ata ACTION
Telehealth Policy to Transform Healthcare

January 13, 2026

The Honorable Howard Pearl
Chair, Senate Executive Departments and Administration Committee
The General Court of New Hampshire
State House, Room 105-A
107 North Main Street
Concord, NH 03301

The Honorable Tim McGough
Vice Chair, Senate Executive Departments and Administration Committee
The General Court of New Hampshire
State House, Room 105-A
107 North Main Street
Concord, NH 03301

RE: ATA ACTION COMMENTS ON SB 640

Dear Chair Pearl, Vice Chair McGough and members of the Senate Executive Departments and Administration Committee,

On behalf of ATA Action, I am writing to share our association's perspective on Senate Bill 640 regarding the use of artificial intelligence to provide services requiring a professional license. Our organization appreciates the General Court'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 cause confusion for providers due to the presence of unnecessary definitions and a failure to consider FDA cleared products.

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.

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 SB 640. Illinois enacted HB 1806 with significant flaws in place, over our opposition, which included an unintentional ban on physician's delivering therapy, 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. Our organization is excited to see that SB 640 does not import many of these issues, although we believe some amendments are necessary prior to this bill being advanced.

First and foremost, our organization is supportive of the title protections present in Section 1 of the bill. ATA Action believes that licensed providers should always remain at the center of delivering patient care and must be empowered to use their expertise, education and specialty knowledge to tailor care to their patients' needs. Relatedly, we strongly support how this legislation permits providers to use AI tools, like any other clinical tool, where appropriate to assist in services consistent with the practitioner's scope of practice.

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Second, our organization believes that, for the sake of clarity, many of the definitions present in SB 640 should be deleted. For example, SB 640 includes definitions of "administrative support," "supplementary support," and "therapeutic communication" which do not appear in the body of the legislation. Inclusion of these unnecessary and unused definitions needlessly opens the door to confusion for regulators and providers. We believe these, and any other unused definitions, should be struck from the bill.

Finally, as currently drafted, SB 640 does not consider Food and Drug Administration (FDA)-cleared products, treating all products the same, which we believe is potentially harmful to patient care. 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, which are clinically validated and 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.

To address this issue, we suggest adding the following language to the IV sections throughout the bill.

This section shall not apply to:

> *(d) 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 above before advancing SB 640 to strike the best balance between patient safety, innovation and clarity. If you have any questions or would like to discuss the telehealth industry's perspective further, please contact me at hyoung@ataaction.org.

Kind regards,

Hunter Young

Hunter Young
Head of State Government Relations
ATA Action