

KEEP HEALTH CARE IN HUMAN HANDS

A.B. 1979 Assemblymember Mia Bonta



SUMMARY

This bill prohibits health care entities from using artificial intelligence (A.I.) systems to perform health care activities that require the clinical judgment of a licensed health care professional. The bill also requires companies offering A.I. health applications that access medical records to comply with California’s medical confidentiality laws.

Together, these protections ensure that, as the use of A.I. tools expands rapidly, patient care decisions remain in the hands of licensed health care professionals and that sensitive medical information remains protected under California law.

BACKGROUND

A.I. tools are rapidly entering health care in two major ways: automating clinical work and expanding the collection and use of patient health data.

Health care entities are rapidly introducing A.I. systems into hospitals, clinics, and medical offices to automate clinical activities performed by registered nurses (RNs) and other licensed health care professionals — effectively replacing, deskilling, or undermining these clinicians’ professional judgment.¹

Some A.I. developers openly market their products as lower-cost substitutes for licensed clinicians. For example, Nvidia/Hippocratic A.I. has promoted A.I. agents as \$9-per-hour replacements for RNs.² A 2024 study by UCSF experimented with using ChatGPT to “triage” patients in the emergency department instead of RNs.³

Developers of A.I. health applications are also expanding the ways patient medical records are accessed and used by A.I. systems, raising new concerns about how sensitive health information

is protected. Many of these tools can connect medical records to large language models that analyze, sell, or otherwise utilize health data outside the traditional privacy frameworks that govern hospitals and clinicians. For example, if an individual uploads their medical record to ChatGPT Health for advice, existing health privacy laws may not protect that information from being used, stored, or shared for purposes beyond the individual’s request.⁴

In health care, A.I. systems also pose life-threatening safety risks. These tools can generate false or misleading health information, omit critical clinical details, or replicate racial biases in their training data.⁵ For example, one health care A.I. tool fabricated a nonexistent body part and produced conflicting diagnoses about a patient’s chest x-ray depending on how questions were phrased.⁶

Despite being marketed as efficient and time-saving, A.I. tools can often increase workload for clinicians. A University of San Diego study found clinicians using A.I. to draft patient messages spent 22 percent more time checking for mistakes.⁷ Similarly, RNs report spending more time reviewing, correcting, and verifying A.I.-generated patient handoff reports that are inaccurate or incomplete, diverting time away from direct patient care.⁸

Health care entities often use A.I. technology to justify dangerous cuts to staffing levels, putting patients and health care workers at risk. For example, HCA-owned hospitals partnered with Palantir to develop Timpani, an A.I.-enabled application that nurses report creates unsustainable and faulty schedules that ultimately perpetuate the national short-staffing crisis.⁹ More broadly, researchers warn that A.I.-driven staffing and gig-style nursing

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platforms can place nurses in unfamiliar clinical environments without adequate training or onboarding.⁹

PROBLEM

Health care decisions that require clinical judgment, such as assessing a patient's condition, educating patients and families, handing off patient responsibility, and documenting clinical information, carry real consequences for patient safety. These decisions require training, experience, ethical responsibility, and professional accountability.

Just as clinical decision-making requires trained professionals who are licensed and accountable, the handling of medical information has long been governed by strict confidentiality laws. When A.I. systems operate outside those protections, patients' most sensitive health data may be analyzed, stored, or shared without the safeguards that apply in the health care system.

A.I. systems do not hold licenses, cannot be disciplined by regulatory boards, and cannot be held accountable in the same way as health care professionals. When health care entities use A.I. to perform or guide licensed clinical activities, it blurs the line between assistance and substitution, enabling unlicensed practice by machines and exposing patients to harm.

Without clear legal guardrails, health care employers and technology companies may continue to deploy A.I. in health care in ways that prioritize labor cost savings over safe staffing, patient protections, and professional standards.

SOLUTION

A.B. 1979 prohibits health facilities, clinics, physician offices, and group medical practices from using or deploying A.I. to perform activities that require the professional judgment of a licensed health care professional. These activities include patient assessments, diagnoses, clinical decision-making, patient hand-offs, clinical documentation, and other protected activities that are subject to licensure under existing California law.¹⁰ The bill also prohibits the use of A.I. to direct or guide unlicensed workers in performing functions that require a professional license.

Additionally, A.B. 1979 ensures that consumer-facing A.I. health applications that connect to or analyze individuals' medical records are subject to California's Confidentiality of Medical Information Act (CMIA). Health care entities and other companies using or operating A.I. tools in health care must maintain the same standards of medical information confidentiality that apply to providers of health care.

By ensuring that health care entities and A.I. developers cannot use A.I. to replace licensed clinical judgement or bypass health privacy protections, A.B. 1979 safeguards patient safety, medical privacy, and the integrity of health care practice.

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SUPPORT

California Nurses Association (sponsor)

ENDNOTES

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- 9 Wells, K. J., & Ustek Spilda, F. (2024, December 17). Uber for Nursing: How an AI-Powered Gig Model Is Threatening Health Care. Roosevelt Institute. <https://rooseveltinstitute.org/publications/uber-for-nursing/>
- 10 Cal. Bus. & Prof. Code § 500 et seq.