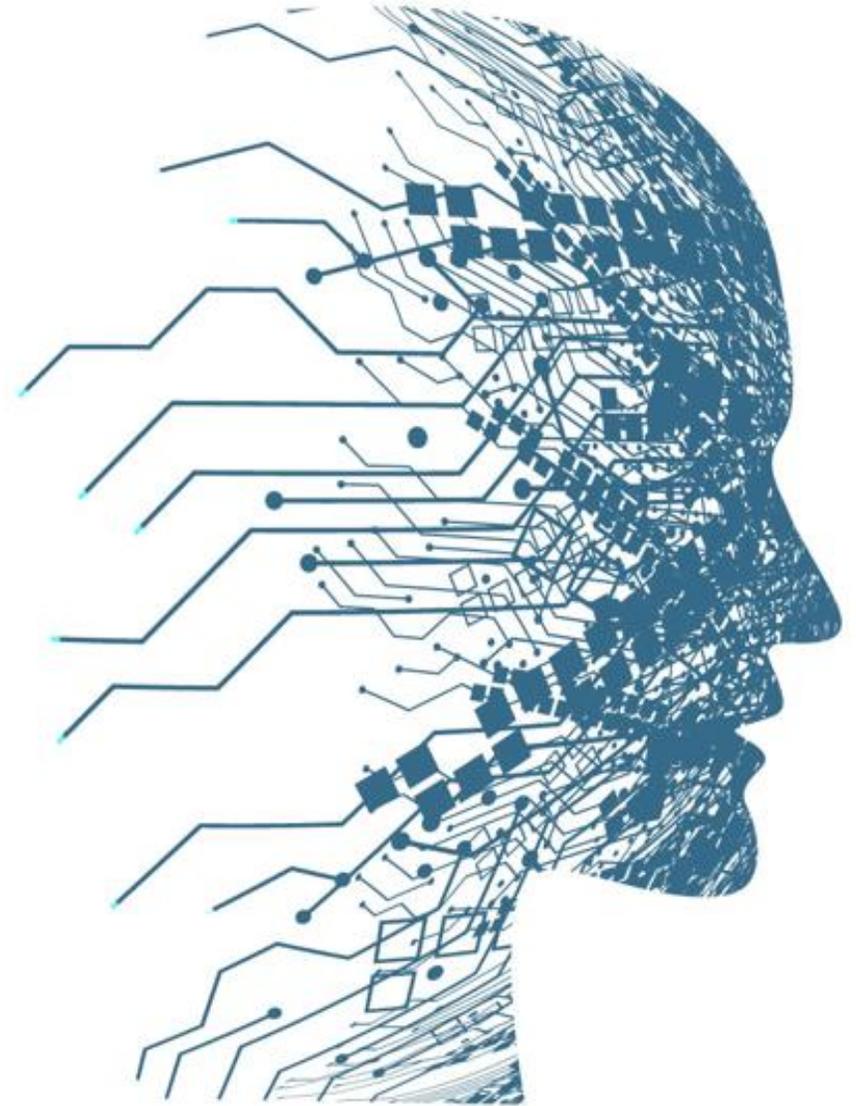


2024 Year-end Accountability Report
Business and Labor Interim Committee 2024



**UTAH DEPARTMENT
OF COMMERCE**

Office of Artificial Intelligence Policy



Legislative Mandate (SB 149)

Summarized Directives:

1. Establish Office of AI Policy;
2. Administer the artificial intelligence learning laboratory program;
3. Authorize the creation of regulatory mitigation agreements

2024 Action and Deliverables

Office of AI Policy

- Launched the Office of AI Policy (May '24)
- Hired Director and AI Policy team members
- Created and approved Administrative Rules

Stakeholder Outreach

- Formed nationwide network of think tanks, academia, government & industry partners
- Engaged deeply with stakeholders. and built a strong reputation for AI policy leadership
- Core values of transparency and trust, reflected by positive feedback and eager participation

AI Learning Laboratory

- Selected our first learning agenda based on stakeholder input and additional criteria
- Administered a comprehensive survey of licensed professionals in Utah
- Held listening tour and formed multiple panels and focus groups
- Socialized issues and iterated quickly to achieve broad support among stakeholders
- **Currently iterating on legislative language**

Regulatory Mitigation

- Executed a mitigation agreement with ElizaChat (mental health AI chatbot)
- Created content agreement in partnership with Utah State Board of Education

Problems We're Addressing

Core Problem Statement: Powerful AI tools augmenting or emulating highly skilled, licensed professions are widely accessible and inexpensive to deploy

Rising Consumer Harm

- Alarming rise in AI-related mental health scandals (e.g. suicide tied to Character AI)
- ~5% of therapists in Utah report client harm from AI
- Uncertainty among the general public around privacy, efficacy, safety

Regulatory Uncertainty for Licensed Clinicians

- Uncertain ethical standards
- Clinicians avoid AI, or engage in unproven methods

Confusion for Responsible AI Developers

- Benefits of using AI in mental health is promising
- Uncertainty around how to move forward impedes progress and innovation
- Companies operating in good faith need clear guidelines about how to proceed

Legislative Proposals Target These Issues

Consumer Protections

Promote Trust with Consumers

Data Rights

Marketing Limits

Algorithms

Disclosure

Guidelines for Licensees

Clarify Responsible Use of AI

Data Privacy

Informed Consent

Professional Ethics

Responsible for Care

Safe Harbor for Developers

Create Pathway for Safe Innovation

Requirements:

Must Ensure Safety

Continuous Monitoring

Human Oversight

Third Party Audit

Thank you.

Margaret Busse

Executive Director
Department of Commerce

Dr. Zach Boyd

Director,
Office of AI Policy

Appendix Slides

Proposal 1: Consumer Protections

Goal: Promote trust with consumers

- **Data Rights:** Prohibition on the sale of transcripts, client data/metadata
- **Marketing/Advertising:** Restrictions to avoid endorsement and conflicts of interest (similar to existing practitioner rules)
- **Algorithms:** Require that client well being is prioritized over engagement
- **Disclosure:** Conspicuous disclosure about the app's abilities, limitations, and intended use

Proposal 2: AI Use by Licensed Professionals

Goal: Encourage Familiarity with AI and Responsible Use

- **The State should clarify that clinicians may choose to use AI, within certain boundaries:**
 - Must ensure data privacy, including data captured at intake
 - Informed consent still applies throughout the care continuum (direct consult, case management, transcription, referral)
- **Clinician must observe existing professional standards and monitor client progress**
- **Clinician still bears ultimate responsibility for care**

Preface: Proposal 3

- **Not all AI startups in mental health are focused on the same objectives.**
 - Many offer “general mental health support,” and are not our primary concern.
 - Others are targeting higher level interactions currently handled by humans who are licensed and regulated by the State
- **It is unclear how these “higher level” AI companies can legally work in this space**
 - There is an enormous need. The technology is promising, but not proven or mature.
 - In short: there are real risks, and safety must be prioritized.
- **What is the best way to regulate AI in this space?**

Proposal 3: Safe Harbor for AI Developers

Goal: Define a Pathway for Safe Innovation

- Clarify that AI developers in higher level mental health have a duty of care toward their customers
- Craft a regulatory safe harbor to encourage responsible, independent innovation, e.g.:
 - Must follow clinical best practices
 - Human oversight until safety is established
 - Negative outcome monitoring
 - Third-party safety audit
- Safe harbor would protect from unlicensed practice laws and certain negligence claims

AI in Mental Health: Companies



Headspac
e



2025 Learning Agenda Early Groundwork

EXAMPLES

Education

Healthcare

Data privacy

Boarder safe harbor from certain kinds of liability

Trusted Content

- Deepfakes
- Copyright

Regulatory Mitigation

- A sense of safety for school districts to move forward
- We assisted in helping create a contract to reassure stakeholders facing uncertainty in AI related issues
- We are seen as a trusted partner of private industry as much as a
- We will continue to monitor