporate artificial intelligence and other technologies into treatments delivered to patients through phones, tablets, computers, and VR headsets. The FDA cleared its first prescription digital therapeutic in 2017 and has since approved more than 20 through this rigorous review process under both the Biden and Trump administrations.

These products undergo clinical validation, are subject to pre- and post-market oversight, and involve regulated healthcare practitioners as gatekeepers, protecting patients throughout the care process. In contrast, unregulated mobile health apps operate without these safeguards, rely only on general consumer protections, and may compromise patient data while making unproven health claims. Maintaining the distinction between regulated and unregulated products is essential to protect patients while allowing safe, evidence-based digital interventions to thrive. Indeed, given the existing federal oversight, Colorado's AI Act–the country's first comprehensive AI law–exempts high-risk AI systems already approved, authorized, or certified by the FDA.

We urge the Committee to add a new exemption to § 40.1-5.5-5(c) for FDA-cleared products. Our suggested language is below:

(4) Any artificial intelligence tool or system that has been reviewed and cleared for use by the Federal Food and Drug Administration, or another federal agency tasked with approving artificial intelligence and artificial intelligence algorithms for use in health care.

Thank you for the opportunity to comment. We urge the Committee to consider our feedback before advancing S 2197, with the goal of striking the best balance between patient safety, clinical innovation, and regulatory clarity. If you have any questions or would like to discuss the telehealth industry's perspective further, please contact me at hyoung@ataaction.org.

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Kind regards,

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