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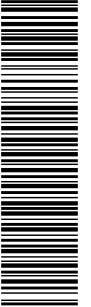
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An act to add Chapter 13.6 (commencing with Section 4989.80) to Division 2 of the Business and Professions Code, relating to healing arts.

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## 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 therapy or psychotherapy services by ensuring these services are delivered by qualified, licensed, or certified 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.

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 therapy or psychotherapy services that do not involve therapeutic 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) (1) “Consent” means a clear, explicit affirmative act by an individual meets both of the following requirements:

(A) Unambiguously communicates the individual’s express, freely given, informed, voluntary, specific, and unambiguous written agreement, including a written agreement provided by electronic means.

(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 unrelated information.

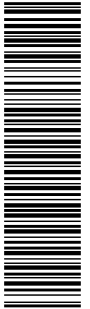
(B) An individual hovering over, muting, pausing, or closing a given piece of digital content.

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

(d) “Department” means the Department of Consumer Affairs.

(e) “Licensed professional” means an individual who holds a valid license issued by this state to provide therapy or psychotherapy services, including, but not limited to, the following:

- (1) A licensed clinical psychologist.



- (2) A licensed clinical social worker.
  - (3) A licensed professional clinical counselor.
  - (4) A licensed marriage and family therapist.
  - (5) A registered or certified alcohol or other drug counselor.
  - (6) A psychiatric mental health nurse practitioner.
  - (7) Any other professional authorized by this state to provide therapy or psychotherapy services.
- (f) "Peer support" means services provided by individuals with lived experience of mental health conditions or recovery from substance use that are intended to offer encouragement, understanding, and guidance without clinical intervention.
- (g) "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 therapy or psychotherapy services.
- (h) "Supplementary support" means tasks performed to assist a licensed professional in the delivery of therapy or psychotherapy services that do not involve therapeutic communication and that are not administrative support. "Supplementary support" includes, but is not limited to, any of the following:
- (1) Preparing and maintaining client records, including therapy notes.
  - (2) Analyzing anonymized data to track client progress or identify trends, subject to review by a licensed professional.
  - (3) Identifying and organizing external resources or referrals for client use.
- (i) (1) "Therapeutic communication" means any verbal, nonverbal, or written interaction conducted in a clinical or professional setting that is intended to diagnose, treat, or address an individual's mental, emotional, or behavioral health concerns. "Therapeutic communication" includes, but is not limited to, any of the following:
- (A) Direct interactions with clients for the purpose of understanding or reflecting their thoughts, emotions, or experiences.
  - (B) Providing guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes.
  - (C) Offering emotional support, reassurance, or empathy in response to psychological or emotional distress.
  - (D) Collaborating with clients to develop or modify therapeutic goals or treatment plans.
  - (E) Offering behavioral feedback intended to promote psychological growth or address mental health conditions.
- (2) "Therapeutic communication" does not include the discussion of a patient's use of artificial intelligence in a clinical setting.
- (j) "Therapy or psychotherapy services" means services provided to diagnose, treat, or improve an individual's mental health or substance use disorder condition. "Therapy or psychotherapy services" does not include religious counseling or peer support.
- (k) "Use of artificial intelligence" means the use of artificial intelligence tools or systems by a licensed professional to assist in providing administrative support or supplementary support in therapy or psychotherapy services where the licensed professional maintains full responsibility for all interactions, outputs, and data use associated with the system and satisfies the requirements of Section 4989.83.



4989.83. A licensed professional shall not engage in the use of artificial intelligence to assist in providing supplementary support in therapy or psychotherapy where the client's therapeutic session is recorded or transcribed unless both of the following conditions are satisfied:

(a) The patient or the patient's legally authorized representative is informed in writing of both of the following:

- (1) That artificial intelligence will be used.
- (2) The specific purpose of the artificial intelligence tool or system that will be used.

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

4989.84. (a) An individual, corporation, or entity shall not provide, advertise, or otherwise offer therapy or psychotherapy services, including through the use of internet-based artificial intelligence, to the public in this state unless the therapy or psychotherapy services are conducted by an individual who is a licensed professional.

(b) A licensed professional may use artificial intelligence only to the extent the use meets the requirements this chapter. A licensed professional shall not allow artificial intelligence to do any of the following:

- (1) Make independent therapeutic decisions.
- (2) Directly interact with clients in any form of therapeutic communication, unless they are using a product that is approved by the United States Food and Drug Administration and is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).
- (3) Generate therapeutic recommendations or treatment plans without review and approval by the licensed professional.
- (4) Detect emotions or mental states.

4989.85. All records kept by a licensed professional and all communications between an individual seeking therapy or psychotherapy services and a licensed professional shall be confidential and shall not be disclosed except as otherwise required by law.

4989.86. (a) The department shall have the authority to investigate any actual, alleged, or suspected violation of this chapter.

(b) Any individual, corporation, or entity found in violation of this chapter shall pay a civil penalty to the department in an amount not to exceed ten thousand dollars (\$10,000) per violation, as determined by the department, with penalties assessed based on the degree of harm and the circumstances of the violation. Before the civil penalty is levied, the individual, corporation, or entity shall be given a written notice of the proposed action, including the nature of the violation and the amount of the proposed penalty, and shall have the right to request a hearing, which shall be held pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code). An individual, corporation, or entity found in violation of this chapter shall pay the civil penalty within 60 days after the date of the order by the department imposing the civil penalty. The order shall constitute a judgment and may be filed and executed in the same manner as any judgment from the appropriate court.

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

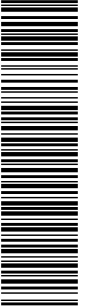
- (a) Religious counseling.



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

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## LEGISLATIVE COUNSEL'S DIGEST

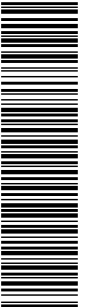
Bill No.  
as introduced, Padilla.  
General Subject: Mental health professionals: artificial intelligence.

Existing law establishes the Board of Behavioral Sciences in the Department of Consumer Affairs to regulate licensees under 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.

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 prohibit a licensed professional, as defined, from engaging in the use of artificial intelligence to assist in providing supplementary support in therapy or psychotherapy where the client's therapeutic session is recorded or transcribed unless the patient or their authorized representative is informed that artificial intelligence will be used and provides consent, as specified. The bill would also prohibit an individual, corporation, or entity from providing, advertising, or otherwise offering therapy or psychotherapy, including through the use of internet-based artificial intelligence, to the public in this state unless the therapy or psychotherapy services are conducted by an individual who is a licensed professional. The bill would additionally prohibit a licensed professional from allowing artificial intelligence to make independent therapeutic decisions or take other specified actions related to communications with clients, as specified. The bill would authorize the department to investigate actual, alleged, or suspected violations of these provisions and impose civil penalties, as prescribed.

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



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