Board of Behavioral Sciences

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: SB 903 **VERSION:** AMENDED JULY 2, 2026

AUTHOR: PADILLA **SPONSOR:**
- CALIFORNIA PSYCHOLOGICAL ASSOCIATION (CPA)
- CALIFORNIA ASSOCIATION OF MARRIAGE AND FAMILY THERAPISTS (CAMFT)
- CALIFORNIA BEHAVIORAL HEALTH ASSOCIATION (CBHA)

CURRENT POSITION: SUPPORT IF AMENDED

SUBJECT: MENTAL HEALTH PROFESSIONALS: ARTIFICIAL INTELLIGENCE

Summary: This bill establishes laws for the use of artificial intelligence (AI) when delivering psychotherapy services.

- It only permits an individual, corporation or entity that provides or facilitates psychotherapy services to use AI in providing administrative support or supplementary support.
- It prohibits any psychotherapeutic communications, psychotherapy sessions, or triage screenings from being recorded or transcribed unless specific client consent requirements are met.
- It prohibits individuals, corporations, or entities from advertising or purporting to offer psychotherapy services via companion chatbots.
- It prohibits individuals, corporations, or entities providing psychotherapy from allowing AI to make therapeutic decisions, directly interact with clients in a psychotherapeutic communication, detect mental or emotional states, or generate therapeutic recommendations, assessments, diagnoses, or treatment plans, or perform triage or screening, without review and approval by a licensed professional.

Existing Law:

1) Prohibits health care providers and related entities from releasing medical information about a person's outpatient psychotherapy treatment unless the requester provides a detailed written request, gives notice to the client, and agrees to strict limits on use, retention, and destruction of the information. Additionally

outlines specific exceptions, including disclosure to law enforcement in specified situations. (Civil Code (CC) §56.104)

2) Prohibits the practice of marriage and family therapy, educational psychology, clinical social work, and professional clinical counseling in the state without a valid California license and forbids advertising as a licensee or using designated titles and letters without proper licensure. (BPC §§4980, 4989.50, 4996, 4999.30, 4999.82)

3) Provides that unlicensed practice in violation of any of the practice acts for professions within the Department of Consumer Affairs (DCA) is an infraction punishable by a fine. (Business and Professions Code (BPC) §146)

4) If a DCA board has probable cause that a person is advertising the provision of professional services without a license, the board is permitted to issue a citation containing an order of correction, requiring the person to cease the unlawful advertising and to disconnect the telephone number used in the advertisement. (BPC §149)

5) Authorizes the Executive Officer of the Board to issue citations containing orders of abatement and fines of up to $5,000 for unlicensed practice, which are separate from and in addition to any other civil or criminal remedies. (California Code of Regulation (CCR) Title 16, §§1886.10, 1886.40)

6) Defines "artificial intelligence" (AI) as 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. (Government Code (GC) §11546.45.5)

7) Defines "generative artificial intelligence" (GenAI) as an AI system that can generate derived synthetic content, such as text, images, video, and audio, that emulates the structure and characteristics of the system's training data. (GC §11549.64(b))

8) Provides certain prohibitions on the use of AI or GenAI in the health care professions regulated by the Department of Consumer Affairs (DCA) as follows (BPC §4999.9):

a) Makes violating requirements in law that prohibit the use of specific terms, letters or phrases to imply having a license or certificate to practice a health care profession without actually having one, a violation enforceable against a person or entity that develops or deploys an AI or GenAI system using those terms in its advertising or functionality.

b) Prohibits using any term, letter or phrase in advertising or functionality of an AI or GenAI system that implies the care, advice, reports, or assessments offered is by a natural licensed person.

c) Provides that each use of a prohibited term or letter is considered a separate violation.

d) Provides that violations are subject to the jurisdiction of the applicable licensing board, which may pursue an injunction, restraining order, or other remedies authorized by the law.

This Bill:

1) Establishes the "Wellness and Oversight for Psychological Resources Act," (Act), safeguarding individuals seeking therapy by ensuring those services are delivered by licensed professionals, and not unlicensed or unqualified providers such as AI systems. The Act recognizes that AI has the potential to expand clinical capacity if used in a safe, ethical, and legal manner. (BPC §§4989.80, 4989.81)

2) Defines a licensed professional as including this Board's license types: LMFTs, associate marriage and family therapists, marriage and family therapist trainees, LCSWs, associate clinical social workers, social work interns, LPCCs, associate professional clinical counselors, professional clinical counselor trainees, and LEPs. (BPC §4989.82(e))

3) Only permits an individual, corporation, or entity providing or facilitating psychotherapy services to use AI tools or systems to provide administrative support or supplementary support. Such use must comply with this act and with all other applicable laws. (BPC §4989.83(a))

4) Prohibits an individual, corporation, or entity from using AI to record or transcribe psychotherapeutic communications, sessions or triage screenings unless (BPC §4999.83(b)):

a) The client (or their legal representative) is informed verbally and in writing that AI will be used and its specific purpose; and

b) The client (or their legal representative) provides consent to the use of AI.

5) Provides that the client does not surrender any of their rights to care if they do not provide consent to AI being used to record or transcribe their psychotherapeutic communications, sessions, or triage screening. (BPC §4999.83(c))

6) Defines "consent" as a clear and explicit affirmative act by an individual that unambiguously communicates their express, informed, and voluntary agreement. It can be written or verbally, must be documented, and is revocable. It does not include acceptance of a general or broad terms of use agreement that contains descriptions of AI with other unrelated information, an individual hovering over or closing a given piece of digital content, or an agreement obtained through deceptive actions. (BPC 4989.82(d))

7) Prohibits an individual, corporation, or entity from, advertising, or purporting to offer psychotherapy services through companion chatbots. This includes claiming the companion chatbot is a therapist or that it provides therapy. (BPC §4989.84(a))

8) Prohibits an individual, corporation, or entity from allowing AI, when used in connection with providing psychotherapy or conducting triage or screening, to do any of the following without review and approval by a licensed professional: (BPC §4989.84(b)):

a) Make therapeutic decisions.

b) Directly interact with clients in any form of psychotherapeutic communication, unless the tool or system has been approved or cleared by the U.S. FDA for that use, and is compliant with HIPAA.

c) Generate therapeutic recommendations, assessment results, diagnoses, or treatment plans.

d) Detect emotions or mental states.

e) Perform triage or screening.

9) Provides that if a licensee is using AI in connection with psychotherapy services, triage, or screening, the licensee is responsible for ensuring that they and anyone they are supervising uses the AI in a clinically appropriate manner and in compliance with this Act. (BPC §4989.84(c))

10) Provides that if a licensee is using AI that is required or authorized by their employer or contracting entity, then that employer or entity is responsible for ensuring that the AI is deployed in compliance with this Act, and that the licensee is directed to use it in compliance with this Act. (BPC §4989.84(d))

11) Requires the use of AI in client records for psychotherapy services to comply with the Confidentiality of Medical Information Act. (BPC §4989.85)

12) Prohibits a company or entity from sharing, selling, storing or training their AI models on any data obtained from psychotherapy in a manner inconsistent with applicable law. (BPC §4989.85)

13) Makes violations of the Act subject to the jurisdiction of the appropriate licensing board or enforcement agency and authorizes licensing boards to pursue an injunction or restraining order to enforce the Act. (BPC §4989.86 (a) and (b))

14) Permits licensing boards to adopt rules and regulations to enforce the Act. (BPC §4989.86(d))

15) Exempts religious counseling, peer support, AI used only for training or simulations, and publicly available self-help materials and educational resources that do not purport to offer psychotherapy from the provisions of this chapter. (BPC §4949.87)

a) Religious counseling is defined as counseling provided by clergy, pastoral counselors, or other religious leaders acting within the scope of their religious duties if services are explicitly faith-based and not represented as clinical mental health services or psychotherapy. (BPC §4989.82(i))

b) Peer support is defined as services provided by individuals with lived experience of mental health conditions or substance abuse recovery, intended to offer encouragement, understanding, and guidance without clinical intervention. (BPC §4989.82)(f))

16) Defines numerous terms that are applicable to this bill and its implementation:

a) Defines "administrative support" as tasks to assist the licensee in the delivery of psychotherapy that do not involve psychotherapeutic communication, including managing appointment schedules and reminders, processing billing and insurance, and drafting general communications related to therapy logistics that do not include therapeutic advice. (BPC §4989.82(a))

b) Defines "supplementary support" as tasks that assist a licensee in delivering psychotherapy that does not involve psychotherapeutic communication, and that are not administrative support, including (BPC §4989.82(j)):

i) Preparing and maintaining client records, including psychotherapy and progress notes.

ii) Analyzing data to track client progress or identify trends, reviewed by a licensed professional.

iii) Identifying and organizing external resources or referrals for client use.

iv) Using AI tools that assist licensees with documentation, workflow management, or other functions that enhance clinical capacity, as long as the licensee maintains responsibility for all clinical decisions and communications.

c) Defines "psychotherapeutic communication" as any verbal, nonverbal, or written interaction conducted in a clinical or professional setting conducted to diagnose or treat a mental health or substance use disorder or concern. It includes (BPC §4989.82(g)):

- Direct interactions with clients to diagnose or treat a mental health or substance use disorder or concern.
- Providing guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes;
- Collaborating with clients to develop or modify therapeutic goals or treatment plans;

d) Specifies that a "psychotherapeutic communication" does not include general wellness education, instruction, or guidance intended to promote overall health and well-being rather than diagnosing or treating a specific mental, emotional, or behavioral health disorder or concern. (BPC §4989.82(g))

e) Defines "psychotherapy services" as services to diagnose or treat an individual's mental health or substance use disorder. (BPC §4989.82(h))

f) Defines "artificial intelligence" as an engineered or machine-based system that varies in its autonomy and that can infer from input how to generate outputs that can influence physical or virtual environments. (BPC §4989.82(b))

Comment:

1) **Author's Intent.** The purpose of this bill is to protect consumers seeking therapy from the increasing use of unregulated AI systems. In the fact sheet for the bill, the author states:

"AI has the possibility to help professional with tasks such as administrative or supplementary support, but the technology is not fit to take over the job of human therapists. A skilled therapist brings clinical judgement, training, a duty of care, and human instincts and emotion to treatment that AI is incapable of replicating. AI also does not carry the legal or ethical responsibilities of a licensed professional and cannot replace the interpersonal connection that comes with talking to a human therapist.

In high-risk professions such as mental health treatment it is imperative to ensure that AI technology is not being misused in a way that is potentially harmful to patients. We must act to ensure that commercial interests are not put above the needs and wellbeing of Californians."

2) **Previous California Legislation.** AB 489 (Chapter 615, Statutes of 2025) was signed into law by the Governor last year and became effective on January 1, 2026. It prohibits a person or entity who develops or deploys an artificial intelligence or generative artificial intelligence system from having that system represent or imply that it is a licensed health care provider by using prohibited terms, letters, or phrases. It makes violations subject to the jurisdiction of the applicable licensing board. At its May 2025 meeting, the Board had taken a "support" position on this bill.

3) **Legislation in Other States.** States have begun to develop laws regarding the use of AI in mental health therapy as well, including Illinois, Pennsylvania, Florida, and Nevada.

4) **Complaints to the Board.** The Enforcement Unit reports that within the past year, the Board has received a few complaints related to the use of AI in therapy, including:

- A complaint about a therapist's use of AI to write therapy notes where the complainant had opted not to consent to this use.
- A complaint about a therapist accidentally pasting a client's personal identifying information into AI.
- A complaint about a therapist using AI to guide client interactions during a session.

5) **Fiscal Impact.** Due to the increasing reliance on AI, the Board believes this bill could possibly increase licensee-related complaints by 5%, which would work out to 150 complaints per year. Based on the time involved in investigating a complaint, the Board is asking for one permanent half time Analyst II to assist with the increased workload.

However, this bill also contains language that would hold an employer or contracting entity responsible if they require or authorize their employees to utilize artificial intelligence in a manner non-compliant with the chapter. It is unclear who would have jurisdiction over employers or the resources needed for this type of enforcement in the case of non-license specific cases involving use of AI to conduct psychotherapy.

For example, the bill states that violations are subject to the jurisdiction of the "appropriate" licensing board. In instances where an AI chatbot or something similar provides restricted services without clearly identifying their practice as marriage and family therapy, clinical counseling, etc., it would be unclear whether the violation falls under the purview of the Medical Board, Psychology Board, BBS, or Board of Registered Nursing.

Therefore, for issues of employer violations or jurisdiction uncertainty, the Board anticipates an increase in workload but cannot fully estimate the increase in complaint volume or related enforcement costs due to the lack of clarity on jurisdiction of complaints and what the enforcement resources/costs may be.

6) **Board Position.** The Board took a "support if amended" position on this bill at its May 8, 2026 meeting. The bill has been significantly amended since then.

Feedback the Board provided to the author's office and sponsors in May was as follows:

a) **BPC §4989.82(d) - Use of Evidence Code §1010 to Define "Licensed Professional."** The bill uses Evidence Code §1010 to define who qualifies as a licensed professional for purposes of the Act. However, EC §1010 does not include the Board's licensed educational psychologist (LEP) license types, or social work interns. These professional categories should be included. *Status: This concern has been resolved.*

b) **BPC §4989.82(i) - Supplementary Support Definition**. Part of this definition states that supplementary support includes "Analyzing anonymized data to track client progress or identify trends, subject to review by a licensed professional." It would be clearer to require this to be reviewed by a licensed professional rather than be subject to review. Additionally, the author may wish to consider if all four tasks listed here should be required to be reviewed by the licensed professional, instead of just the one. *Status: The bill now requires the analyzing data task to be reviewed by a licensed professional. This is not required of the other three tasks listed, including the task for preparing psychotherapy and progress notes.*

c) **Definition of "Use of Artificial Intelligence" – Potential Confusion in Permitted Scope.** This bill includes "administrative support" and "supplementary support" within the "use of artificial intelligence" definition (§ 4989.82(k)) and prohibits "the use of artificial intelligence" in providing psychotherapy services unless conducted by a licensed professional in BPC §4989.84(b))

The statement in BPC 4989.84(b), by permitting the "use of artificial intelligence" only by a licensed person, indirectly permits a licensee to use AI for administrative and supplemental support. However, the bill never explicitly states this permission in the operative text; it is only stated indirectly through the definitions.

This structure may be too subtle, as it depends entirely on cross-referencing definitions. The contrast between permissible (administrative and supportive) and prohibited (psychotherapeutic) uses is not clearly stated and may be difficult for individuals to interpret without cross-reading multiple definitions.

For clarity, it may be helpful for the bill to explicitly state the permitted and non-permitted uses of AI for licensed professionals in one section, and then separately state the permitted and non-permitted uses of AI for a non-licensed individual, corporation, or entity in another section. *Status: The term "use of artificial intelligence" has been deleted, and staff believes that with the current amendments, the bill more clearly describes what is permitted and what is not permitted.*

d) **Consent Only Required for Recording or Transcribing?** BPC §4989.83(a) prohibits the use of AI to record or transcribe psychotherapeutic communications, psychotherapy sessions, or triage/screening unless the patient is informed about the use of AI and gives consent.

   This is the only place that the bill discusses consent. The bill does not clearly address whether consent is also required if a licensee is using AI for administrative or supplementary support, as this is not explicitly stated. It is possible that this is the intent, as subdivision (a) uses the term "use of artificial intelligence" which includes administrative and supplemental support. However, this is not easily discernible, and if the intent is to require consent for those uses, that should be stated clearly. *Status: Staff believes that with the current amendments, the bill makes clear that consent is intended to apply only to recording and transcribing.*

e) **Jurisdiction Ambiguity.** While the bill states that violations are subject to the jurisdiction of the "appropriate licensing board," this becomes unclear in situations where the violator is not holding themselves out as any particular type of licensed psychotherapist. The bill defines "licensed professional" by cross-reference to Evidence Code §1010, which encompasses multiple professions regulated by different boards, including the Medical Board of California, the Board of Behavioral Sciences, the Board of Psychology, and the Board of Registered Nursing.

   If a complaint involves an entity using AI to provide psychotherapy services without claiming to be, for example, an LMFT, psychologist, or physician, it is not evident which board would be responsible for investigating and enforcing the violation. For clarity and consistent enforcement, the bill may benefit from specifying how jurisdiction is determined when the violator's license type (or lack thereof) is not apparent. *Status: This concern has not been addressed.*

f) **BPC §4989.82(c) – Allowance of Verbal Consent.** The bill defines consent as being either verbal or in writing. The Board recommends requiring written consent rather than verbal consent to ensure clarity, accountability, and consumer protection. Written consent creates a clear record that the patient was informed about the use of artificial intelligence and agreed to its use, which helps prevent misunderstandings, disputes, or inconsistent documentation. It also provides an objective, verifiable record for enforcement purposes if concerns arise. *Status: This concern remains.*

In addition to the amendments requested above, the Board asks the author to consider the following two technical considerations, which are not essential amendments but may help improve clarity and implementation.

- **BPC §4989.82(g) - Religious Counseling Definition.** The bill defines "religious counseling" as 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 or psychotherapy services. This Act does not apply to anyone meeting this definition of religious counseling.

Separately, this year in AB 1598, the Board is pursuing a definition of faith-based counseling in order to better define when such counseling is exempt from the Board's practice acts. That proposed language is as follows:

> *"This chapter shall not apply to any priest, rabbi, imam, or minister of the gospel, or other religious official of any denomination when providing faith-based counseling services as part of their regular professional duties for an established and legally recognizable faith-based entity, such as a church, synagogue, mosque, or other recognized religious organization, provided that all of the following criteria are met.*
>
> *(1) The services are performed solely under the direct auspices of that faith-based entity.*
>
> *(2) A separate fee, beyond their customary compensation from that faith-based entity, is not charged or received.*
>
> *(3) They do not hold themselves out to the public by any title or description of services incorporating the words "psychosocial," "psychotherapy," or "marriage and family therapist," and shall not state or imply that they are licensed or registered to practice marriage and family therapy.*
>
> *(4) The services provided are limited to counseling services provided in a religious or spiritual context and do not involve the diagnosis or treatment of mental health disorders."*

Because this Act applies to numerous licensing boards and not just this Board, it may be reasonable for the definition to vary. However, for consistency the author may wish to consider whether the Board's definition would be applicable here. *Status: This concern remains.*

- **Skill-Building Applications.** The Board discussed that some digital tools, such as cognitive-behavioral therapy (CBT)–based skill-building applications, can provide helpful, therapy-adjacent support to clients when used alongside treatment provided by a licensed professional. These applications do not make independent therapeutic decisions, but instead offer guided exercises, coping strategies, or educational content intended to reinforce skills introduced in psychotherapy. The Board recommends that the author consider whether, and under what guardrails, such tools should be explicitly permitted within the bill. Allowing their use under the supervision of a licensed professional may support treatment continuity and improve client engagement, while still maintaining

appropriate protection against unregulated use of AI in psychotherapy. *Status: Staff does not believe this concern is addressed, unless these materials qualify as "self help materials and educational resources that are available to the public and do not purport to offer psychotherapy services," which are allowed. The Board should review the definitions of "psychotherapeutic communication" and "psychotherapy services" when determining whether it still has concerns.*

7) Comparison With AB 1979.

While this bill attempts to regulate the use of AI specifically in psychotherapy, another bill running this year, AB 1979 (Bonta), is a broader attempt to regulate the use of AI in health care settings. AB 1979 requires health facilities, clinics, or group practices to take reasonable steps to ensure licensed healthcare professionals acting in their scope of practice retain their ability to exercise independent professional judgement when their care of a patient is informed by the output of a clinical decision support system. It also bans the use of AI to direct, guide, supervise, or instruct unlicensed personnel in performing any clinical functions that require a professional license, or from allowing AI to independently perform clinical functions that by law require a license.

8) Support and Opposition.

Support:
California Association of Marriage and Family Therapists (Co-Sponsor)
California Behavioral Health Association (Co-Sponsor)
California Psychological Association (Co-Sponsor)
National Union of Healthcare Workers (NUHW) (Co-Sponsor)
Alliance for Children's Rights
California Association of School Counselors
California Association of School Psychologists
California Coalition for Behavioral Health
California Consortium of Addiction Programs and Professionals
California Federation of Labor Unions, Afl-cio
California Pan - Ethnic Health Network
California State PTA
County Behavioral Health Directors Association, (CBHDA)
Engineers and Scientists of California, Ifpte Local 20, Afl-cio
Mental Health America of California
Oakland Privacy
Osteopathic Medical Board of California
Power California Action
PowerCa Action
TechEquity Action
The California Association of Local Behavioral Health Boards and Commissions

Oppose Unless Amended:
Ata Action
Cal Chamber
California Chamber of Commerce
California Hospital Association
California Medical Association (CMA)
TechNet
Teladoc Health, INC.
TimelyCare

9) History.

07/02/26 Read second time and amended. Re-referred to Com. on APPR.
07/02/26 From committee: Do pass as amended and re-refer to Com. on APPR. (Ayes 14. Noes 1.) (July 1).
06/16/26 From committee: Do pass and re-refer to Com. on P. & C.P. (Ayes 17. Noes 0.) (June 16). Re-referred to Com. on P. & C.P.
06/16/26 Coauthors revised.
06/08/26 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B. & P.
05/26/26 Referred to Coms. on B. & P. and P. & C.P.
05/20/26 In Assembly. Read first time. Held at Desk.
05/19/26 Read third time. Passed. (Ayes 39. Noes 0.) Ordered to the Assembly.
05/14/26 Read second time. Ordered to third reading.
05/14/26 From committee: Do pass. (Ayes 7. Noes 0.) (May 14).
05/08/26 Set for hearing May 14.
05/04/26 May 4 hearing: Placed on APPR. suspense file.
04/24/26 Set for hearing May 4.
04/21/26 From committee: Do pass and re-refer to Com. on APPR. (Ayes 8. Noes 0. Page 3957.) (April 20). Re-referred to Com. on APPR.
04/13/26 From committee: Do pass and re-refer to Com. on P., D.T., & C.P. (Ayes 11. Noes 0. Page 3840.) (April 13). Re-referred to Com. on P., D.T., & C.P.
04/10/26 Set for hearing April 20 in P., D.T., & C.P. pending receipt.
04/08/26 Set for hearing April 13.
04/07/26 From committee with author's amendments. Read second time and amended. Re-referred to Com. on B. P. & E.D.
02/18/26 Referred to Coms. on B. P. & E.D. and P., D.T., & C.P.
01/22/26 From printer. May be acted upon on or after February 21.
01/21/26 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN ASSEMBLY JULY 2, 2026

AMENDED IN ASSEMBLY JUNE 8, 2026

AMENDED IN SENATE APRIL 7, 2026

SENATE BILL No. 903

Introduced by Senator Padilla
(Coauthor: Senator Rubio)
(Coauthors: Assembly Members Addis, Lowenthal, and Pellerin)

January 21, 2026

An act to add Chapter 13.6 (commencing with Section 4989.80) to Division 2 of the Business and Professions Code, relating to healing arts.

legislative counsel's digest

SB 903, as amended, Padilla. Mental health professionals: artificial intelligence.

Existing law establishes various healing arts boards within the Department of Consumer Affairs that license and regulate various healing arts licensees. Existing laws, including the Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act, make a violation of those acts a crime.

Existing law regulates the use of artificial intelligence, as defined. Existing law requires a health facility, clinic, physician's office, or office of a group practice that uses generative artificial intelligence to generate written or verbal patient communications pertaining to patient clinical information to ensure those communications include a disclaimer that indicates to the patient that a communication was generated by artificial intelligence and instructions describing how a patient may

contact a human health care provider, employee, or other appropriate person.

This bill would regulate the use of artificial intelligence ~~by licensed professionals~~ *in connection with* providing *or facilitating* psychotherapy services, as defined. The bill, among other things, would *authorize an individual, corporation, or entity that provides or facilitates psychotherapy services to use artificial intelligence tools or systems only to assist in providing administrative or supplementary support in psychotherapy services, as specified. The bill would* prohibit an individual, corporation, or entity from using artificial intelligence to record or transcribe psychotherapeutic communications or sessions or to triage or screen a person for the need for psychotherapy services unless the patient or client or their authorized representative is informed that artificial intelligence will be ~~used, informed of~~ *used and* the purpose of the artificial intelligence tool or system, and the patient or client or their authorized representative provides consent, as specified. The bill would prohibit an individual, corporation, or entity from advertising or otherwise purporting to offer psychotherapy services when the services are provided through the use of companion chatbots. The bill would prohibit ~~a licensed professional~~ *an individual, corporation, or entity* from allowing artificial intelligence to perform certain acts, including making ~~independent~~ therapeutic decisions or detecting emotions or mental ~~states.~~ *states, without review and approval by a licensed professional.* The bill would make a violation of the bill's provisions subject to the jurisdiction of the appropriate health care professional licensing board or enforcement agency, as specified, and would authorize those boards and enforcement entities to pursue any remedies authorized by law.

Existing law, the Confidentiality of Medical Information Act, generally restricts the persons and entities to whom, and the purposes for which, a health care provider, health care service plan, or contractor may release a patient's medical information. The Confidentiality of Medical Information Act additionally imposes certain disclosure requirements for the release of medical information that specifically relates to the patient's participation in outpatient treatment with a psychotherapist. In this regard, the act prohibits a health care provider, health care service plan, or contractor from releasing that information to persons or entities who have requested that information and who are otherwise authorized by specified laws to receive that information, unless the requester makes certain written disclosures to the patient and

to the provider of health care, health care service plan, or contractor, as specified. Those disclosures include, among other things, the specific intended uses of the information, and the length of time during which the information will be kept before being destroyed or disposed of, as specified. Existing law makes a violation of those provisions that result in economic loss or personal injury to a patient punishable as a misdemeanor.

This bill would require the use of artificial intelligence in patient or client records for psychotherapy services to comply with the confidentiality requirements of the above-described provision of the Confidentiality of Medical Information Act and would prohibit a company or entity from sharing, selling, storing, or training their models on any data obtained from psychotherapy in a manner inconsistent with any applicable law.

By expanding the scope of existing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 13.6 (commencing with Section 4989.80) is added to Division 2 of the Business and Professions Code, to read:

Chapter 13.6. Wellness and Oversight for Psychological Resources Act

4989.80. This chapter may be cited as the Wellness and Oversight for Psychological Resources Act.

4989.81. The purpose of this chapter is to safeguard individuals seeking psychotherapy services by ensuring these services are delivered by licensed professionals. This chapter 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 and recognizing that artificial intelligence technology has the potential to expand clinical capacity if used in a safe, ethical, and legal manner.

4989.82. For purposes of this chapter, the following definitions apply:

(a) "Administrative support" means tasks performed to assist a licensed professional in the delivery of psychotherapy services that do not involve psychotherapeutic communication. "Administrative support" includes, but is not limited to, all of the following:

(1) Managing appointment scheduling and reminders.

(2) Processing billing and insurance claims.

(3) Drafting general communications related to therapy logistics that do not include therapeutic advice.

(b) "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.

(c) "Companion chatbot" has the same meaning as in Section 22601.

~~(c)~~

(d) (1) "Consent" means a clear, explicit affirmative act by an individual that meets both of the following requirements:

(A) Unambiguously communicates the individual's express, informed, and voluntary agreement, either verbally or in writing, and documented in the record.

(B) Is revocable by the individual.

(2) "Consent" does not include an agreement that is obtained by any of the following:

(A) The acceptance of a general or broad terms of use agreement or a similar document that contains descriptions of artificial intelligence along with other information unrelated to the privacy of medical information.

(B) An individual hovering over, muting, pausing, or closing a given piece of digital content.

(C) An agreement obtained through the use of deceptive actions.

~~(d)~~

(e) "Licensed professional" means any of the following:

(1) A person authorized to practice medicine in this state who devotes, or is reasonably believed by the patient to devote, a substantial portion of their time to the practice of psychiatry.

(2) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900).

(3) A person licensed as a clinical social worker under Chapter 14 (commencing with Section 4991), when they are engaged in applied psychotherapy of a nonmedical nature.

(4) A person who is serving as a school psychologist and holds a credential authorizing that service issued by the state.

(5) A person licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980).

(6) A person registered as a registered psychological associate who is under the supervision of a licensed psychologist as required by Section 2913, or a person registered as an associate marriage and family therapist who is under the supervision of a licensed marriage and family therapist, *a licensed educational psychologist,* a licensed clinical social worker, a licensed professional clinical counselor, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in ~~Section 4980.44.~~ *subdivision (g) of Section 4980.03.*

(7) A person registered as an associate clinical social worker who is under supervision as specified in Section 4996.23.

(8) A psychological trainee, as defined in Section 2911, who is under the primary supervision of a licensed psychologist.

(9) A *marriage and family therapist* trainee, as defined in subdivision (c) of Section 4980.03, who is fulfilling their supervised practicum required by subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 or subdivision (c) of Section 4980.37 and is supervised by a licensed ~~psychologist, a board-certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.~~ *marriage and family therapist, a licensed educational psychologist, a licensed clinical social worker, a licensed professional clinical counselor, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in subdivision (g) of Section 4980.03.*

(10) A person licensed as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) who possesses a master's degree in psychiatric-mental health nursing and is listed as a

psychiatric-mental health nurse by the Board of Registered Nursing.

(11) An advanced practice registered nurse who is certified as a clinical nurse specialist pursuant to Article 9 (commencing with Section 2838) of Chapter 6 and who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.

(12) A person rendering mental health treatment or counseling services as authorized pursuant to Section 6924 of the Family Code.

(13) A person licensed as a professional clinical counselor under Chapter 16 (commencing with Section 4999.10).

(14) A person registered as an associate professional clinical counselor who is under the supervision of a licensed professional clinical counselor, a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, or a licensed physician and surgeon certified in psychiatry, as specified in ~~Sections 4999.42 to 4999.48, inclusive.~~ *subdivision (h) of Section 4999.12.*

(15) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12, who is fulfilling their supervised practicum required by paragraph (3) of subdivision (c) of Section 4999.32 or paragraph (3) of subdivision (c) of Section ~~4999.33 and is supervised by a licensed psychologist, a board-certified psychiatrist, a licensed clinical social worker, a licensed marriage and family therapist, or a licensed professional clinical counselor.~~ *4999.33.*

(16) A licensed educational psychologist.

(17) A social work intern.

(18) An advanced practice registered nurse who is certified as a nurse practitioner pursuant to Article 8 (commencing with Section 2834) of Chapter 6 and who holds a national certification by an organization accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification as a psychiatric-mental health nurse practitioner across the lifespan.

~~(e)~~

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

~~(f)~~

(g) (1) "Psychotherapeutic communication" means any verbal, nonverbal, or written interaction in a clinical or professional setting that is conducted for the purpose of diagnosing or treating a mental health or substance use disorder or concern. "Psychotherapeutic communication" includes, but is not limited to, any of the following:

(A) Direct interactions with patients or clients for the purpose of diagnosing or treating a mental health or substance use disorder or concern.

(B) Providing guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes.

(C) Collaborating with patients or clients to develop or modify therapeutic goals or treatment plans for a mental health or substance use disorder or concern.

(2) "Psychotherapeutic 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 disorder or concern.

~~(g)~~

(h) "Psychotherapy services" means services provided to ~~diagnose,~~ *diagnose* or treat an individual's mental health or substance use disorder. "Psychotherapy services" does not include religious counseling or peer support.

~~(h)~~

(i) "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 psychotherapy services.

~~(i)~~

(j) "Supplementary support" means tasks performed to assist a licensed professional in the delivery of psychotherapy services that do not involve psychotherapeutic communication and that are not administrative support. "Supplementary support" includes, but is not limited to, any of the following:

(1) Preparing and maintaining patient or client records, including psychotherapy and progress notes.

(2) Analyzing data to track patient or client progress or identify trends, reviewed by a licensed professional.

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

(4) Using artificial intelligence tools that assist licensed professionals with documentation, workflow management, or other functions that enhance clinical capacity, provided the licensed professional maintains responsibility for all clinical decisions and communications.

~~(j)~~

(k) "Triage or screening" means the assessment of an individual's health concerns and symptoms for the purpose of determining the urgency, clinical nature, or appropriate level of the individual's need for psychotherapy services.

~~(k) "Use of artificial intelligence" means the use of artificial intelligence tools or systems to assist in providing administrative support or supplementary support in psychotherapy services.~~

~~4989.83. (a) An~~

4989.83. (a) An individual, corporation, or entity that provides or facilitates psychotherapy services may use artificial intelligence tools or systems only to assist in providing administrative support or supplementary support in psychotherapy services, provided that those activities are carried out in a manner consistent with this chapter and any other applicable law.

(b) An individual, corporation, or entity shall not use artificial intelligence to record or transcribe psychotherapeutic communications, psychotherapy sessions, or triage or screening unless both of the following conditions are satisfied:

(1) The patient or client, or the patient's or client's legally authorized representative, is informed verbally or in writing of both of the following:

(A) That artificial intelligence will be used.

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

(2) The patient or client, or the patient's or client's legally authorized representative, provides consent to the use of artificial intelligence.

~~(b)~~

(c) A patient does not surrender any of their rights to care if the patient or their legally authorized representative does not provide

consent to artificial intelligence being used to record or transcribe psychotherapeutic communications, psychotherapy sessions, or triage or screening.

4989.84. (a) An individual, corporation, or entity shall not advertise or otherwise purport to offer psychotherapy services when the services are provided through the use of companion chatbots. This includes by claiming the companion chatbot is a therapist or provides therapy.

(b) When ~~providing~~ *used in connection with the provision of* psychotherapy services or conducting triage or screening, an individual, corporation, or entity ~~may use artificial intelligence only to the extent the use meets the requirements of this chapter and shall not allow artificial intelligence to do any of the following:~~ *shall not allow artificial intelligence to do any of the following without review and approval by a licensed professional:*

(1) Make ~~independent~~ therapeutic decisions.

(2) Directly interact with patients or clients in any form of psychotherapeutic communication, unless the tool or system is approved *or cleared* by the United States Food and Drug Administration for that use and is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(3) Generate therapeutic recommendations, assessment results, diagnoses, or treatment ~~plans without review and approval by the licensed professional.~~ *plans.*

(4) Detect emotions or mental states.

~~(5) Assess an individual's health concerns or symptoms for the purpose of determining the urgency, clinical nature, or appropriate level of the individual's need for psychotherapy services.~~

(5) Perform triage or screening.

(c) If a licensed professional uses artificial intelligence in connection with psychotherapy services or triage or ~~screening and the use has not been selected, provided, directed, or mandated by an employing or contracting entity,~~ *screening,* the licensed professional shall be responsible for ~~both of the following:~~ *ensuring the licensed professional and anyone under their supervision uses the artificial intelligence in a manner that is clinically appropriate and compliant with this chapter.*

~~(1) Ensuring the artificial intelligence is deployed in compliance with this chapter.~~

~~(2) Ensuring the artificial intelligence is used in a clinically appropriate manner.~~

(d) If a licensed professional uses artificial intelligence required or authorized by their employer or contracting entity, the ~~following shall apply:~~ *employer or contracting entity shall be responsible for both of the following:*

~~(1) The employer or contracting entity shall be responsible for both of the following:~~

~~(A)~~

(1) Ensuring the artificial intelligence is deployed in compliance with this chapter.

~~(B)~~

(2) Directing the licensed professional to use the artificial intelligence in compliance with this chapter.

~~(2) The licensed professional shall use artificial intelligence in a clinically appropriate manner.~~

4989.85. Use of artificial intelligence in patient or client records for psychotherapy services shall comply with the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code). A company or entity shall not share, sell, store, or train their models on any data obtained from psychotherapy in a manner inconsistent with any applicable law.

4989.86. (a) A violation of this chapter is subject to the jurisdiction of the appropriate health care professional licensing board or enforcement agency.

(b) The appropriate health care professional licensing board may pursue an injunction or restraining order to enforce the provisions of this chapter, as authorized by Section 125.5.

(c) This section does not limit the authority of a health care professional licensing board or enforcement agency to pursue any remedy otherwise authorized by law.

(d) The appropriate health care professional licensing boards may adopt rules and regulations necessary to implement this chapter.

4989.87. This chapter does not apply to any of the following:

(a) Religious counseling.

(b) Peer support.

(c) Self-help materials and educational resources that are available to the public and do not purport to offer psychotherapy services.

(d) Artificial intelligence used solely for training or simulation purposes.

(e) Research, as defined in Section 164.501 of Title 45 of the Code of Federal Regulations, conducted by an academic or nonprofit research institution that is conducted in accordance with applicable ethics, confidentiality, privacy, and security rules of Part 164 (commencing with Section 164.102) of Title 45 of the Code of Federal Regulations, the Federal Policy for the Protection of Human Subjects, also known as the Common Rule, good clinical practice guidelines issued by the International Council for ~~Harmonisation,~~ *Harmonisation of Technical Requirements for Pharmaceuticals for Human Use,* or human subject protection requirements of the United States Food and Drug Administration.

~~(f) Any artificial intelligence tool or system that has been reviewed and cleared, authorized, or approved for use by the United States Food and Drug Administration, or another federal agency tasked with approving artificial intelligence for use in health care, provided the tool or system is used consistent with its approved indication and applicable federal requirements.~~

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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