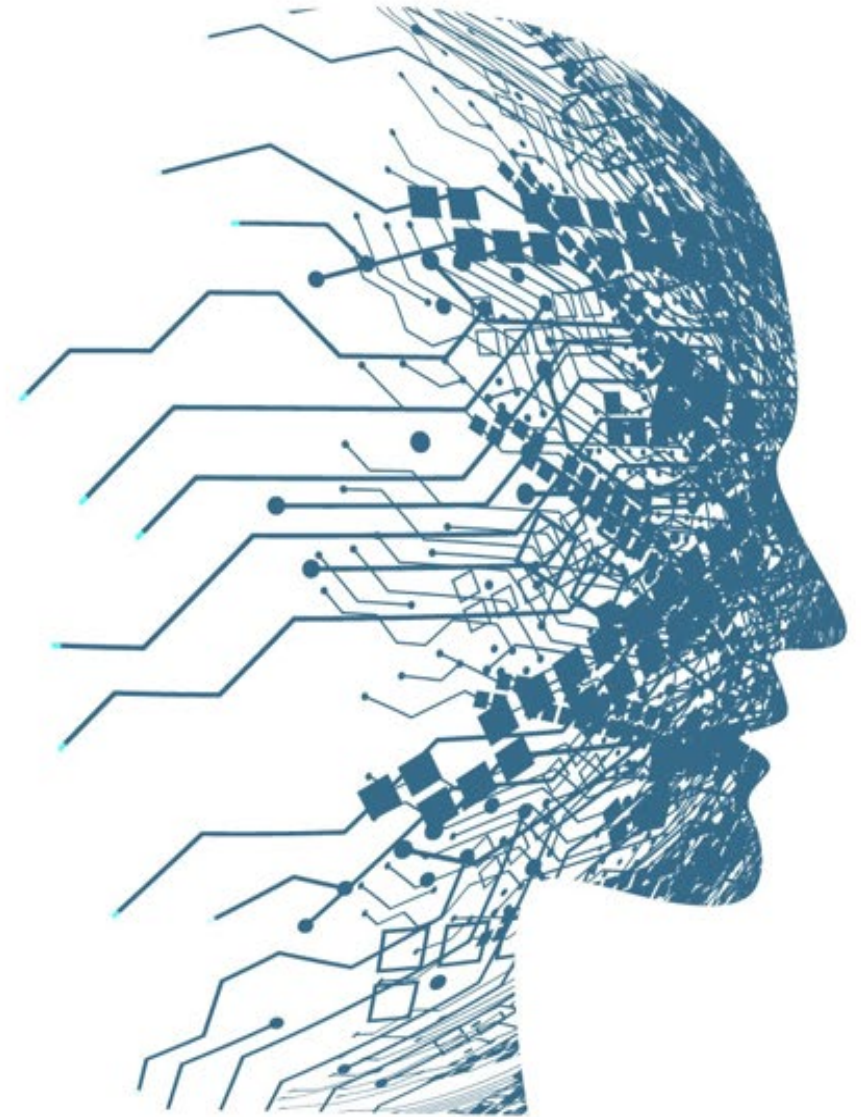August Business and Labor Interim Committee Briefing

SB 149 & the 2024 Learning Agenda

UTAH DEPARTMENT OF COMMERCE

Office of Artificial Intelligence Policy

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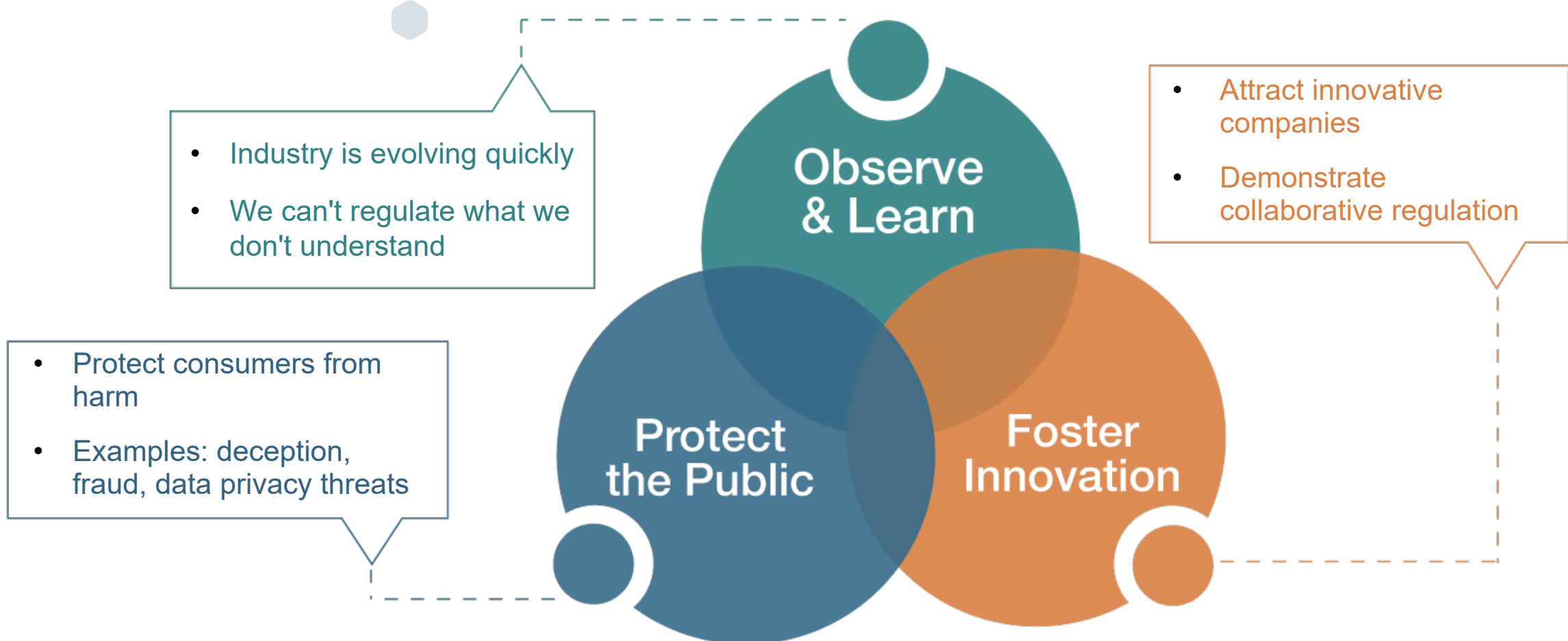
Overview of Today's Meeting

Discussion items:

1. SB 149 Highlights
2. Core Functions of the Office
3. Why we chose Gen AI in mental health
4. Some items which we will study

The role of this legislative group:

- Engagement Process
- We Want Your Feedback
- We will check in with

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Key Objectives in AI Tech Policy

Observe & Learn

Protect the Public

Foster Innovation

- Industry is evolving quickly
- We can't regulate what we don't understand

- Attract innovative companies
- Demonstrate collaborative regulation

- Protect consumers from harm
- Examples: deception, fraud, data privacy threats

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SB149 Part 1: A Light Regulatory Approach

Consumer Protection

- Clarify that individuals may not use AI as a defense for consumer harm
- Honest disclosure. Certain AI tools (chatbots, voice, text messages) must disclose that they are non-human if asked directly by a consumer.
- Limited mandatory disclosure. For sensitive interactions, people should know if they are dealing with a non-human.

Criminal

- AI cannot be blamed in the commission of a crime, if: 1) the actor used AI; and 2) the AI was under the actor's direct/ indirect control or influence at the time of the offense.
- Clarification of specific criminal use cases to expand "computer generated" to include artificial intelligence
- Unlawful distribution of counterfeit intimate images
- Sexual exploitation of a minor using AI

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Learning Lab

OAIP runs "Learning Agendas" to study key AI policy issues

- Engages key stakeholders within agenda area
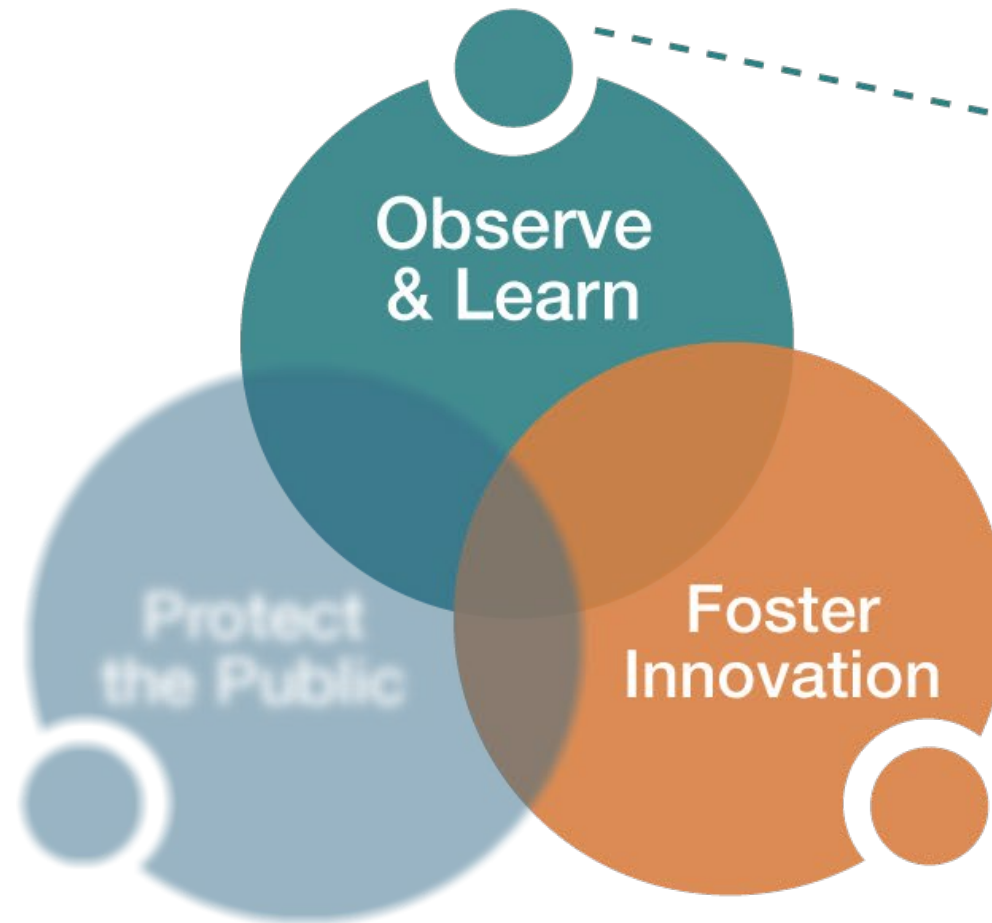- Makes policy recommendations as an output

Observe & Learn

Protect the Public

Foster Innovation

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SB149 Part 2: Office of AI Policy's Two Functions

Observe & Learn

Protect the Public

Foster Innovation

Regulatory Mitigation

OAIP extends limited mitigation in the form of exemption from law or caps on penalties

- Gives regulatory certainty to innovative AI companies
- Allows OAIP to observe and learn during this process

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Two Distinct Processes

The Learning Lab

Evaluation Criteria

1. Substantive AI issue
2. Local impact in Utah
3. Appropriate size/scope for Lab's resources
4. Realistic probability of regulatory/legislative action

Regulatory Mitigation

Our Approach

1. Evaluate options for regulatory relief
2. Include stakeholders to capture their input
3. Determine if regulatory relief is in Utah's interest
4. Define specific proposals for regulatory and legislative action

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AI Policy Team

Integrating science, tech, legal, and policy expertise

Zach Boyd, PhD
Director

- Professor at BYU, formerly UNC—Chapel Hill, Los Alamos, UCLA
- Specialty in social applications of machine learning

Alice Schwarze, PhD
AI Research Fellow

- Dartmouth researcher, formerly Oxford, UCLA
- Specialty in mathematical modeling of social systems

Brady Young
Lead AI Legal Analyst

- Formerly US House of Representatives lawyer
- 20 years drafting tech legislation

Greg Whisenant
Commerce Policy Advisor

- Technology startup founder
- Background in public policy and regulation

Courtney Rae
Head of Stakeholder Outreach

- Worked at Goldman, Sachs & Co. and Angelo, Gordon & Co. in High Net Worth sales
- Protocol Office at State Department

First Learning Agenda: Gen AI in Mental Health

On track to make recommendations for 2025 legislative session

1 **It Addresses Substantive AI Issues**
Spans multiple areas in artificial intelligence, including data privacy, protected license scope of practice issues, healthcare

2 **It Will Have a Local Impact in Utah**
Utah is facing a sustained spike in mental health issues, particularly with our youth, aggravated by a shortage of mental health resources statewide.

3 **It's an Appropriate Size**
This is an active issue that we can get our arms around to recommend regulatory and legislative changes.

4 **It's Has Significant Stakeholder Support**
Mental health, and its perceived aggravators (social media, screen time, isolation) are major societal and family concerns.

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In the Headlines

THE SHIFT

Meet My A.I. Friends

Our columnist spent the past m[...]
hanging out with 18 A.I.
companions. They critiqued his
clothes, chatted among themsel[...]
and hinted at a very different fu[...]

▶ Listen to this article · 17:57 min   Learn mo[...]

1:59

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OPEN QUESTIONS

IN THE AGE OF A.I., WHAT MAKES PEOPLE UNIQUE?

More than ever, we're challenged to define what's valuable about being human.

By Joshua Rothman
August 6, 2024

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15 Jul 2024

More People Are Turning to Mental Health AI Chatbots. What Could Go Wrong? – *National Geographic*

by Geisel Communications

Read article - Nicholas Jacobson, an assistant professor of biomedical data science and psychiatry, is mentioned in an article about the use of AI chatbots to treat mental health care. Jacobson says that the accessibility and scalability of digital platforms can significantly lower barriers to mental health care and make it available to a broader population.

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wp

HELP DESK   **Ethical Issues**   Tech in Your Life

🕐 This article was published more than **1 year ago**

Online creators are de facto therapists for millions. It's complicated.

Faced with explosive demand and few safeguards, creators of mental health content are defining their own ethics

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WSJ

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WSJ wants to hear from you. Take part in this short survey to help shape The Journal. Survey

WELLNESS

Can Mental-Health Chatbots Help With Anxiety and Depression?

Advances in AI technology are opening up new possibilities, researchers say, but chatbots are still no substitute for a human therapist

By *Shirley S. Wang* Follow
May 12, 2024 at 9:00 am ET

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AI Wellness/Social App Landscape

Mental Health

mindspa   wysa   elizachat

ada   Woebot Health™   ≈ Elomia Health   Nuna

More Constrained ←   → More Free (Generative)

CHAI   Headspace   Gemini   youper   Serenity

Calm   betterhelp   OpenAI   Claude   Replika

General / Social

Recent Survey Results

Attitudes and perceptions of AI in behavioral health

Yes

Do you use AI tools in your practice?

16%

Do you recommend AI tools to your clients?

6%

Do your clients report using AI tools for mental health purposes?

15%

Have your clients reported any harms from the use of AI tools for mental health purposes, including AI chatbots?

5%

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Emerging Themes

Privacy

- Ensuring sensitive data remains private
- Preventing/containing predatory advertising
- Compliance with health care privacy laws

Licensed practice

- Some activities only performed by licensed professionals
- What standards should be required?
- Open source models complicate enforcement
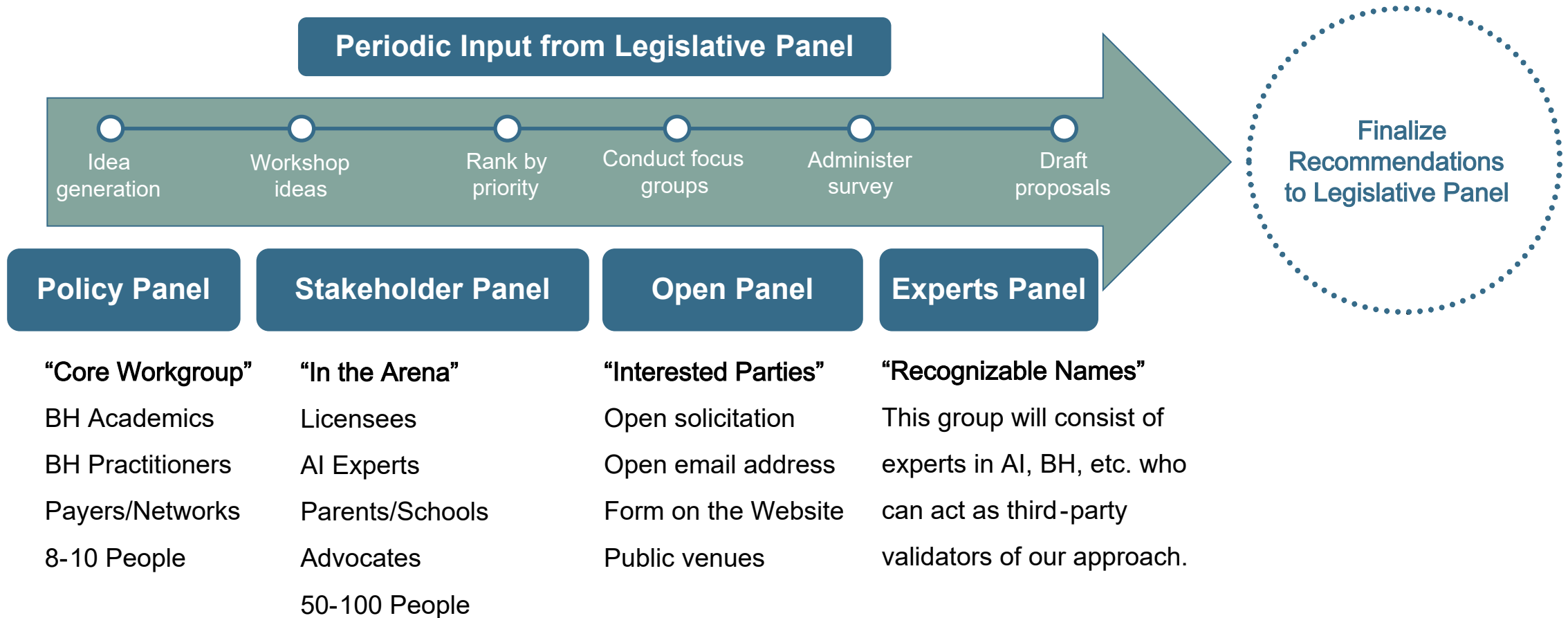
Potential benefits

- Expanding access (rural, underserved)
- Prevention/early intervention efforts
- Personal preferences

Consumer protections

- Clear and conspicuous disclosure of AI
- Contrast between AI vs human based therapy
- What sorts of claims are reasonably allowed?

60-Day Policy Process

Periodic Input from Legislative Panel

Idea generation → Workshop ideas → Rank by priority → Conduct focus groups → Administer survey → Draft proposals

Finalize Recommendations to Legislative Panel

Policy Panel	Stakeholder Panel	Open Panel	Experts Panel
"Core Workgroup"	"In the Arena"	"Interested Parties"	"Recognizable Names"
BH Academics	Licensees	Open solicitation	This group will consist of experts in AI, BH, etc. who can act as third-party validators of our approach.
BH Practitioners	AI Experts	Open email address	
Payers/Networks	Parents/Schools	Form on the Website	
8-10 People	Advocates	Public venues	
	50-100 People		

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In Summary

Today's Briefing Objectives

- Report OAIP's mission and learning agenda
- Describe our planned process
- Receive any feedback

Upcoming

- Execute the learning agenda
- Present findings report in October

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Thank you.

Margaret Woolley Busse
Executive Director
mbusse@utah.gov

Dr. Zach Boyd
Director, Office of AI Policy
zboyd@utah.gov

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