



# Artificial Intelligence (AI) State, Federal, and Judicial Landscape

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*Implications for State Medical Boards*

*This document is for informational purposes only, is not exhaustive and is not intended as an endorsement of any specific legislation and/or regulatory framework.*

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## EXECUTIVE SUMMARY

Artificial intelligence is increasingly impacting every aspect of health care, from clinical decision support and documentation to patient-facing chatbots, behavioral-health services, utilization management, and reimbursement. Federal agencies, Congress, state legislatures, and courts are responding with a rapidly evolving and disparate set of policies governing AI safety, transparency, accountability, innovation, and the relationship between AI systems and licensed professionals. For state medical boards, one of the central issues is ensuring that AI is used to enhance patient outcomes without sacrificing the quality that patients expect from their human clinicians, all while preserving medical boards' authority to regulate licensees and protect patients from harm.

## I. LEGISLATIVE LANDSCAPE

### Federal-Level

During the past two years, the Trump administration issued multiple Executive Orders (EOs), federal agencies issued rules and guidance, and Members of Congress introduced legislation. EOs relevant to state medical boards include:

- **EO 14179, “[Removing Barriers to American Leadership in AI](#)” (January 2025):** This order is primarily directed at federal agencies and federal AI policy. It revokes prior federal AI directives and instructs agencies to identify policies that may hinder AI innovation. For state medical boards, the order has no immediate legal effect on licensure, discipline, or board rulemaking authority. Its significance is mainly contextual: it reflects a federal preference for limiting regulatory barriers to AI, which may influence federal agency guidance or future debates over healthcare AI oversight.
- **EO 14365, “[Ensuring a National Policy Framework for AI](#)” (December 2025):** This Executive Order builds on EO 14179 by directing federal agencies to identify and respond to state AI laws that the administration views as burdensome or inconsistent with federal AI policy. For state medical boards, the practical impact remains indirect unless a board is operating under or enforcing a state AI law that becomes the subject of federal review, litigation, funding conditions, or future federal legislation. The order does not itself preempt state medical board authority, but it may affect the broader legal and policy environment in which state AI regulation develops.

Rules and guidance on AI issued by the Food and Drug Administration (FDA), Centers for Medicare and Medicaid (CMS), and Department of Health and Human Services (HHS) include:

- **FDA:** In January 2026, the FDA released final guidance titled “[Clinical Decision Support Software](#)”, clarifying which clinical decision software functions, including AI-enabled tools, are inside or outside FDA’s jurisdiction. The guidance distinguishes between “non-device” clinical decision support tools, which are more administrative in nature and do not require FDA oversight, and regulated device clinical decision support tools, which aid in clinical decision making and are subject to FDA oversight and premarket review. This guidance provides a framework that medical boards can adapt when considering how to regulate licensee use of AI.
- **CMS:** CMS’s [2026 Medicare Physician Fee Schedule final rule](#), issued in October 2025, expanded Medicare reimbursement for FDA-cleared or -authorized digital mental health treatment devices used to support clinician-supervised behavioral health treatment under a plan of care. State medical boards remain responsible for ensuring all licensees who bill for these services act within their scope, maintain clinical oversight, and exercise independent professional judgment. Nothing in the CMS guidance would modify applicable standards of care or regulatory authority of medical boards.
- **HHS:** The [HHS’ AI Strategy](#) document, released in September 2025, lists healthcare delivery as one of its five pillars of AI implementation. The Department aims to increase the use of AI to

improve population health and individual patient outcomes, but it clarifies that AI must serve “as a supportive tool that enhances human decision-making and efficiency without compromising the essential human touch in health care and human services delivery.”

In terms of legislation, child safety and chatbots, deepfakes, and preemption have emerged as main themes.

- **Child Safety and Chatbots:** This is one of the most active areas of federal legislating. Specifically, these proposals may require chatbots to make disclosures to users, and AI entities to restrict the use of their product by minors. Bills in this category, such as [H.R. 7757, the Kids Internet and Digital Safety \(KIDS\) Act](#), which passed the House of Representatives on June 29, also prohibit chatbots from falsely claiming to be a licensed professional when interacting with known minors.
- **Deepfakes:** Legislation such as [H.R. 8915/S. 4591](#), the Nurture Originals, Foster Art, and Keep Entertainment Safe (NO FAKES) Act of 2026, would create a federal intellectual property right to protect individuals, including healthcare professionals, from unauthorized digital replicas of their voice and visual likeness.
- **Preemption:** There are legislative proposals from both parties regarding preemption and responding to EO 14365, “[Ensuring a National Policy Framework for Artificial Intelligence](#)” (Dec. 11, 2025). For example, [The Republic Unifying Meritocratic Performance Advancing Machine Intelligence by Eliminating Regulatory Interstate Chaos Across American Industry \(TRUMP AI\) Act \(discussion draft\)](#), would codify key elements of the EO, while others, such as [H.R. 8031, Guaranteeing and Upholding Americans’ Right to Decide Responsible AI Laws and Standards \(GUARDRAILS\) Act](#), would render the EO ineffective and prohibit the use of federal funds for its implementation. While most legislative proposals in this area are still in development, it is a critical area to watch. Creating a national standard would impact medical boards in states that have already enacted laws related to AI.

## State-Level

During the 2025-2026 legislative session, a majority of states introduced legislation relating to the use of AI in healthcare, with most legislative proposals directly impacting the role and efficacy of the state medical board. While these bills can be disparate in nature, many share a mission of regulating AI use in healthcare to maintain the autonomy of the state medical board in both directing licensees on how to utilize the innovative technology, as well as protecting patients and the general public from harm.

Key themes that may impact medical regulation and the work of state medical boards include the following:

- **Clinical Use:** Various legislative initiatives limit the use of AI in the clinical setting, establishing guidelines for providers and requiring adherence to medical board standards. [TX SB 1188](#), for instance, authorizes health care practitioners to use AI for diagnostic purposes if they are acting in scope, disclose AI use to patients, and review all AI-created records per Texas Medical Board standards.
- **Chatbot Regulation:** AI chatbots may provide services that fall within the definition of the practice of medicine, and legislation in this area seeks to clarify and reinforce board authority to regulate unlicensed practice. Introduced bills such as [VT H 784](#) would bar chatbot outputs from implying they are provided or endorsed by a licensed professional. By contrast, bills such as [VA HB 669](#) explicitly prohibit chatbots from providing services that would constitute the unlawful practice of medicine.
- **Prior Authorization/Utilization Management:** By requiring state-licensed clinicians – not AI alone – to review or issue adverse determinations, bills such as [AR HB 1297](#) preserve the role of the state medical board in prior authorization and utilization management processes.

- **Regulatory Sandbox:** While allowing for controlled, time-limited testing of AI systems and initiatives under varying regulatory oversight, AI regulatory sandboxes, such as [UT SB 149](#) or [MA HD 6293](#), produce findings and public reports that give boards visibility into emerging clinical AI uses and inform regulatory approaches that could protect board authority, licensee accountability, and public health.
- **Transparency/Consent/Disclosure:** These bills, such as [HI SB 2281](#), require medical professionals to be open about their use of AI to patients. Boards may need to promulgate rules that explain when and how licensees must disclose their use of AI or request informed consent prior to AI use.
- **Liability:** Liability bills generally fall into one of two categories: (1) establish liability for AI deployers and operators whose AI systems impersonate licensed professionals, such as [NY S 7263](#), or (2) clarify that existing malpractice standards apply to providers who rely upon AI or use the technology negligently, such as [MO SB 1598](#).

**Potential Impacts:** State medical boards regulate the practice of medicine by holding licensees accountable for safe, ethical, competent, and professionally responsible patient care. When AI is used as a tool by a licensed clinician, boards can generally apply existing standards: the clinician remains responsible for appropriate use, review of outputs, documentation, patient communication, and the ultimate clinical decision. The more difficult regulatory questions arise when AI systems interact directly with patients or perform functions resembling diagnosis, treatment recommendations, triage, or prescribing support with limited clinician involvement. In those settings, boards may face uncertainty about who is accountable, whether existing medical practice acts clearly apply, and how to evaluate transparency, competence, bias, documentation, and patient reliance. State legislation has begun to address these issues through disclosure requirements, clinician-review obligations, limits on certain AI uses, and express disciplinary authority for improper use of AI in clinical care. A smaller but more consequential category of proposals would create new licensure or oversight pathways for AI-augmented or autonomous clinical service providers, potentially operating outside or in tension with traditional medical board authority. Idaho H 945, for example, proposed a Board of Autonomous Medical Practice and a licensure framework for AI medical service providers.

## II. JUDICIAL REVIEW

In addition to state and federal legislation, AI policy can also be viewed through the lens of litigation. The following themes have arisen thus far in court cases across the country:

- **Unauthorized Practice:** Most notably, in [Commonwealth of Pennsylvania v. Character Technologies, Inc.](#) (Pa. Commw. Ct.), the Pennsylvania State Board of Medicine alleges that a Character.AI chatbot calling itself a psychiatrist claimed to be licensed in Pennsylvania and supplied a purported but invalid Pennsylvania license number. The Commonwealth seeks a preliminary injunction requiring Character Technologies to stop the alleged unauthorized practice of medicine.
- **Transparency/Consent/Disclosure:** As in legislation, transparency and consent are key themes across the AI-related court case landscape. [Saucedo v. Sharp HealthCare](#) (Cal. Super. Ct.) is a pending case alleging that a health system used an ambient AI documentation application to record a clinical encounter without the patient's knowledge or consent, raising questions about notice, consent, and liability.
- **Chatbots:** These cases, such as [Garcia v. Character Technologies](#) (M.D. Fla.), involve allegations that AI chatbot interactions contributed to mental health deterioration and self-harm among vulnerable users. This case underscores the need for appropriate physician oversight and accountability when chatbots or other AI tools are used in ways that affect patient care.

- **Hallucinations:** There are hundreds of hallucination-related lawsuits and courts have sanctioned attorneys for submitting unverified, AI-generated fictitious citations including [Wadsworth v. Walmart Inc.](#) (D. Wyo.) and [Mid Central Operating Engineers Health & Welfare Fund v. HoosierVac LLC](#) (S.D. Ind.). Similar hallucination risks can arise in health care when AI tools generate plausible but inaccurate clinical information. For example, recent [reports](#) have identified AI scribe errors that added a false statement that a patient micro-dosed psychedelic mushrooms, recorded the wrong breast in a breast-cancer diagnosis, and incorrectly stated that a patient had epilepsy. These cases further reinforce that generative AI cannot be a substitute for professional judgment, independent verification, or accountability, and demonstrate the need for robust guardrails and supervision requirements when AI is used in clinical settings.

While the outcomes of many of these court cases have not been settled, it is certainly an area to monitor. As judicial determinations begin to proceed, medical boards will have a better idea as to their role, as well as impacts on their purview and regulatory power in this space.

### III. FSMB POLICIES AND ARTICLES

- Chaudhry, Humayun, and Christy Valentine Theard. "We Lead the Federation of State Medical Boards. Here's What We Think About Licensing AI to Practice Medicine." *STAT*, 3 Aug. 2026, [statnews.com/2026/08/03/ai-doctors-licensing-state-medical-boards](https://statnews.com/2026/08/03/ai-doctors-licensing-state-medical-boards).
- Federation of State Medical Boards. *Navigating the Responsible and Ethical Incorporation of Artificial Intelligence into Clinical Practice*. 2024, [fsmb.org/.../incorporation-of-ai-into-practice.pdf](https://fsmb.org/.../incorporation-of-ai-into-practice.pdf).
- Meyers, Frank B. "Navigating AI in Clinical Practice." *Journal of the National Medical Association*, National Medical Association, 2026, doi:10.1016/j.jnma.2026.06.008. [pubmed.ncbi.nlm.nih.gov/42493279](https://pubmed.ncbi.nlm.nih.gov/42493279).

### IV. RESOURCES

- Coalition for Health AI. *Regulatory Sandbox Playbook*. 25 Aug. 2026, [CHAI Regulatory Sandbox Playbook \(PDF\)](#).
- Federation of State Medical Boards. *Artificial Intelligence Legislation GovHawk Report*. GovHawk, [track.govhawk.com/reports3/Vly2mPpWqO8Q](https://track.govhawk.com/reports3/Vly2mPpWqO8Q).
- Federation of State Medical Boards. *Active and Proposed Healthcare AI Sandboxes State and Federal Overview*. [fsmb.org/.../ai-sandbox-legislation-state-and-federal-key-issue-chart.pdf](https://fsmb.org/.../ai-sandbox-legislation-state-and-federal-key-issue-chart.pdf).
- National Conference of State Legislatures. "Artificial Intelligence & Health Care: A Primer." *National Conference of State Legislatures*, 20 Aug. 2024, [ncsl.org/health/artificial-intelligence-health-care-a-primer](https://ncsl.org/health/artificial-intelligence-health-care-a-primer).
- Seigel, Randi, et al. "Manatt Health: Health AI Policy Tracker." *Manatt, Phelps & Phillips, LLP*, 9 Apr. 2026, [manatt.com/.../manatt-health-health-ai-policy-tracker](https://manatt.com/.../manatt-health-health-ai-policy-tracker).
- "The State of AI Regulation in Healthcare: Still Complicated." *Mondaq*, 2026, [mondaq.com/.../the-state-of-ai-regulation-in-healthcare-still-complicated](https://mondaq.com/.../the-state-of-ai-regulation-in-healthcare-still-complicated).