

Effective 5/7/2025

Chapter 72a
Artificial Intelligence Applications Relating to Mental Health

Part 1
General Provisions

13-72a-101 Definitions.

As used in this chapter:

- (1) "Artificial intelligence" means the same as that term is defined in Section 13-72-101.
- (2) "Artificial intelligence technology" means the same as that term is defined in Section 13-72-101.
- (3) "Confidential communications" means the same as that term is defined in Section 58-60-102.
- (4) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- (5) "Division" means the Division of Consumer Protection created in Section 13-2-1.
- (6) "Generative artificial intelligence" means an artificial intelligence technology system that:
 - (a) is trained on data;
 - (b) is designed to simulate human conversation with a consumer through one or more of the following:
 - (i) text;
 - (ii) audio; or
 - (iii) visual communication; and
 - (c) generates non-scripted outputs similar to outputs created by a human, with limited or no human oversight.
- (7) "Health care provider" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- (8) "Health plan" means the same as that term is defined in 45 C.F.R. Sec. 160.103.
- (9) "Individually identifiable health information" means any information, whether oral or recorded in any form or medium, that relates to the physical or mental health or condition of an individual.
- (10)
 - (a) "Mental health chatbot" means an artificial intelligence technology that:
 - (i) uses generative artificial intelligence to engage in interactive conversations with a user of the mental health chatbot similar to the confidential communications that an individual would have with a licensed mental health therapist; and
 - (ii) a supplier represents, or a reasonable person would believe, can or will provide mental health therapy or help a user manage or treat mental health conditions.
 - (b) "Mental health chatbot" does not include artificial intelligence technology that only:
 - (i) provides scripted output, such as guided meditations or mindfulness exercises; or
 - (ii) analyzes an individual's input for the purpose of connecting the individual with a human mental health therapist.
- (11) "Mental health therapist" means the same as that term is defined in Section 58-60-102.
- (12) "Personal data" means the same as that term is defined in Section 63A-19-101.
- (13) "Scientific research development" means research:
 - (a) conducted by a researcher affiliated with:
 - (i) an institution of higher education;
 - (ii) a research organization; or
 - (iii) a healthcare facility; and
 - (b) that is:
 - (i) approved by an institutional review board; and

- (ii) conducted in accordance with applicable ethics requirements for human subject research.
- (14) "Supplier" means the same as that term is defined in Section 13-11-3.
- (15) "Utah user" means an individual located in the state at the time the individual accesses or uses a mental health chatbot.
- (16) "User input" means content provided to a mental health chatbot by a Utah user.

Enacted by Chapter 269, 2025 General Session

Part 2

Protections for Users of Mental Health Chatbots

13-72a-201 Protection of personal information.

- (1) A supplier of a mental health chatbot may not sell to or share with any third party any:
 - (a) individually identifiable health information of a Utah user; or
 - (b) user input of a Utah user.
- (2) Subsection (1) does not apply to individually identifiable health information:
 - (a) requested by a health care provider with the consent of the Utah user;
 - (b) provided to a health plan of a Utah user upon request of the Utah user; or
 - (c) shared in compliance with Subsection (3).
- (3)
 - (a) A supplier may share individually identifiable health information necessary to ensure the effective functionality of the mental health chatbot with another party with which the supplier has a contract related to such functionality.
 - (b) When sharing information under Subsection (3)(a), the supplier and the other entity shall comply with all applicable privacy and security provisions of 45 C.F.R. Part 160 and 45 C.F.R. Part 164, Subparts A and E, as if the supplier were a covered entity and the other entity were a business associate, as such terms are defined in 45 C.F.R. 160.103.

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13-72a-202 Restrictions on advertising.

- (1) A supplier may not use a mental health chatbot to advertise a specific product or service to a Utah user in a conversation between the Utah user and the mental health chatbot unless the mental health chatbot:
 - (a) clearly and conspicuously identifies the advertisement as an advertisement; and
 - (b) clearly and conspicuously discloses to the Utah user any:
 - (i) sponsorship;
 - (ii) business affiliation; or
 - (iii) agreement that the supplier has with a third party to promote, advertise, or recommend the product or service.
- (2) A supplier of a mental health chatbot may not use a Utah user's input to:
 - (a) determine whether to display an advertisement for a product or service to the Utah user, unless the advertisement is for the mental health chatbot itself;
 - (b) determine a product, service, or category of product or service, to advertise to the Utah user; or
 - (c) customize how an advertisement is presented to the Utah user.

- (3) This section does not prohibit a mental health chatbot from recommending that a Utah user seek counseling, therapy, or other assistance from a licensed professional, including a specific licensed professional.

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13-72a-203 Disclosure requirements.

- (1) A supplier of a mental health chatbot shall cause the mental health chatbot to clearly and conspicuously disclose to a Utah user that the mental health chatbot is an artificial intelligence technology and not a human.
- (2) The disclosure described in Subsection (1) shall be made:
 - (a) before the Utah user may access the features of the mental health chatbot;
 - (b) at the beginning of any interaction with the Utah user if the Utah user has not accessed the mental health chatbot within the previous seven days; and
 - (c) any time a Utah user asks or otherwise prompts the mental health chatbot about whether artificial intelligence is being used.

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13-72a-204 Violations -- Enforcement authority.

- (1) The division shall administer and enforce the provisions of this chapter in accordance with Chapter 2, Division of Consumer Protection.
- (2) The attorney general shall:
 - (a) upon request, give legal advice to the division; and
 - (b) act as counsel for the division in the exercise of the division's responsibilities under this chapter.
- (3) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:
 - (a) the division director may impose an administrative fine of up to \$2,500 for each violation of this chapter; and
 - (b) the division may bring an action in a court of competent jurisdiction to enforce a provision of this chapter.
- (4) In a court action by the division to enforce a provision of this chapter, the court may:
 - (a) declare that an act or practice violates a provision of this chapter;
 - (b) issue an injunction for a violation of this part;
 - (c) order disgorgement of money received in violation of this chapter;
 - (d) order payment of disgorged money to an injured purchaser or consumer;
 - (e) impose a fine of up to \$2,500 for each violation of this chapter; or
 - (f) award other relief that the court determines reasonable and necessary.
- (5) If a court awards judgment or injunctive relief to the division, the court shall award the division:
 - (a) reasonable attorney fees;
 - (b) court costs; and
 - (c) investigative fees.
- (6) A court may impose a civil penalty of no more than \$5,000 for each violation of an administrative or court order issued for a violation of this chapter.
- (7) The attorney general may bring a civil action on behalf of the division to collect a civil penalty imposed under this section.

- (8) The division shall deposit all fines and civil penalties collected under this section into the Consumer Protection Education and Training Fund created in Section 13-2-8.

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Part 3 Severability

13-72a-301 Severability.

- (1) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application.
- (2) The provisions of this chapter are severable.

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