

# States rush to regulate AI in health care

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Laws to protect health and well-being are advancing despite White House pressure to prevent a patchwork of AI rules



*State legislatures are expected to consider proposals on AI chatbots, youth protections, clinical use of AI, patient consent, insurer use of AI, prior authorization and telehealth. (sorbetto / iStockPhoto)*

## Key takeaways

**State legislators in many parts of America are legislating on the use of AI in health care**, even as the White House seeks to prevent a regulatory patchwork of rules for the rapidly evolving technology.

**A bipartisan push in statehouses across the country** aims to ensure human oversight, patient consent, protection of youth and limits on using AI as the sole basis for health care decisions.

**Health insurance is a key area of legislation**, with governors signing laws restricting the use of AI in denials of medical care through prior authorization.

**Mental health is another focus of regulation**, as states add safeguards on the use of chatbots and impose limits on the ways that medical professionals can use AI in diagnosing conditions and providing care.

### **Intro: Health care legislation advances in states**

Across the country, often in deeply conservative areas, governors are responding to consumers' concerns and the absence of federal legislation by signing state laws placing some guardrails on the rapidly growing use of artificial intelligence in health care.

At least 43 states have introduced laws governing health care and AI, according to the National Conference of State Legislatures.

Since January, such legislation has been signed into law in 12 states following a surge last year, NCSL found. With some state legislatures still in session and others expected to call special sessions, additional laws this year are likely.

Although the White House has opposed certain state bills that would regulate AI, especially broader measures that the tech industry opposes, legislation focused narrowly on health care is moving forward.

- Alabama's Republican governor and GOP-controlled legislature earlier

this month enacted a law requiring health insurance plans that use artificial intelligence to assist in denying or delaying medical care to get a medical professional's approval.

- Tennessee's Republican governor and legislature created legislation to block developers of AI systems from advertising or representing that the AI tool can act as a mental health professional.
- In Idaho, the Republican governor and GOP legislature enacted a law adding chatbot safeguards, such as requirements to refer suicidal users to crisis services, a ban on intentionally programming chatbots to indicate that they provide professional mental health care, and additional protections for minors.

"State legislative activity around health care and AI has accelerated noticeably," said Sarah Starling Crossan, a senior public affairs adviser at the Holland and Knight law firm and former Senate staffer. "States are stepping in first because these technologies are being deployed far faster than federal policymakers can respond. Concerns about patient harm, discrimination and transparency are pushing state lawmakers to act where federal guardrails remain unsettled."

Common health-related issues that states are addressing are:

- **Prior authorization involving health insurance.** States added some limits on the use of AI in prior authorization denials or required the disclosure of the use of AI.
- **AI chatbots.** Most of the new laws require clear disclosure to users that they are interacting with an AI system rather than a human and ban chatbots from presenting themselves as licensed professionals, according to Randi Seigel, a New York-based partner at Manatt, Phelps & Phillips, a legal and consulting firm.
- **AI use in medical care,** including limits that prevent AI from providing services that should be done by licensed medical professionals.

Some of the laws add additional safeguards for interactions with young

people, such as a separate suicide hotline, limits on use and additional disclosures.

“Governors generally want room for states to protect residents — especially children, teens and young adults who are most susceptible to bad actors and misuse of these emerging technologies,” said Timothy Blute, the National Governors Association chief policy officer.

Some states also passed laws aimed at preventing potential discrimination based on algorithms.

Overall, states are making “a bipartisan move toward a practical framework: Disclose AI use, protect minors, require appropriate human review and prevent AI tools from replacing licensed professional judgment,” said Blute.

## **Analysis: Additional state laws are likely to pass this year**

### **Republicans are among those balking at White House pressure**

The ramp-up in statehouse legislating comes as the White House is seeking to prevent a state-by-state regulatory patchwork that would hamper the development of AI. President Donald Trump issued an executive order in December opposing many types of AI-related state bills.

“United States AI companies must be free to innovate without cumbersome regulation,” the order said. “But excessive State regulation thwarts this imperative.”

The pushback against the executive order was bipartisan. More than 50 Republican state lawmakers in 22 states sent a letter to Trump in March protesting the order.

“We are deeply concerned by the work of officials seeking to pressure lawmakers in Utah and other states to abandon legislation aimed at mitigating risks at leading AI labs and safeguarding constituents, including young people, from AI’s worst harms,” said the group. “We firmly believe state-led efforts are fully consistent with conservative principles.”

Last month, the Trump administration released its framework for federal AI legislation. It outlined six major areas that it asked Congress to regulate, including adding controls on children’s devices, broadening access to testing environments for AI systems, and encouraging Congress to focus on AI-related workforce development and skills training programs.

But with federal legislation unlikely to move soon, states are exercising their authority over the practice of medicine, certain types of health insurance and the safety of their residents to try to create some guardrails.

The regulatory push accompanies health care’s emergence as one of the most prevalent uses of quickly advancing AI technology in America. Health care’s significant role in the economy, making up almost one-fifth of U.S. economic activity, makes it a particularly lucrative target for tech companies as they develop new automated tools.

The uses include assisting with billing or communications between insurers and medical providers, deploying electronic scribes to record and transcribe conversations, and helping with diagnoses or updating doctors on the latest scientific evidence. Outside of health care settings, consumers are using AI to self-diagnose medical problems and participate in chatbot conversations that can start to mimic human interactions.

The state policies are limited in scale compared to the reach of federal legislation. Nonetheless, they are creating an uneven landscape throughout the country.

State officials’ desire to protect their residents “must be weighed against the knowledge that overly fragmented state rules can create compliance challenges for health systems, insurers and technology developers operating across state lines,” said Blute of the NGA.

### **The use of AI for pre-authorization in insurance is a top state concern**

Since the start of this year, more than 25 states have introduced over 35

bills addressing prior authorization or insurers' use of AI, said Seigel of Manatt, who noted that states have been actively legislating on that issue in recent years.

"We anticipate that trend will continue," Seigel said.

For example, some of the laws enacted last year include a comprehensive measure on prior authorization in Nebraska that said an AI algorithm cannot be the sole basis of an insurance plan's decision to deny, delay or modify health care services based on medical necessity. The law also requires the disclosure of the use of AI in prior authorization reviews by insurance companies.

Texas banned insurers from using an automated decision system to block coverage of care. Texas gave the insurance commissioner the authority to audit and inspect the AI tools used by insurers.

That law was one of several governing AI in health care that Texas enacted last year. Another requires providers using AI to diagnose conditions to tell patients they're using the technology, and requires those using AI for diagnostic or other reasons to follow state medical records standards when reviewing AI-created information.

Utah has been at the forefront of state laws involving health care and AI, passing legislation in 2024, 2025 and 2026. This spring, Utah passed a law requiring insurers to disclose if AI is used to review authorization requests.

The case of Alabama shows how a tailored bill can get broad Republican support notwithstanding Trump's executive order. GOP lawmaker Arthur Orr introduced a wide-ranging prior authorization bill, but succeeded in passing a narrower law than he originally sought. The new law focuses specifically on AI-driven denials or delays, and will take effect on Oct. 1.

The issue became personal for Orr after one of his staffers approached the senator to say that he had personally experienced an AI-enabled denial from an insurer and faced challenges with appeals.

“It’s a patient and consumer constituent issue,” said Orr in an interview, later adding, “it’s a real issue out there.”

Orr called the debate in Alabama “extremely bipartisan.”

The new law does not ban insurers from using AI in coverage decisions. But it requires a medical professional to check any decision that denies or defers care — and adds criteria for insurance plans to follow, including a review of the patient’s medical history and antidiscrimination protections.

The state’s leading insurer asked Orr to clarify that AI could be used to approve medical treatment without a medical provider’s authorization, a change that legislators made before final passage, the senator said.

The law authorizes the state Department of Insurance to investigate and impose disciplinary action for violations. Orr called that critical to ensuring compliance.

“Many times we will pass well-intentioned legislation, but there’s really no enforcement mechanism or accountability mechanism after implementation,” said Orr. “So that was important to me.”

### **States are regulating the mental health risks of chatbots**

Mental health, including when consumers use a chatbot for advice, is another key issue on which state officials are focusing their efforts.

In the first quarter of this year alone, legislators in 36 states introduced more than 70 bills regulating AI chatbots, by Manatt’s count.

The laws aim to mitigate the risks after [heartbreaking stories](#) emerged of teens committing suicide after confiding in chatbots that did nothing to discourage them, and in some cases encouraged them — an issue that [Congress](#) has also examined.

In [one case](#), a 16-year-old used a chatbot for about five hours daily, in conversations during which ChatGPT used words like “suicide” or “hanging”

as many as 20 times more often than the teen did. The chatbot even offered to help write a suicide note.

Roughly two-thirds of U.S. teens ages 13 to 17 say they use an AI chatbot, according to a [fall 2025 survey](#) by the Pew Research Center released in December.

Last year, Utah's Republican Gov. Spencer Cox signed a law requiring mental health chatbots to identify themselves at the start of any exchange with people. It bans the companies providing the chatbots from sharing individually identifiable health information and consumers' input except in certain health care-related situations or to ensure functionality. The law also limits advertising to consumers.

California is another state that passed chatbot-related legislation last year. The law requires "clear and conspicuous" notifications that a chatbot is artificially generated, and requires a protocol for preventing self-harm, including referrals to suicide hotlines. The measure adds further protections for minors who use a chatbot.

The Idaho chatbot law enacted this year echoes some parts of the California legislation, even as some state legislators push for a more pro-AI approach through a different bill. That measure builds on [a model law](#) by the Cicero Institute, a public policy organization led by people with experience in government, tech and entrepreneurship. The model law would allow AI to move forward with licensing requirements — and allow a regulatory sandbox that allows AI experimentation with oversight.

### **Laws restrict the use of AI in licensed medical care**

Other bills tied to AI and mental health include measures to limit the use of AI in therapy sessions or other types of care.

These limits aim to prevent AI from providing services that licensed medical professionals should do. About half of the states have seen bills introduced on this topic this year, according to Seigel.

For instance, a 2025 Illinois law bans licensed professionals from using AI for supplementary support unless a patient consents. It limits them from relying on an AI system in certain types of care, including making treatment plans without the review of a provider or independent therapeutic decisions, or in detecting emotional or mental states of patients.

Last week, Delaware passed a law ensuring that AI-powered agents and other nonhuman entities may not be licensed as a medical provider such as a nurse, physician or physician assistant.

These laws are separate from privacy laws, which states including California and Texas have passed in recent years.

About 77 percent of Americans said they are concerned about the privacy of personal medical information provided to AI tools, according to [a poll](#) released last month by the nonpartisan journalism, polling and health policy information organization KFF.

Despite these concerns, the KFF poll found that about 32 percent of adults have asked AI for health advice. About 13 percent of adults said they have uploaded personal health information into an AI tool or chatbot.

## **Looking Ahead**

Although some state legislative sessions have ended for the year, others will likely advance more legislation.

“It is very likely that governors will sign additional bills before the end of the year,” said Blute of the NGA.

State legislatures are expected to consider proposals on AI chatbots, youth protections, clinical use of AI, patient consent, insurer use of AI, prior authorization and telehealth.

“There is significant bipartisan interest among governors across the country in protecting residents from the potential harms of AI, particularly with respect to minors and data privacy,” said Seigel.

That bipartisan gubernatorial interest, including among Republicans, helped block a federal ban on state AI laws that was proposed last summer.

“We don’t anticipate that the federal government will pass broad-based AI legislation but [it] may tackle certain use cases, which could preempt state laws,” said Seigel.

## **Recommendations**

- 1. Anticipate continued tensions between state and federal efforts** over how best to oversee AI. Some state legislators are frustrated with the White House’s pressure to limit state action. Health care and protections for young people seem to remain areas where states will continue to move forward.
- 2. Expect that the passage of federal legislation is unlikely before the midterm elections.** “Any meaningful health care or AI legislation will likely be punted into an end-of-year package rather than moved on its own,” said Crossan. “That reality makes it especially important to watch whether Congress is able to coalesce around narrow, targeted bills focused on health care-specific issues such as health data governance or health care delivery — or if they put together a broader, industry-agnostic AI governance approach” in an expected lame-duck congressional session. Getting consensus on any major AI legislation in Congress will be challenging.
- 3. The window for advocacy is still open.** Assume that the Trump administration will look for opportunities through its executive branch powers to promote AI. The administration is pushing for innovation and is sensitive to arguments about state actions that could interfere with the development of the tech industry.
- 4. Prepare for states to enforce newly enacted laws** through guidance and early enforcement actions that will vary by state.
- 5. Watch for more state laws this year.** To track 2026 state legislative activity, consult the NCSL’s [Artificial Intelligence Legislation Database](#).

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