

As Introduced

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Representatives Cockley, Mathews, T.

Cosponsors: Representatives Brennan, Upchurch, Russo, Newman, Mohamed, Fischer, Bryant Bailey, Brent, Sims, Somani, Abdullahi, Miller, J., Robinson, Jarrells, White, E., Hall, D., Synenberg, Lett

To enact section 4743.21 of the Revised Code	1
regarding the use of artificial intelligence in	2
therapy services.	3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4743.21 of the Revised Code be	4
enacted to read as follows:	5

<u>Sec. 4743.21.</u> (A) As used in this section:	6
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<u>(1) "Administrative support" means tasks performed to</u>	7
<u>assist a licensed therapy professional in the delivery of</u>	8
<u>therapy or psychotherapy services that do not involve</u>	9
<u>communication. "Administrative support" includes managing</u>	10
<u>appointment scheduling and reminders, processing billing and</u>	11
<u>insurance claims, and drafting general communications related to</u>	12
<u>therapy logistics that do not include therapeutic advice.</u>	13

<u>(2) "Artificial intelligence" means a machine-based system</u>	14
<u>that, for explicit or implicit objectives, infers, from the</u>	15
<u>input it receives, how to generate outputs such as predictions,</u>	16
<u>content, recommendations, or decisions that can influence</u>	17

physical or virtual environments. "Artificial intelligence" 18
includes generative artificial intelligence. 19

(3) "Generative artificial intelligence" means an 20
artificial intelligence technology system that satisfies all of 21
the following: 22

(a) The system is trained on data. 23

(b) The system is designed to simulate human conversation 24
with a consumer through text, audio, or visual communication. 25

(c) The system generates nonscripted outputs similar to 26
outputs created by a human, with limited or no human oversight. 27

(4) "Licensed therapy professional" means all of the 28
following: 29

(a) A psychologist, independent school psychologist, or 30
school psychologist licensed under Chapter 4732. of the Revised 31
Code; 32

(b) A professional clinical counselor, independent social 33
worker, independent marriage and family therapist, art 34
therapist, or music therapist licensed under Chapter 4757. of 35
the Revised Code; 36

(c) An independent chemical dependency counselor licensed 37
under Chapter 4758. of the Revised Code; 38

(d) A certified mental health assistant licensed under 39
Chapter 4772. of the Revised Code; 40

(e) A certified Ohio behavior analyst certified under 41
Chapter 4783. of the Revised Code; 42

(f) Any other professional authorized to provide therapy 43
or psychotherapy services. 44

(5) "Peer support" means services provided by individuals 45
with lived experience of mental health conditions or recovery 46
from substance use that are intended to offer encouragement, 47
understanding, and guidance without clinical intervention. 48

(6) "Religious counseling" means counseling provided by 49
clergy members, pastoral counselors, or other religious leaders 50
acting within the scope of their religious duties if the 51
services are explicitly faith-based and are not represented as 52
clinical mental health services or therapy or psychotherapy 53
services. 54

(7) "Supplementary support" means tasks performed to 55
assist a licensed therapy professional in the delivery of 56
therapy or psychotherapy services that do not involve 57
therapeutic communication and are not administrative support. 58
"Supplementary support" includes preparing and maintaining 59
client records and therapy notes, analyzing anonymized data to 60
track client progress or identify trends, and identifying and 61
organizing external resources or referrals for client use. 62

(8) "Therapeutic communication" means any verbal, 63
nonverbal, or written interaction conducted in a clinical or 64
professional setting that is intended to diagnose, treat, or 65
address an individual's mental, emotional, or behavioral health 66
concerns. "Therapeutic communication" includes all of the 67
following: 68

(a) Direct interactions with clients for the purpose of 69
understanding or reflecting their thoughts, emotions, or 70
experiences; 71

(b) Providing guidance, therapeutic strategies, or 72
interventions designed to achieve mental health outcomes; 73

<u>(c) Offering emotional support, reassurance, or empathy in</u>	74
<u>response to psychological or emotional distress;</u>	75
<u>(d) Collaborating with clients to develop or modify</u>	76
<u>therapeutic goals or treatment plans;</u>	77
<u>(e) Offering behavioral feedback intended to promote</u>	78
<u>psychological growth or address mental health conditions.</u>	79
<u>(9) "Therapy or psychotherapy services" means services</u>	80
<u>provided to diagnose, treat, or improve an individual's mental</u>	81
<u>health or behavioral health. "Therapy or psychotherapy services"</u>	82
<u>does not include religious counseling or peer support.</u>	83
<u>(10) "Therapy professional licensing board" means all of</u>	84
<u>the following:</u>	85
<u>(a) The state board of psychology;</u>	86
<u>(b) The counselor, social worker, and marriage and family</u>	87
<u>therapist board;</u>	88
<u>(c) The chemical dependency professionals board;</u>	89
<u>(d) The state medical board;</u>	90
<u>(e) Any other professional licensing board in this state</u>	91
<u>that licenses or certifies a professional authorized to provide</u>	92
<u>therapy or psychotherapy services.</u>	93
<u>(B) (1) Subject to divisions (B) (2) and (C) of this</u>	94
<u>section, a licensed therapy professional may use artificial</u>	95
<u>intelligence to assist in providing supplementary support in</u>	96
<u>therapy or psychotherapy services while engaging in therapeutic</u>	97
<u>communication with a client.</u>	98
<u>(2) Before utilizing artificial intelligence in accordance</u>	99
<u>with division (B) (1) of this section, a licensed therapy</u>	100

professional shall do both of the following: 101

(a) Obtain the written informed consent of the patient or 102
patient's authorized representative indicating that the patient 103
or the patient's authorized representative has been informed 104
that artificial intelligence will be used and for what specific 105
purpose the artificial intelligence will be used; 106

(b) Enter into all necessary business associate agreements 107
to ensure compliance with the "Health Insurance Portability and 108
Accountability Act of 1996," 42 U.S.C. 1320d et seq. 109

(C) A licensed therapy professional shall not use 110
artificial intelligence to do any of the following: 111

(1) Make independent therapeutic decisions, including 112
diagnosing a client; 113

(2) Directly interact with clients in any form of 114
therapeutic communication; 115

(3) Generate therapeutic recommendations or treatment 116
plans without review and approval by the licensed therapy 117
professional; 118

(4) Detect emotions or mental states. 119

(D) All records kept by a licensed therapy professional 120
and all communications between an individual seeking therapy or 121
psychotherapy services and a licensed therapy professional shall 122
be confidential and shall not be disclosed except as required by 123
section 5119.28 of the Revised Code. 124

(E) A licensed therapy professional who violates this 125
section may be fined by the appropriate therapy professional 126
licensing board an amount not to exceed ten thousand dollars per 127
violation. 128