



July 7, 2026

Deanne Rienstra  
General Counsel  
Texas Department of Licensing and Regulation  
P.O. Box 12157  
Austin, TX 78711

**RE: ATA ACTION COMMENTS REGARDING PROPOSED AMENDMENTS TO 16 TAC §§121.70 - 121.75**

Dear Ms. Rienstra and staff of the Department of Licensing and Regulation,

On behalf of ATA Action, I am writing to provide our comments regarding proposed amendments to 16 TAC §§121.70 - 121.75, specifically the amendments to §121.75. Code of Ethics to require Texas behavioral health analyst license holders to obtain written consent from clients to use their personal data and/or information for various purposes, including using AI for “report generation.”

ATA Action is the policy and legislative advocacy arm of the American Telemedicine Association and the leading organization dedicated to advancing telehealth policy. Working collaboratively with federal and state legislators and policymakers, we drive patient access to care by influencing legislative and regulatory developments across telehealth, virtual care, remote patient monitoring, artificial intelligence in healthcare, health data privacy, and more. Our membership spans hospital systems, technology companies, professional associations, direct-to-consumer digital health providers, payers, pharmaceutical manufacturers, digital therapeutics developers, and remote monitoring organizations.

We appreciate the Department seeking to implement thoughtful policies regarding the adoption of AI technologies that protect patients’ rights to receive safe, effective care, to have the privacy and security of their personal information protected and to make informed decisions about their healthcare. To this end, we understand the intention of rules that would require a provider to obtain patient consent prior to using AI in ways that could impact them directly or influence future treatment pathways, such as treatment plan progress reports and test/assessment results.

However, the proposed rule would require behavior analyst license holders to obtain written consent from clients to use their confidential or personal data for purposes beyond treatment and assessment, including “report generation.” It is unclear in the proposed rule what “report generation” refers to. In addition to patient-specific reports such as the progress reports and test/assessment results mentioned above, there are numerous internal reports, metrics and analytics related to health care operations (as defined by the federal HIPAA Privacy Rule, including functions such as quality assessment/improvement, compliance auditing, and revenue cycle management) which providers might wish to develop with the assistance of AI. The use of an individual’s protected health information (PHI) for such health care operations purposes is currently allowed without patient authorization by the HIPAA Privacy Rule.

As written, this limitation on the use of AI for unspecified “report generation” would appear to require behavioral health providers to obtain consent from individuals before using their data in *any* report generated with the assistance of AI, even when such reports do not directly impact patient treatment and assessment, and even when such reports are currently allowed without authorization by the HIPAA

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Privacy Rule. Such an overly broad application of this written consent requirement would increase administrative burden on healthcare providers wishing to use AI for such purposes by requiring them to obtain consents not currently required.

For this reason, we are requesting clarification on the intended meaning of “report generation” in this context in the proposed rule and would recommend a more specific definition for this term in the final rule.

Thank you for the opportunity to comment and for your consideration of our comments. We encourage you to make amendments to the proposed rule that will clarify the definition of “report generation” and ensure that the administrative burden is not increased on healthcare providers and patients through duplicative or unnecessary consent requirements. Please do not hesitate to contact me if ATA Action can be of assistance or provide additional perspective as the Department finalizes these rules. If you have any questions or would like to discuss the telehealth industry’s perspective further, I can be reached at [hyoung@ataaction.org](mailto:hyoung@ataaction.org).

Respectfully,

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

Hunter Young  
Head of State Government Relations  
ATA Action