

CHAPTER 358

HUMAN SERVICES - BEHAVIORAL HEALTH

HOUSE BILL 26-1195

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also SENATOR(S) Amabile and Mullica, Benavidez, Cutter, Exum, Gonzales J., Hinrichsen, Jodeh, Kipp, Kolker, Marchman, Rodriguez, Wallace, Coleman.

AN ACT**CONCERNING RESTRICTIONS ON THE USE OF ARTIFICIAL INTELLIGENCE RELATING TO PSYCHOTHERAPY SERVICES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 12-245-224, **amend** (1)(w) and (1)(x); and **add** (1)(y) as follows:

12-245-224. Prohibited activities - related provisions - definition.

(1) A person licensed, registered, or certified under this article 245 violates this article 245 if the person:

(w) Has sold or fraudulently obtained or furnished a license, registration, or certification to practice as a psychologist, social worker, marriage and family therapist, licensed professional counselor, psychotherapist, or addiction counselor or has aided or abetted in those activities; ~~or~~

(x) Has failed to respond, in the manner required by the board, to a complaint filed with or by the board against the licensee, registrant, or certificate holder; OR

(y) FAILS TO COMPLY WITH SECTION 12-245-224.5 CONCERNING THE USE OF ARTIFICIAL INTELLIGENCE SYSTEMS.

SECTION 2. In Colorado Revised Statutes, **add** 12-245-224.5 as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

12-245-224.5. Use of artificial intelligence systems for psychotherapy services - permitted use by regulated individuals - consent - use in educational and training settings and research - prohibited use - definitions.

(1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) (I) "ADMINISTRATIVE SUPPORT" MEANS TASKS THAT:

(A) ARE PERFORMED TO ASSIST A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE IN THE DELIVERY OF PSYCHOTHERAPY SERVICES; AND

(B) DO NOT INVOLVE THERAPEUTIC COMMUNICATION.

(II) "ADMINISTRATIVE SUPPORT" INCLUDES THE FOLLOWING, AT A MINIMUM:

(A) MANAGING APPOINTMENT SCHEDULING AND REMINDERS;

(B) PROCESSING BILLING AND INSURANCE CLAIMS; AND

(C) DRAFTING GENERAL COMMUNICATIONS RELATED TO THERAPY LOGISTICS THAT DO NOT INCLUDE THERAPEUTIC ADVICE.

(b) "ARTIFICIAL INTELLIGENCE SYSTEM" MEANS ANY MACHINE-BASED SYSTEM THAT, FOR ANY EXPLICIT OR IMPLICIT OBJECTIVE, INFERS FROM THE INPUTS THE SYSTEM RECEIVES HOW TO GENERATE OUTPUTS, INCLUDING CONTENT, DECISIONS, PREDICTIONS, OR RECOMMENDATIONS, THAT CAN INFLUENCE PHYSICAL OR VIRTUAL ENVIRONMENTS.

(c) (I) "CONSENT" MEANS A CLEAR, EXPLICIT, AFFIRMATIVE, SPECIFIC, AND UNAMBIGUOUS WRITTEN AGREEMENT, INCLUDING A WRITTEN AGREEMENT PROVIDED BY ELECTRONIC MEANS, ENTERED INTO BY AN INDIVIDUAL THAT IS REVOCABLE BY THE INDIVIDUAL.

(II) "CONSENT" DOES NOT INCLUDE AN AGREEMENT THAT IS OBTAINED BY ANY OF THE FOLLOWING MEANS:

(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 INTERACTING WITH A GIVEN PIECE OF DIGITAL CONTENT IN A MANNER THAT INVOLVES HOVERING OVER, MUTING, PAUSING, OR CLOSING THE DIGITAL CONTENT; OR

(C) AN AGREEMENT OBTAINED THROUGH THE USE OF DECEPTION.

(d) "SUPPLEMENTARY SUPPORT" MEANS TASKS PERFORMED TO ASSIST A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE IN THE DELIVERY OF PSYCHOTHERAPY SERVICES THAT DO NOT INVOLVE THERAPEUTIC COMMUNICATION

AND THAT ARE NOT ADMINISTRATIVE SUPPORT. "SUPPLEMENTARY SUPPORT" INCLUDES, AT A MINIMUM:

(I) PREPARING AND MAINTAINING CLIENT RECORDS, INCLUDING THERAPY NOTES;

(II) ANALYZING DATA TO TRACK CLIENT PROGRESS OR IDENTIFY TRENDS, SUBJECT TO REVIEW BY A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE;

(III) IDENTIFYING AND ORGANIZING INTERNAL AND EXTERNAL RESOURCES OR REFERRALS FOR CLIENT USE; AND

(IV) COLLECTING MENTAL HEALTH OR WELLNESS INFORMATION, INCLUDING SYMPTOM FREQUENCY TRACKING; MOOD RATING SCALES; INTAKE QUESTIONNAIRES AND RESPONSES; MEDICATION ADHERENCE LOGGING; SLEEP AND ACTIVITY TRACKING; AND USE OF SIMILAR, STRUCTURED DATA COLLECTION TOOLS.

(e) (I) "SYNCHRONOUS" MEANS INTERACTIONS OCCURRING SIMULTANEOUSLY IN WHICH THERE IS ACTIVE PARTICIPATION BETWEEN THE CLIENT AND THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LEGALLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE.

(II) "SYNCHRONOUS" DOES NOT MEAN A REVIEW OF AN INTERACTION AFTER THE INTERACTION HAS OCCURRED.

(f) (I) "THERAPEUTIC COMMUNICATION" MEANS ANY VERBAL, NONVERBAL, OR WRITTEN INTERACTION CONDUCTED IN A CLINICAL OR PROFESSIONAL SETTING THAT MEETS THE DEFINITION OF PSYCHOTHERAPY SERVICES. "THERAPEUTIC COMMUNICATION" INCLUDES:

(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 OR BEHAVIORAL 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; AND

(E) OFFERING BEHAVIORAL FEEDBACK INTENDED TO PROMOTE PSYCHOLOGICAL GROWTH OR TO ADDRESS MENTAL OR BEHAVIORAL HEALTH CONDITIONS.

(II) "THERAPEUTIC COMMUNICATION" DOES NOT INCLUDE GENERAL WELLNESS EDUCATION, INSTRUCTION, OR GUIDANCE THAT IS INTENDED TO PROMOTE OVERALL HEALTH AND WELL-BEING, RATHER THAN TO DIAGNOSE, TREAT, OR ADDRESS A SPECIFIC MENTAL, EMOTIONAL, OR BEHAVIORAL HEALTH CONCERN.

(2) A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE MAY USE AN ARTIFICIAL INTELLIGENCE SYSTEM TO ASSIST IN PROVIDING ADMINISTRATIVE SUPPORT OR SUPPLEMENTARY SUPPORT FOR PSYCHOTHERAPY SERVICES IF THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE MAINTAINS RESPONSIBILITY FOR REVIEWING ANY OUTPUTS OF THE ARTIFICIAL INTELLIGENCE SYSTEM USED TO PROVIDE ADMINISTRATIVE SUPPORT OR SUPPLEMENTARY SUPPORT AND SATISFIES THE REQUIREMENTS SET FORTH IN SUBSECTION (4) OF THIS SECTION.

(3) THE USE OF AN ARTIFICIAL INTELLIGENCE SYSTEM IS SUBJECT TO AND MUST COMPLY WITH APPLICABLE STATE AND FEDERAL PRIVACY AND SECURITY LAWS, INCLUDING THE "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AND ITS IMPLEMENTING REGULATIONS.

(4) (a) A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE SHALL NOT USE AN ARTIFICIAL INTELLIGENCE SYSTEM TO RECORD OR TRANSCRIBE A CLIENT'S THERAPEUTIC SESSION, UNLESS:

(I) THE CLIENT OR THE CLIENT'S LEGALLY AUTHORIZED REPRESENTATIVE IS INFORMED IN ADVANCE IN WRITING OF THE FOLLOWING:

(A) THAT AN ARTIFICIAL INTELLIGENCE SYSTEM WILL BE USED; AND

(B) THE SPECIFIC PURPOSE FOR WHICH THE ARTIFICIAL INTELLIGENCE SYSTEM WILL BE USED;

(II) THE CLIENT OR THE CLIENT'S LEGALLY AUTHORIZED REPRESENTATIVE CONSENTS IN WRITING TO THE USE OF THE ARTIFICIAL INTELLIGENCE SYSTEM; AND

(III) THE CLIENT'S REFUSAL TO PROVIDE OR LATER DECISION TO REVOKE THE CONSENT REQUIRED PURSUANT TO SUBSECTION (4)(a)(II) OF THIS SECTION SHALL NOT BE USED AS A BASIS TO DENY PSYCHOTHERAPY SERVICES.

(b) THE CONSENT REQUIRED PURSUANT TO SUBSECTION (4)(a)(II) OF THIS SECTION FOR THE USE OF AN ARTIFICIAL INTELLIGENCE SYSTEM TO RECORD OR TRANSCRIBE THERAPEUTIC SESSIONS IS REQUIRED ONLY FOR THE INITIAL USE OF THE ARTIFICIAL INTELLIGENCE SYSTEM OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AND NOT FOR EACH SUBSEQUENT THERAPEUTIC SESSION, UNLESS THE PURPOSE OR MANNER OF USE MATERIALLY CHANGES.

(5) A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE SHALL NOT ALLOW AN ARTIFICIAL INTELLIGENCE SYSTEM TO DO ANY OF THE FOLLOWING:

(a) INTERACT WITH CLIENTS IN ANY FORM OF THERAPEUTIC COMMUNICATION WITHOUT SYNCHRONOUS, REAL-TIME INTERACTION BETWEEN THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE, THE ARTIFICIAL INTELLIGENCE SYSTEM, AND THE CLIENT; OR

(b) GENERATE THERAPEUTIC RECOMMENDATIONS OR TREATMENT PLANS WITHOUT REVIEW AND APPROVAL BY THE LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE.

(6) (a) EXCEPT AS PROVIDED IN SUBSECTIONS (7) AND (8) OF THIS SECTION, A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE SHALL NOT USE AN ARTIFICIAL INTELLIGENCE SYSTEM TO PROVIDE, DIRECT, GUIDE, OR ATTEMPT TO PROVIDE, DIRECT, OR GUIDE PSYCHOTHERAPY, CLINICAL INTERVENTION, COUNSELING, DIAGNOSIS, TREATMENT PLANNING, OR ANY OTHER ACTIVITY THAT CONSTITUTES THE PRACTICE OF PSYCHOTHERAPY WITH AN INDIVIDUAL OR A GROUP UNLESS THE USE COMPLIES WITH SUBSECTION (5) OF THIS SECTION.

(b) A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE SHALL PROVIDE TO THE CLIENT DURING THE INITIAL CLIENT CONTACT WRITTEN INFORMATION CONCERNING PROHIBITIONS SPECIFIED IN SUBSECTION (6)(a) OF THIS SECTION ON THE USE OF ARTIFICIAL INTELLIGENCE SYSTEMS IN THE PRACTICE OF PSYCHOTHERAPY.

(7) NOTHING IN THIS SECTION PROHIBITS A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE FROM USING AN ARTIFICIAL INTELLIGENCE SYSTEM WITHIN AN ACCREDITED OR APPROVED EDUCATIONAL, INSTRUCTIONAL, OR PROFESSIONAL TRAINING PROGRAM, SO LONG AS THE ARTIFICIAL INTELLIGENCE SYSTEM:

(a) IS USED SOLELY FOR EDUCATIONAL, ADMINISTRATIVE, SIMULATION, OR TRAINING PURPOSES;

(b) NOTWITHSTANDING SUBSECTION (5)(a) OF THIS SECTION, IS NOT DEPLOYED, MARKETED, OR REPRESENTED AS A TOOL FOR USE WITH CLIENTS, PATIENTS, OR MEMBERS OF THE PUBLIC; AND

(c) FOR ANY SIMULATION, TRAINING MODULE, OR EDUCATIONAL ACTIVITY THAT INCLUDES CONTENT RELATED TO CLINICAL DECISION-MAKING, IS REVIEWED OR CONTROLLED BY AN INDIVIDUAL LICENSED, CERTIFIED, REGISTERED, OR OTHERWISE LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE.

(8) NOTHING IN THIS SECTION PROHIBITS A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE FROM BEING INVOLVED IN THE DEVELOPMENT, TESTING, OR EVALUATION OF AN ARTIFICIAL INTELLIGENCE SYSTEM SOLELY FOR RESEARCH PURPOSES CONDUCTED UNDER THE OVERSIGHT OF AN INSTITUTIONAL REVIEW BOARD REGISTERED WITH THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, SO LONG AS THE ARTIFICIAL INTELLIGENCE SYSTEM IS NOT OFFERED TO CONSUMERS OR USED TO PROVIDE PSYCHOTHERAPY SERVICES OUTSIDE OF THE RESEARCH SETTING.

(9) THIS SECTION DOES NOT APPLY TO A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE WHO USES OR RECOMMENDS THE USE OF A TECHNOLOGY OR SERVICE THAT:

(a) PROVIDES SELF-HELP, THERAPEUTIC HOMEWORK, PATIENT NAVIGATION, COACHING, GUIDED MEDITATION, JOURNALING, REFLECTIONS, PSYCHOEDUCATION, GOAL SETTING, PROGRESS TRACKING, THERAPEUTIC SESSION PREPARATION, THERAPEUTIC SESSION SUMMARIES, MOOD MONITORING, MINDFULNESS EXERCISES, BREATHING EXERCISES, CRISIS RESOURCE DIRECTORIES, SAFETY PLANNING, OR OTHER WELLNESS TOOLS THAT:

(I) DO NOT DIAGNOSE OR TREAT MENTAL HEALTH DISORDERS; AND

(II) CLEARLY AND CONSPICUOUSLY DISCLOSE THAT THE TECHNOLOGY OR SERVICE IS NOT A SUBSTITUTE FOR CLINICAL CARE; OR

(b) IS AUTHORIZED, APPROVED, CLEARED, OR GRANTED ENFORCEMENT DISCRETION BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR AN INTENDED USE THAT INCLUDES THE DELIVERY OF BEHAVIORAL HEALTH INTERVENTIONS, INCLUDING AN ARTIFICIAL INTELLIGENCE SYSTEM, AND THAT:

(I) DOES NOT DIAGNOSE OR TREAT MENTAL HEALTH DISORDERS; AND

(II) CLEARLY AND CONSPICUOUSLY DISCLOSES THAT THE TECHNOLOGY OR SERVICE IS NOT A SUBSTITUTE FOR CLINICAL CARE.

SECTION 3. In Colorado Revised Statutes, **add** 6-1-1705.2 as follows:

6-1-1705.2. Use of artificial intelligence systems - psychotherapy services - prohibited practices - definitions.

(1) A PERSON SHALL NOT USE ANY TERM, LETTER, OR PHRASE IN THE ADVERTISING, INTERFACE, OR OUTPUTS OF AN ARTIFICIAL INTELLIGENCE SYSTEM IN A MANNER THAT:

(a) INDICATES OR IMPLIES THAT THE ARTIFICIAL INTELLIGENCE SYSTEM'S OUTPUT DATA IS BEING PROVIDED BY, IS ENDORSED BY, OR IS EQUIVALENT TO SERVICES PROVIDED BY AN INDIVIDUAL LICENSED, REGISTERED, OR CERTIFIED IN THE STATE PURSUANT TO ARTICLE 245 OF TITLE 12 TO ENGAGE IN THE PRACTICE OF PSYCHOTHERAPY OR TO PROVIDE PSYCHOTHERAPY SERVICES;

(b) REPRESENTS THAT THE ARTIFICIAL INTELLIGENCE SYSTEM PROVIDES PSYCHOTHERAPY SERVICES; OR

(c) REPRESENTS THAT A USER'S DATA IS CONFIDENTIAL IN A MANNER THAT WOULD LEAD A REASONABLE USER TO BELIEVE THAT THE DATA IS PROTECTED IN A MANNER COMPARABLE TO PRIVACY PROTECTIONS AFFORDED BY THERAPIST-CLIENT CONFIDENTIALITY IN A RELATIONSHIP BETWEEN A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER PERSON LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE AND THE CLIENT.

(2) NOTHING IN THIS SECTION IMPOSES LIABILITY ON A LICENSEE, REGISTRANT, CERTIFICATE HOLDER, OR OTHER INDIVIDUAL LEGALLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE FOR DEFECTS IN, OR FAILURES OF, AN ARTIFICIAL INTELLIGENCE SYSTEM THAT ARE ATTRIBUTABLE TO THE DEVELOPER OR DEPLOYER OF THE ARTIFICIAL INTELLIGENCE SYSTEM. THE LIABILITY OF A DEVELOPER OR DEPLOYER FOR SUCH DEFECTS OR FAILURES IS GOVERNED BY APPLICABLE CONSUMER PROTECTION LAW.

(3) NOTHING IN THIS SECTION PROHIBITS THE USE OF AN ARTIFICIAL INTELLIGENCE SYSTEM WITHIN AN ACCREDITED OR APPROVED EDUCATIONAL, INSTRUCTIONAL, OR PROFESSIONAL TRAINING PROGRAM, SO LONG AS THE ARTIFICIAL INTELLIGENCE SYSTEM:

(a) IS USED SOLELY FOR EDUCATIONAL, ADMINISTRATIVE, SIMULATION, OR TRAINING PURPOSES;

(b) NOTWITHSTANDING SECTION 12-245-224.5 (5)(a), IS NOT DEPLOYED, MARKETED, OR REPRESENTED AS A TOOL FOR USE WITH CLIENTS, PATIENTS, OR MEMBERS OF THE PUBLIC; AND

(c) FOR ANY SIMULATION, TRAINING MODULE, OR EDUCATIONAL ACTIVITY THAT INCLUDES CONTENT RELATED TO CLINICAL DECISION-MAKING, IS REVIEWED OR CONTROLLED BY AN INDIVIDUAL LICENSED, CERTIFIED, REGISTERED, OR OTHERWISE LAWFULLY PERMITTED TO PROVIDE PSYCHOTHERAPY SERVICES IN THE STATE.

(4) NOTHING IN THIS SECTION PROHIBITS THE DEVELOPMENT, TESTING, OR EVALUATION OF AN ARTIFICIAL INTELLIGENCE SYSTEM SOLELY FOR RESEARCH PURPOSES CONDUCTED UNDER THE OVERSIGHT OF AN INSTITUTIONAL REVIEW BOARD REGISTERED WITH THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, SO LONG AS THE ARTIFICIAL INTELLIGENCE SYSTEM IS NOT OFFERED TO CONSUMERS OR USED TO PROVIDE PSYCHOTHERAPY SERVICES OUTSIDE OF THE RESEARCH SETTING.

(5) THIS SECTION DOES NOT APPLY TO THE USE OF A TECHNOLOGY OR SERVICE THAT:

(a) PROVIDES SELF-HELP, THERAPEUTIC HOMEWORK, PATIENT NAVIGATION, COACHING, GUIDED MEDITATION, JOURNALING, REFLECTIONS, PSYCHOEDUCATION, GOAL SETTING, PROGRESS TRACKING, THERAPEUTIC SESSION PREPARATION, THERAPEUTIC SESSION SUMMARIES, MOOD MONITORING, MINDFULNESS EXERCISES, BREATHING EXERCISES, CRISIS RESOURCE DIRECTORIES, SAFETY PLANNING, OR OTHER WELLNESS TOOLS THAT:

(I) DO NOT DIAGNOSE OR TREAT MENTAL HEALTH DISORDERS; AND

(II) CLEARLY AND CONSPICUOUSLY DISCLOSE THAT THE TECHNOLOGY OR SERVICE IS NOT A SUBSTITUTE FOR CLINICAL CARE; OR

(b) IS AUTHORIZED, APPROVED, CLEARED, OR GRANTED ENFORCEMENT DISCRETION BY THE FEDERAL FOOD AND DRUG ADMINISTRATION FOR AN INTENDED

USE THAT INCLUDES THE DELIVERY OF BEHAVIORAL HEALTH INTERVENTIONS, INCLUDING AN ARTIFICIAL INTELLIGENCE SYSTEM, AND THAT:

(I) DOES NOT DIAGNOSE OR TREAT MENTAL HEALTH DISORDERS; AND

(II) CLEARLY AND CONSPICUOUSLY DISCLOSES THAT THE TECHNOLOGY OR SERVICE IS NOT A SUBSTITUTE FOR CLINICAL CARE.

(6) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ARTIFICIAL INTELLIGENCE SYSTEM" HAS THE MEANING SET FORTH IN SECTION 12-245-224.5.

(b) "PSYCHOTHERAPY" OR "PSYCHOTHERAPY SERVICES" HAS THE MEANING SET FORTH IN SECTION 12-245-202.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to actions taken on or after the applicable effective date of this act.

Approved: June 3, 2026