

MEDICAL BOARD OF CALIFORNIA  
LEGISLATIVE ANALYSIS

BILL NUMBER: SB 903  
 AUTHOR: Padilla  
 BILL DATE: January 21, 2026, Introduced  
 SUBJECT: Mental Health Professionals: Artificial Intelligence  
 SPONSOR: California Association of Marriage and Family  
 Therapists; California Behavioral Health Association;  
 California Psychological Association

DESCRIPTION OF CURRENT LEGISLATION

Prohibits organizations and non-licensed professionals from providing or offering therapy or psychotherapy services, including through the use of artificial intelligence (AI) as defined. Limits the authorized use of AI by a licensed professional engaged in therapy or psychotherapy services. Grants authority to the Department of Consumer Affairs (DCA) to investigate violations and issue a civil penalty of up to \$10,000 per violation.

BACKGROUND

Pursuant to the [California Medical Practice Act \(the Act\)](#), only a natural person who is licensed by, and in good standing with, the Medical Board of California or the Osteopathic Medical Board of California may practice medicine in this state (see [Business and Professions Code \(BPC\) section 2052](#)). AI may not represent itself as a physician and it may not practice medicine, including diagnosing and treating a patient.

Physicians must treat their patients according to the standard of care, which is the level of skill, knowledge, and care in diagnosis and treatment ordinarily possessed and exercised by other reasonably careful and prudent physicians in the same or similar circumstances at the time in question. Relatedly, [BPC section 2242](#) requires an appropriate prior examination of a patient and a medical indication to properly prescribe or provide prescription medication.

The Act does not prohibit a physician from using tools, such as AI, in the course of their work and does not require that a physician see a patient in-person or have real-time interactions with the patient prior to diagnosing them or determining a treatment plan, if care and treatment by virtual or asynchronous contact is consistent with the standard of care under the facts and circumstances at issue. Further, [BPC section 2290.5](#) provides requirements related to interacting with a patient via telehealth, which, depending upon the circumstances, may be relevant to a patient interaction involving the use of AI (see also this [Board webpage related to BPC 2290.5 and practicing via telehealth](#)).

The Act does not require specific notifications to patients that AI is being used in their practice; however, physicians using AI may be subject to other laws related to privacy (e.g., when recording a patient interaction). Relatedly, the Board posted [information on its website](#) regarding AB 3030 (Calderon, Chapter 848 of 2024 Statutes), which added new sections to the Health and Safety Code that require various health care settings, including a physician's office, to make certain disclosures when using generative AI to create written or verbal patient communications regarding "patient clinical information," as defined.

Before receiving medical care, including interacting with providers (or a person/service that claims to be a health care provider) online/remotely, the consumers should verify that who they are interacting with has a current and active license in this state. If any individual or AI system is impersonating a health care provider, consumers should [file a complaint with the appropriate entity](#).

In May 2024, the Federation of State Medical Boards (FSMB) released a [report that recommends various best practices](#) for state medical boards in governing the use of AI in clinical care. These recommendations were adopted by the FSMB's House of Delegates at the 2024 FSMB Annual Meeting.

## ANALYSIS

According to the author's fact sheet:

"According to clinicians, chatbot therapists pose data and privacy concerns, have a limited understanding of client backgrounds, can cause client over-reliance on chatbots, give incorrect treatment recommendations, and have an inability to detect subtle communication cues, such as tone and eye contact<sup>1</sup>.

Last year, the Illinois Legislature passed the Wellness and Oversight for Psychological Resources Act to address these concerns. California must build on this model to ensure that mental health treatment is safe, ethical, and conducted by trained professionals.

SB 903 would protect individuals seeking therapy or psychotherapy services by ensuring those services are provided only by qualified, licensed professionals. This bill would prohibit individuals or companies, including those using AI, from offering or advertising therapy or psychotherapy in California unless a licensed professional is responsible for the care.

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<sup>1</sup> <https://pmc.ncbi.nlm.nih.gov/articles/PMC12158938/>

In high-risk professions such as mental health treatment it is imperative to ensure that AI technology is not being misused in a way that is potentially harmful to patients. We must act to ensure that commercial interests are not put above the needs and wellbeing of Californians.”

SB 903 establishes the “Wellness and Oversight for Psychological Resources Act,” and states that its purpose is to safeguard individuals seeking therapy or psychotherapy services by ensuring these services are delivered by qualified, licensed, or certified professionals. Further, this law is intended to protect consumers from unlicensed or unqualified providers, including unregulated artificial intelligence systems, while respecting individual choice and access to community-based and faith-based mental health support.

### **Terms Defined in SB 903**

“Administrative support” means tasks performed to assist a licensed professional in the delivery of therapy or psychotherapy services that do not involve therapeutic communication. “Administrative support” includes, but is not limited to, all of the following:

- Managing appointment scheduling and reminders.
- Processing billing and insurance claims.
- Drafting general communications related to therapy logistics that do not include therapeutic advice.

“Artificial intelligence” means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.

“Consent” means a clear, explicit affirmative act by an individual meets both of the following requirements:

- Unambiguously communicates the individual’s express, freely given, informed, voluntary, specific, and unambiguous written agreement, including a written agreement provided by electronic means.
- Is revocable by the individual.

“Consent” does not include an agreement that is obtained by any of the following:

- The acceptance of a general or broad terms of use agreement or a similar document that contains descriptions of artificial intelligence along with other unrelated information.

- An individual hovering over, muting, pausing, or closing a given piece of digital content.
- An agreement obtained through the use of deceptive actions.

“Department” means the Department of Consumer Affairs (DCA).

“Licensed professional” means an individual who holds a valid license issued by this state to provide therapy or psychotherapy services, including, but not limited to, the following:

- A licensed clinical psychologist.
- A licensed clinical social worker.
- A licensed professional clinical counselor.
- A licensed marriage and family therapist.
- A registered or certified alcohol or other drug counselor.
- A psychiatric mental health nurse practitioner.
- Any other professional authorized by this state to provide therapy or psychotherapy services.

“Peer support” means services provided by individuals with lived experience of mental health conditions or recovery from substance use that are intended to offer encouragement, understanding, and guidance without clinical intervention.

“Religious counseling” means counseling provided by clergy members, pastoral counselors, or other religious leaders acting within the scope of their religious duties if the services are explicitly faith based and are not represented as clinical mental health services or therapy or psychotherapy services.

“Supplementary support” means tasks performed to assist a licensed professional in the delivery of therapy or psychotherapy services that do not involve therapeutic communication and that are not administrative support. “Supplementary support” includes, but is not limited to, any of the following:

- Preparing and maintaining client records, including therapy notes.
- Analyzing anonymized data to track client progress or identify trends, subject to review by a licensed professional.
- Identifying and organizing external resources or referrals for client use.

“Therapeutic communication” means any verbal, nonverbal, or written interaction conducted in a clinical or professional setting that is intended to diagnose, treat, or address an individual’s mental, emotional, or behavioral health concerns. “Therapeutic communication” includes, but is not limited to, any of the following:

- Direct interactions with clients for the purpose of understanding or reflecting their thoughts, emotions, or experiences.
- Providing guidance, therapeutic strategies, or interventions designed to achieve mental health outcomes.
- Offering emotional support, reassurance, or empathy in response to psychological or emotional distress.
- Collaborating with clients to develop or modify therapeutic goals or treatment plans.
- Offering behavioral feedback intended to promote psychological growth or address mental health conditions.

“Therapeutic communication” does not include the discussion of a patient’s use of artificial intelligence in a clinical setting.

“Therapy or psychotherapy services” means services provided to diagnose, treat, or improve an individual’s mental health or substance use disorder condition. “Therapy or psychotherapy services” does not include religious counseling or peer support.

“Use of artificial intelligence” means the use of artificial intelligence tools or systems by a licensed professional to assist in providing administrative support or supplementary support in therapy or psychotherapy services where the licensed professional maintains full responsibility for all interactions, outputs, and data use associated with the system and satisfies the requirements of section 4989.83 (that section is described immediately below).

**Limits on Use of AI for Supplementary Support in Therapy or Psychotherapy**

SB 903 adds BPC section 4989.83 which prohibits a licensed professional from using AI to provide supplementary support in therapy or psychotherapy where the client’s therapeutic session is recorded or transcribed unless both of the following conditions are satisfied:

- The patient or the patient’s legally authorized representative is informed in writing that artificial intelligence will be used and identifies the specific purpose of the artificial intelligence tool or system that will be used.

- The patient or the patient's legally authorized representative provides consent to the use of artificial intelligence.

### **Prohibitions on AI Use**

A licensed professional may use artificial intelligence only to the extent the use meets the requirements of SB 903. Uses of AI that are not addressed in the bill would not be prohibited.

The bill states that an individual, corporation, or entity shall not provide, advertise, or otherwise offer therapy or psychotherapy services, including through the use of internet-based artificial intelligence, to the public in this state unless the therapy or psychotherapy services are conducted by a licensed professional.

A licensed professional shall not allow artificial intelligence to do any of the following:

- Make independent therapeutic decisions.
- Directly interact with clients in any form of therapeutic communication, unless they are using a product that is approved by the United States Food and Drug Administration and is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).
- Generate therapeutic recommendations or treatment plans without review and approval by the licensed professional.
- Detect emotions or mental states.

### **Records Confidentiality Provisions**

The bill states that all records kept by a licensed professional and all communications between an individual seeking therapy or psychotherapy services and a licensed professional shall be confidential and shall not be disclosed except as otherwise required by law. This is consistent with existing law.

### **Enforcement Provisions**

The authority to investigate possible violations of SB 903 is provided to DCA, not the various licensing boards that regulate the licensed professionals subject to the bill. Violations are subject to a civil penalty up to a maximum of \$10,000 per violation.

### **Exemptions Provided**

The legislation states that it does not apply to any of the following:

- Religious counseling.

- Peer support.
- Self-help materials and educational resources that are available to the public and do not purport to offer therapy or psychotherapy services.

### **Consideration of a Board Position**

Although the bill may principally be intended to address care provided by non-physicians, all physicians would be subject to the bill since they are licensed to diagnose, treat, or improve an individual's mental health or substance use disorder condition. The bill states that "A licensed professional may use artificial intelligence only to the extent the use meets the requirements of this [legislation]."

The Act does not generally regulate the types of tools or resources used by the physician, so long as the physician is the one who is determining any diagnosis and treatment plan themselves. When it comes to the use of AI, or any other tool, each physician is required to exercise appropriate judgment and, in all circumstances, treat their patient according to the standard of care.

AI, when used properly, is a resource that can enhance a health care provider's ability to provide appropriate care and possibly increase access to care. If a health care provider used AI inappropriately, consumers can be placed at increased risk of harm or of receiving treatment below the standard of care. Regardless of how care is delivered, and what resources are used by a physician, all complaints received by the Board are reviewed, and investigated (as appropriate).

SB 903 includes various laudable provisions, including:

- 1) Establishes consent requirements related to the use of AI. The portion of the language that states what is not included in "consent" is unclear and may be difficult to enforce.
- Prohibits anyone from offering therapy or psychotherapy service through an internet-based AI system unless the services are provided by a licensed professional. This is consistent with existing law prohibiting the unlicensed practice of medicine and bans on the corporate practice of medicine.
  - Prohibits a licensed professional from using AI to make independent therapeutic decisions and requires an AI product used for therapeutic communications to be Federal FDA approved and compliant with federal health confidentiality laws (i.e. the Health Insurance Portability and Accountability Act of 1996, or HIPAA). Further, states that records kept by a licensed professional and all communications between individual seeking therapy or psychotherapy and the licensed professional are confidential. These provisions are consistent with current law.

Some concerns with the bill language include:

- The bill prohibits using AI to detect emotions or mental states. This language is unclear and may be unnecessary given the other prohibitions included in the bill.
- The bill places enforcement responsibilities with the DCA, not the individual licensing boards. This should be changed so that the relevant boards have this authority.
- The definition of “therapy or psychotherapy services” is very broad and includes services like prescribing medications. The definition of psychotherapy provided on the [website of the American Psychological Association](#) (see below) may be more appropriate for the purposes of SB 903:
  - Any psychological service provided by a trained professional that primarily uses forms of communication and interaction to assess, diagnose, and treat dysfunctional emotional reactions, ways of thinking, and behavior patterns.
- The definition of the “use of artificial intelligence” includes language stating “...where the licensed professional maintains full responsibility for all interactions, outputs, and data use associated with the system...” Given the complexity of AI systems (and their possibly proprietary nature), including the fact that medicine can be practiced in settings that may involve a multi-disciplinary team of professionals (e.g., inpatient mental health treatment), is this an appropriate definition to govern the use of AI by a physician? Could this dissuade a physician who treats mental health conditions from using AI entirely?
- The author indicates that SB 903 is modeled after Illinois legislation that was [signed into law in August 2025](#). It is unclear whether enough time has passed to assess the impact of that law on the residents of Illinois.

Under Agenda Item #5 of the Board’s Quarterly meeting on February 26-27, 2026, titled “*Presentation: A Regulator’s Perspective on Artificial Intelligence (AI) in Healthcare*,” the Board will hear from Frank Meyers, J.D., the Director of Regulatory Innovation & Member Services at the FSMB. This presentation is expected to illuminate the various consumer protection benefits and risks associated with physician use of AI and may help inform the Board’s consideration of SB 903.

At this time, staff do not have a position recommendation and look to the Board to determine whether SB 903 strikes an appropriate balance. If the Board does not take a position, it may wish to consider directing staff to send a letter to the Legislature, and other interested parties, that describes the Board’s views on the pertinent matters raised in SB 903 and direct staff to conduct further research that will help the Board in its deliberations on this, and future matters involving the use of AI in medicine.

If the Board believes that the provisions of SB 903 are not appropriate to the practice of medicine, then it could adopt a position that directs staff to seek amendments that remove physicians from the scope of the bill.

FISCAL: Minor and absorbable costs to update Board website content, train staff, and refer complaints to DCA for processing.

SUPPORT: None identified.

OPPOSITION: None identified.

POSITION: Recommendation: No position recommended.

ATTACHMENT: [SB 903, Padilla. Mental Health Professionals: Artificial Intelligence.](#)  
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