



April 9, 2026

The Honorable Aisha Wahab
Chair, Senate Business, Professions and Economic Development Committee
California State Legislature
1021 O Street, Suite 3320
Sacramento, CA 95814

RE: ATA ACTION CONCERNS REGARDING SB 903

Dear Chair Wahab and members of the Business, Professions and Economic Development Committee,

On behalf of ATA Action, I am writing to share our association’s perspective on Senate Bill 903, which would regulate the use of artificial intelligence in psychotherapy services. Our organization appreciates the Legislature’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, the bill could unintentionally restrict licensed clinicians from using beneficial AI tools consistent with their scope of practice, cause confusion for providers and patients due to overly broad definitions, and fails to account for FDA-cleared products or to require informed patient consent.

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. 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 mental health care, including the recently enacted Illinois and Nevada AI mental health frameworks – which appear to have served as the inspiration for SB 903. Both states enacted their laws with significant flaws in place, over our opposition, including failures to consider FDA-cleared products, overly broad definitions, and restrictions that limit licensed clinicians from using AI tools consistent with their scope of practice and the standard of care. Unfortunately, SB 903 appears to have imported many of these issues, and we believe significant amendments are necessary if this bill is to be advanced.

Clinicians Should Be Allowed to Use AI Consistent With Their Scope of Practice

Section 4989.82.(k) defines the “use of artificial intelligence” as being limited to only assisting in providing “administrative or supplementary support.” We are concerned that this framework does not clearly permit licensed clinicians to use AI tools in their clinical practice consistent with their scope of practice and the standard of care. Clinicians should be able to use AI as a clinical tool under their professional judgment and oversight, not merely for background support functions. We recommend clarifying that licensed professionals may use AI systems consistent with their license, the standard of care, and appropriate professional oversight.

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The Definition of “Psychotherapeutic Communication” is Overly Broad

The definition of “psychotherapeutic communication” in 4989.82.(f)(1) captures everyday, non-clinical speech that unlicensed persons, health coaches, community health workers, and peer supporters routinely use in communications with individuals about their mental or emotional health. The opening clause extends to any interaction “intended to diagnose, treat, or address an individual’s mental, emotional, or behavioral health concerns” – a standard broad enough to encompass general wellness guidance and supportive conversation that have never been considered the exclusive domain of licensed clinicians. Similarly, several of the enumerated examples, including item (B) (“providing guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes”) and item (E) (“offering behavioral feedback intended to promote psychological growth or address mental health conditions”), are broad enough to sweep in coaching, wellness guidance, and other non-clinical services. Item (C) (“offering emotional support . . . in response to psychological or emotional distress”) captures everyday empathic conversation rather than the specific, clinically significant interactions it should target.

In addition to capturing routine communications, our organization is concerned that this broad definition could capture, and then preclude, any deployment of AI by providers to aid in communicating with or checking in on their patients between appointments. Precluding the use of technology that may have AI embedded such as patient check-ins and online journaling, where the provider can review and analyze the patient’s input, will only serve to reduce the tools available to providers and prompt worse patient outcomes.

We believe the definition should be carefully narrowed to capture only what is truly clinical, therapeutic speech delivered by a licensed professional in a therapeutic context. We also recommend adding a negative definition clarifying that “therapeutic communication” does not include general wellness education, instruction, or guidance intended to promote overall health and well-being rather than to diagnose or treat a specific mental, emotional, or behavioral health concern.

The Prohibition on AI Use in Triage and Screening is Confusing and Counterproductive

Section 4989.84.(b)(5) clearly states that when providing psychotherapy services or conducting triage or screening AI cannot be allowed to “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.” Our organization is confused as 4989.82.(j) defines “triage or screening” in these exact terms. Furthermore, this confusion is compounded by 4989.84.(c) which states “If a licensed professional uses artificial intelligence in connection with psychotherapy services or triage or screening...” implying that it is possible to use AI to aid in these services, the opposite of the previous prohibition.

Additionally, Section 4989.84.(b) prohibits the use of AI to “detect emotions or mental states.” Removing the ability of licensed professionals 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 AI technology to have this precise functionality. This language 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.

Finally, if this bill is passed as currently drafted it will require significant overhauls of systems that are presently operationalized without any clinical reasoning or support for this ban. Providers and health

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systems have embraced AI support in screening and triage because it allows providers who would normally be using their time and resources to triage incoming patients to shift their work to higher acuity issues and more direct patient care, to the benefit of patients and the healthcare system as a whole. Forcing entities to revert to procedures prior to the use of AI support would not only be operationally difficult and costly but would undo the effectiveness created by safe and effective use of AI to assist in patient care.

The Bill Fails to Adequately Consider FDA-Cleared Products

As currently drafted, SB 903 does not adequately distinguish between FDA-cleared AI products and unregulated consumer applications, treating all products the same. The introduced version of SB 903 included language which would have allowed clients to interact with AI in psychotherapeutic communications if using a product approved by the US Food and Drug Administration that is HIPAA compliant, allowing providers to prescribe or order FDA-cleared digital therapeutics without running afoul of the provisions of the law. The recent amendments to the bill remove this consideration which we believe 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 a similar exemption to be added to this bill.

The Prohibition on Use Data to Train AI Models is Regressive and Not Forward Looking

ATA Action is concerned about the provision of Section 4989.85 which would prohibit companies or entities from using data obtained from psychotherapy to train AI models. ATA Action shares the sponsors' intent to protect sensitive data and our [Data Privacy Principles](#) emphasize that collection and use of sensitive data should always require explicit disclosure to, and consent from, the consumer. That being said, 4989.85 makes clear that the use of AI in psychotherapy records must comply with the California Confidentiality of Medical Information Act, which allows for patients to consent to the disclosure of their data. AI models require data to train - specifically high-quality data. Without that data, these systems will plateau and cease being useful, stifling innovation and limiting the continued development of new tools that can help providers and improve patient outcomes.

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Thank you for the opportunity to comment. We urge the Committee to consider our feedback and make significant amendments before advancing this bill, with the goal of striking the best balance between patient safety, clinician flexibility, 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.

Kind regards,

A handwritten signature in black ink that reads "Hunter Young" in a cursive script.

Hunter Young
Head of State Government Relations
ATA Action