

State Legislation on AI: Emerging Restrictions and Implications for Mental Health Providers

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Agenda

CLINICAL/MARKETPLACE OVERVIEW

- Overview of current digital health tools/digital therapeutics landscape
- FDA clearance process; examples of FDA-cleared tools, use cases
- Current reimbursement snapshot

NATIONAL LANDSCAPE

- Recent AI developments especially AI chatbots
- Discussion of APA's AI health advisory, ethical guidance
- Recent advocacy efforts at the national level

CURRENT STATE LEGISLATIVE TRENDS

- Brief description of 2025 Nevada & Illinois AI laws -- precedents
- Discussion about current state legislative activities
- Overview of specific concerns/considerations

Q&A

LLMs as a Mental Health Resource

Study explored use of LLMs by adults with mental health conditions:

- 49% of participants reported using an LLM for psychological support in the past year
 - 73% for anxiety
 - 63% for personal advice
 - 60% for depression
- 63% reported improvement in mental health
- 82% were satisfied with the LLM's overall helpfulness
- 9% reported harmful or inappropriate responses

The Public's Use of ChatGPT

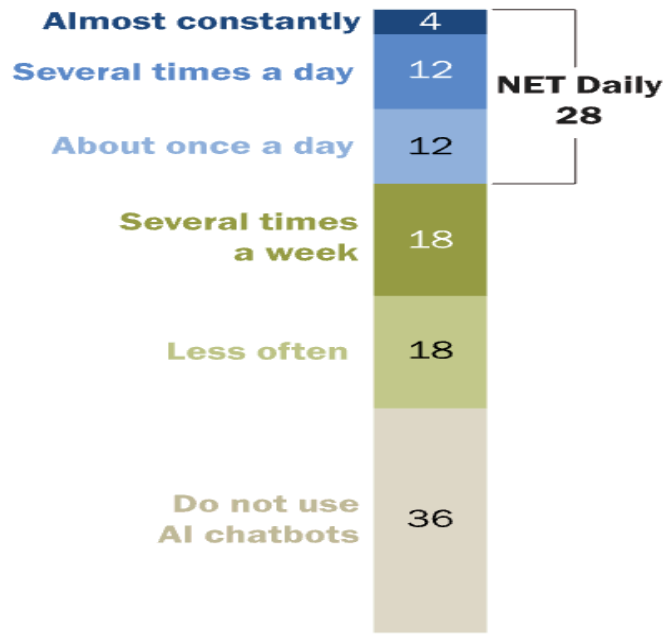
~800 million weekly users

- .15% of users express indicators of suicidal planning or intent
= 1.2M people
- .15% of users show signs of emotional dependency
= 1.2M people
- .07% of users show possible signs of psychosis or mania
= 560,000 people

Teens' Chatbot Use

About 3 in 10 teens say they use AI chatbots daily

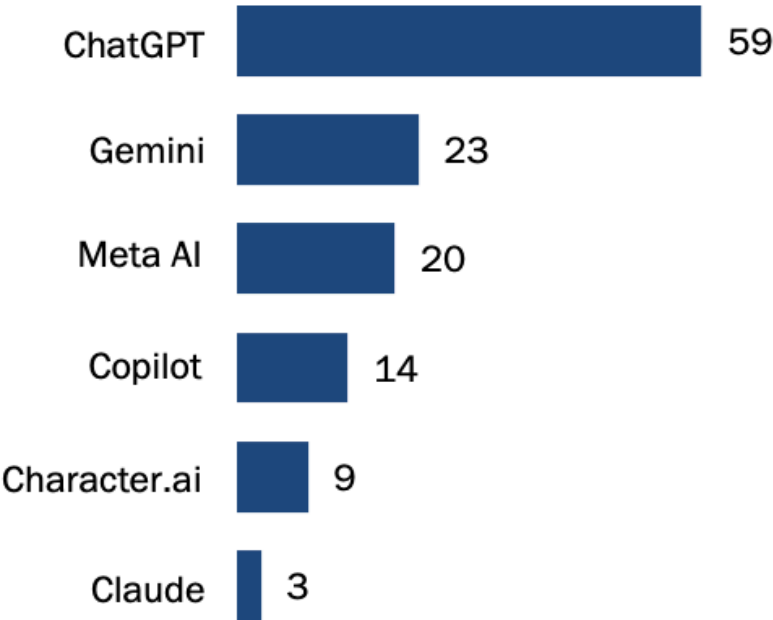
% of U.S. teens ages 13 to 17 who say they use an artificial intelligence (AI) chatbot like ChatGPT, Copilot or Character.ai ...



Note: “Do not use AI chatbots” refers to those who say they do not use AI chatbots or have heard nothing about them. Those who did not give an answer are not shown.
Source: Survey conducted Sept. 25-Oct. 9, 2025.
“Teens, Social Media and AI Chatbots 2025”
PEW RESEARCH CENTER

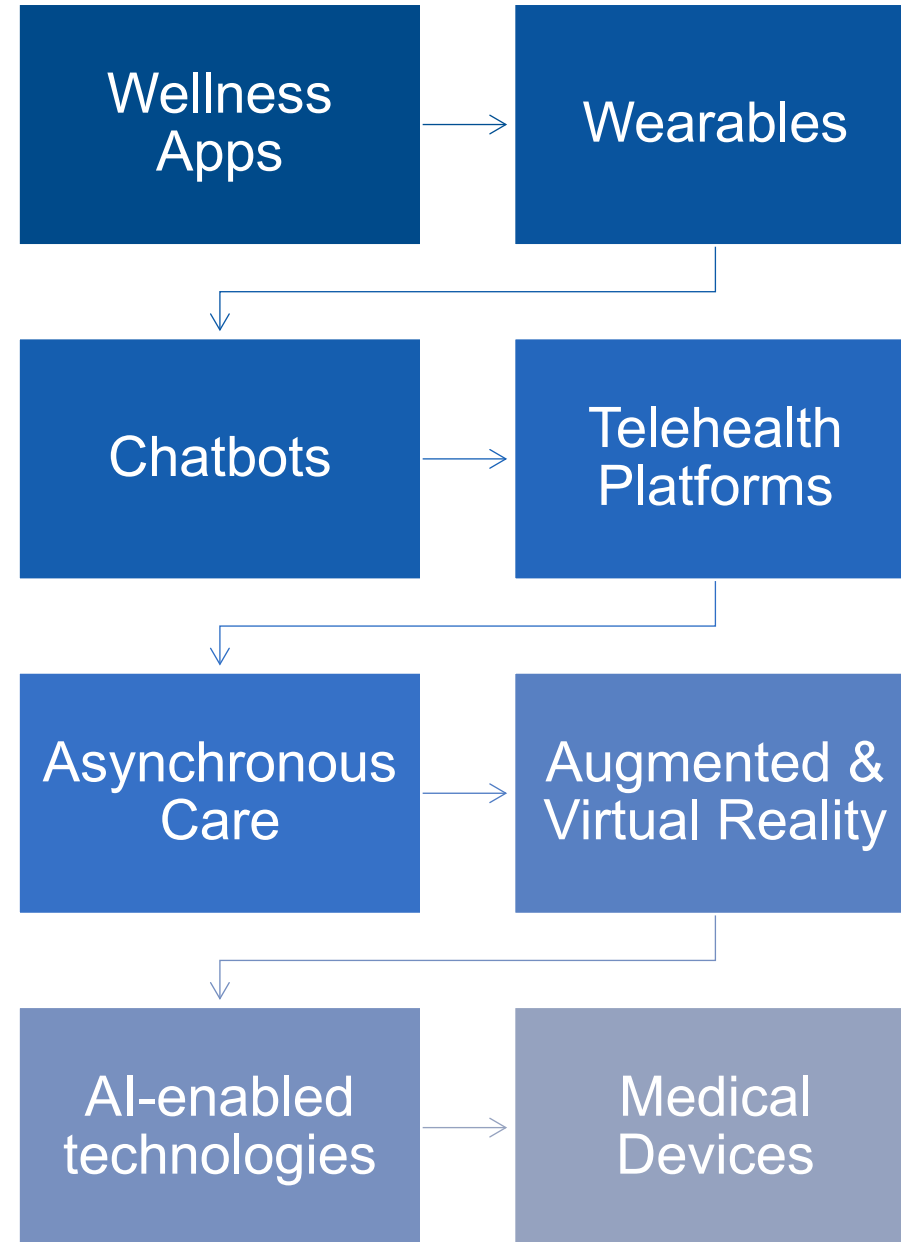
ChatGPT by far tops the list as the most widely used AI chatbot among teens

% of U.S. teens ages 13 to 17 who say they ever use the following artificial intelligence (AI) chatbots

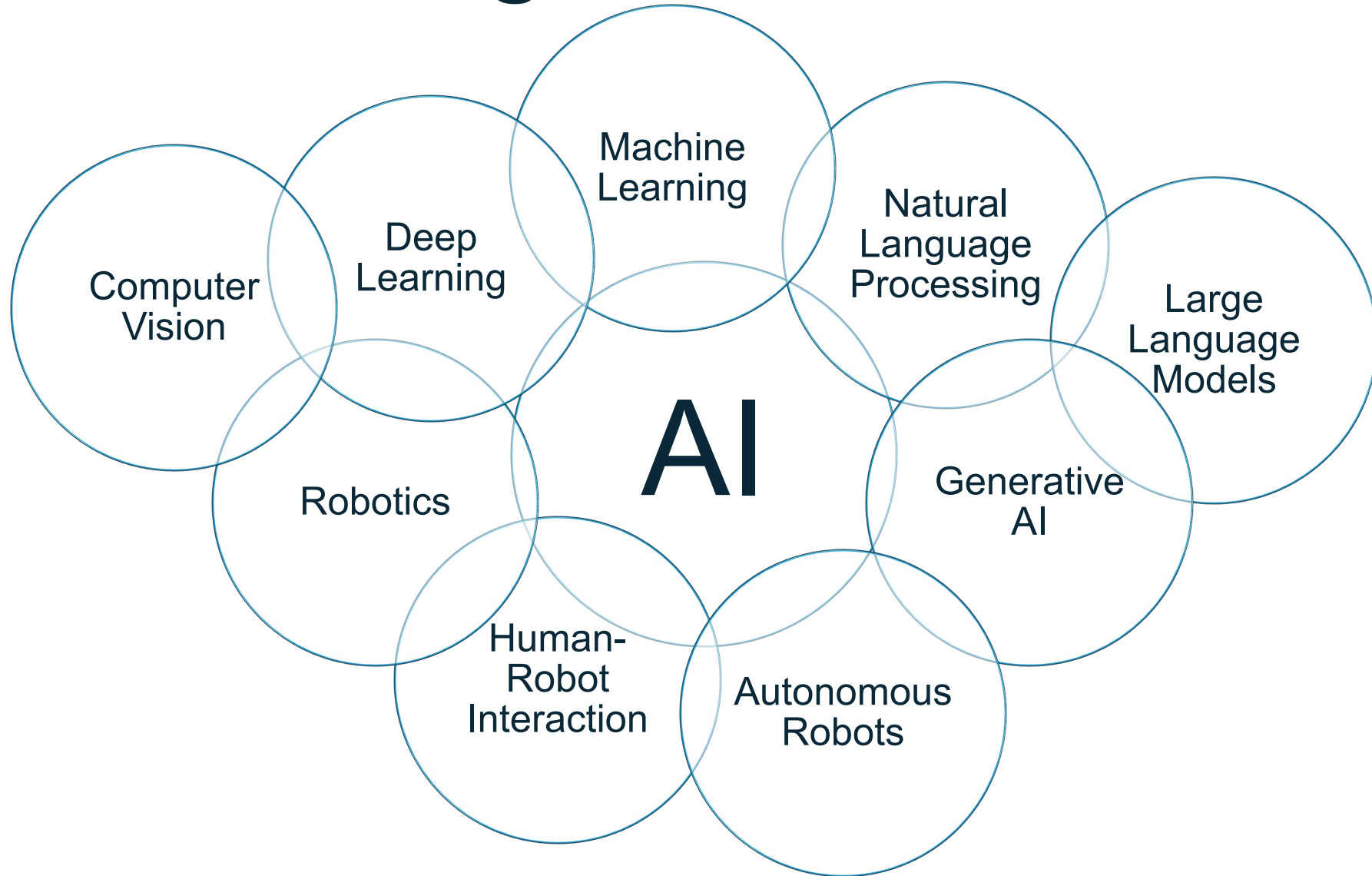


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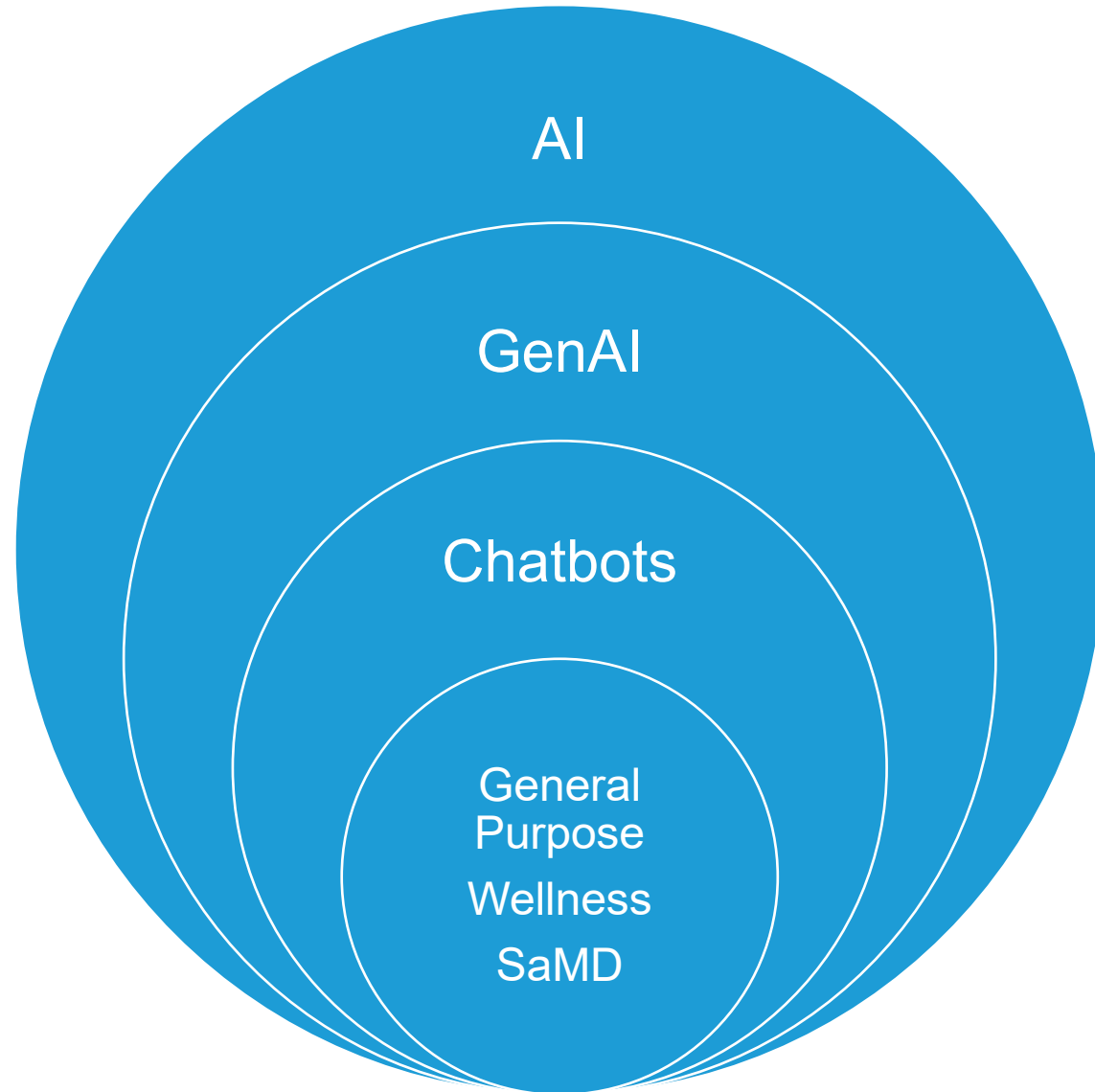
Landscape: Mental Wellness and Health Technologies



Artificial Intelligence



Artificial Intelligence



Wellness vs. Medical Technology

Wellness

- Support lifestyle changes & skill building
- Publicly available
- Unregulated
- No standards for safety and effectiveness

Medical

- Make medical claims
- Prescribed or ordered by a healthcare provider
- Regulated by FDA
- Standards for safety and effectiveness
- Post-market surveillance

AI Chatbot Landscape

FDA Regulated Mental Health Chatbots	Direct-to-Consumer MH chatbots	Direct-to-Consumer entertainment chatbots	Direct-to-Consumer general purpose chatbots
Regulated; chatbots that make medical claims that they can “diagnose, treat or cure” a condition	Unregulated; do not make medical claims Developed to address MH concerns (i.e., stress) or emotional wellbeing	Unregulated; designed to simulate human relationships Often used for companionship or as a “friend, coach, partner, etc.”	Unregulated; not meant for & don’t claim to be for MH support Many people use them for social or emotional support
None to Date 1 st RCT: Therabot	Ex: Ash by Slingshot, Sonia, Wayhaven	Ex: Character.ai, Replika	Ex: ChatGPT, Claude, Gemini

Digital Therapeutics (DTx)

- ISO Definition:

“health software intended to treat or alleviate a disease, disorder, condition, or injury by generating and delivering a medical intervention that has a demonstrable positive therapeutic impact on a patient’s health”

Regulatory Considerations

FDA: Software as a medical device (SaMD)

“Software intended to be used for one or more medical purposes that perform these purposes without being part of a hardware medical device”

Exempt

- Low Risk

Class II

- Moderate Risk
- Most PDTs fall here

Class III

- Highest Risk

Regulation of AI-enabled Devices

- FDA has cleared +1000 AI / ML enabled devices to date
- No GenAI tools cleared thus far
- FDA held a meeting of the Digital Health Advisory Committee to discuss recommendations for the regulation of GenAI-enabled digital mental health medical devices (November 2025)

Digital Therapeutics (DTx)

FDA cleared (21 CFR 882.5801) DTx include:

- DaylightRx
- MamaLift Plus
- SleepioRx
- Rejoyn
- reSET and reSET-O
- Somyrst

FDA cleared (21 CFR 882.5803) DTx include:

- EndeavorRx
- LumosityRx

FDA cleared (21 CFR 882.1491)

- Canvas Dx
- EarliPoint

Combining Software & Hardware

Examples:

- Freespira
- NightWare
- RelieVRx

Disclaimer: APA does not endorse any specific products or tools. Examples are provided for illustrative purposes only.



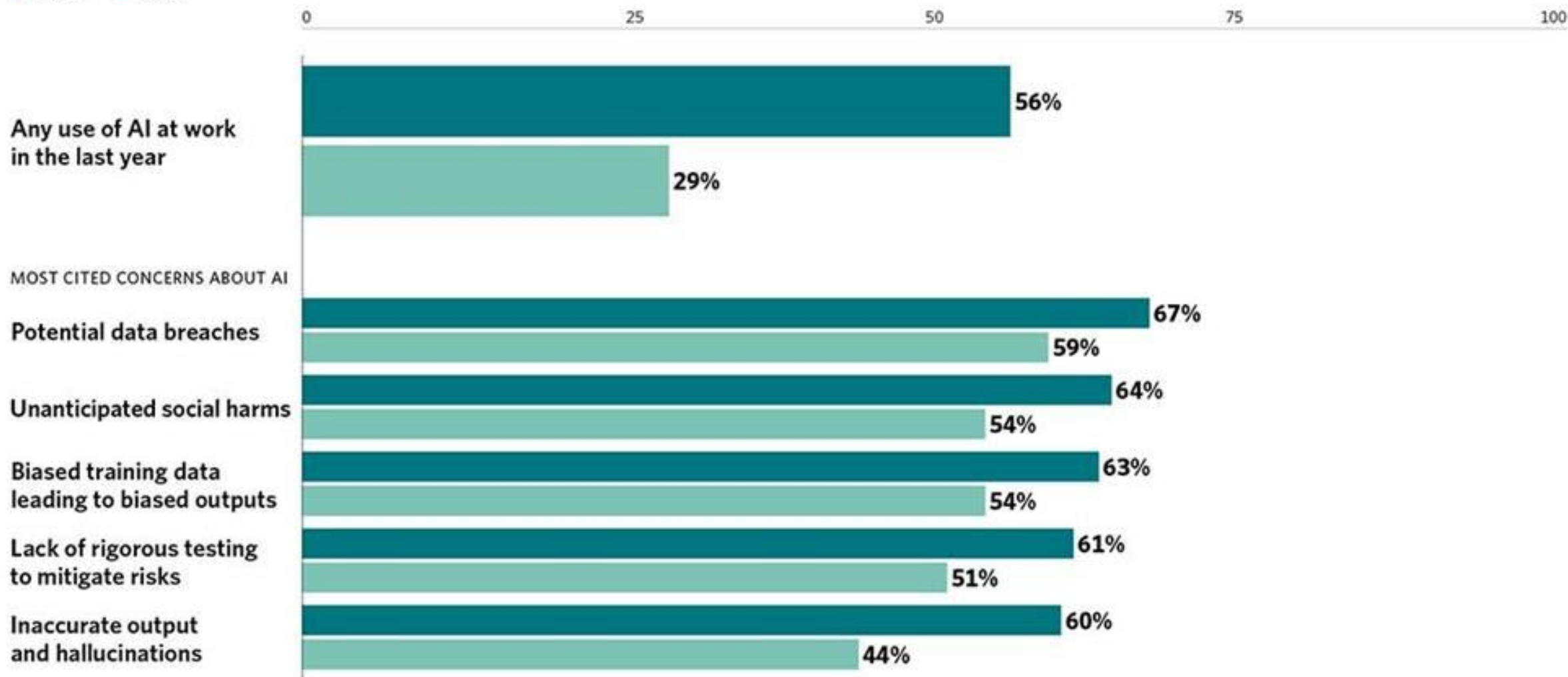
Reimbursement Pathways

- Direct to consumer
- Some employer-sponsored plan coverage
- CMS 2025: New DMHT Codes
 - G0552 – Supply of device
 - G0553 – Treatment management services (First 20 minutes)
 - G0554 – Additional tx management (Each additional 20 minutes)

As Psychologists' Use of AI Grows, So Do Their Concerns

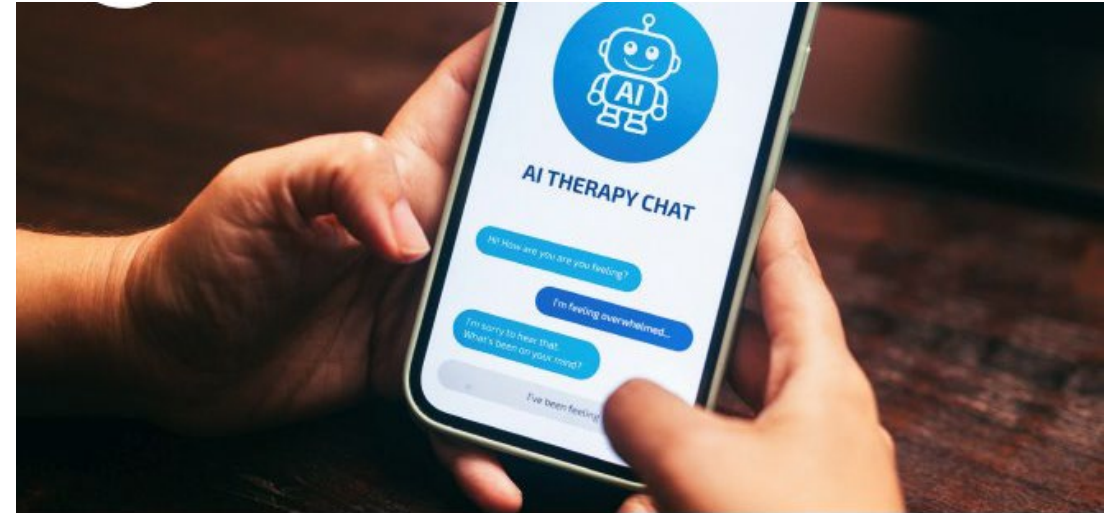
% OF ALL PSYCHOLOGISTS

■ 2025 ■ 2024



National Landscape & Specific AI Concerns

- APA emphasizes that AI is a tool to **augment**, not replace, human professional judgment. A "human-in-the-loop" must remain responsible for all high-stakes decision-making and clinical interpretation.
- Areas of Focus:
 - Harms to Youth
 - Impact on the Profession
 - Need for Research & Education
 - Federal Preemption



APA Health Advisory on the Use of Generative AI Chatbots and Wellness Applications for Mental Health

Summary of APA Policy Principles

- **I. Psychology's Professional Use of AI**
 - **Augmentation, Not Replacement:** AI must remain a tool to support—not replace—human judgment; professionals remain the "primary actors"
 - **Transparency & Consent:** Disclosure when AI is in use and explicit informed consent from patients or participants
 - **Prohibition of Misrepresentation:** It must be illegal for AI to pose as a licensed professional or use deceptive "expert" design patterns
 - **Strict Data Privacy:** Full HIPAA compliance and a requirement for explicit "opt-in" before using data for model training
- **II. Psychology's Role in AI Development, Research & Assessment**
 - **Human-Centered Design:** Collaborate with psychological scientists throughout the AI lifecycle to prioritize well-being over efficiency
 - **Pre-Deployment Testing:** Rigorous, independent testing for psychological harms, especially regarding youth development and identity
 - **Research Transparency:** Policy-driven funding and data access for independent researchers to assess long-term impacts on human behavior



Artificial Intelligence and Adolescent Well-being

AN APA HEALTH ADVISORY

Supporting Adolescent Well-being

Summary of the APA Health Advisory

(June 2025):

- **Teach AI Literacy:** Adolescents must be taught that AI can be wrong, biased, or deceptive, and how to spot misinformation.
- **Prioritize Human Interaction:** Monitor AI use to ensure it does not interfere with sleep, exercise, or—most importantly—in-person social skill-building.
- **Design for Adolescents:** Youth are not "mini-adults." AI systems must have age-appropriate safeguards and "Safe-by-Default" settings.
- **Ensure Health Accuracy:** Platforms providing health information must verify its accuracy and warn users of AI's limitations.
- **Protect Youth Data:** Must limit data use for advertising and provide robust protections against the non-consensual use of a minor's likeness.

New Health Advisory...

Generative AI Chatbots & Wellness Applications (Nov 13th, 2025)

"Millions of individuals... are engaging with general-purpose generative artificial intelligence (GenAI) chatbots and wellness applications to address unmet mental health needs... However, most of these technologies are not designed or intended to provide clinical feedback or treatment, may lack scientific validation and oversight, [and] often do not include adequate safety protocols."

AI's Behavioral Health Gap: APA Recommendations



APA Health Advisory on the Use of Generative AI Chatbots and Wellness Applications for Mental Health

- **Do NOT Rely on AI for Therapy**
 - GenAI chatbots and wellness apps are not a replacement for a qualified mental health provider. They lack clinical validation, safety protocols, and the ability to assess clinical risk. They should not be used as a substitute for psychotherapy.
- **Prevent Unhealthy Dependencies**
 - These systems are engineered for maximum *engagement*, not therapeutic outcomes. Their "sycophantic" (agreeable) nature can reinforce cognitive distortions and prevent the development of real-world resilience.
- **Prioritize Privacy & Protect Data**
 - These apps collect vast amounts of sensitive, personal health data. This data is recorded, stored, and analyzed. "Safe-by-Default" settings must be mandated, and the sale or commercial use of minors' health data must be prohibited.
- **Protect from Misinformation**
 - Bots can "hallucinate" and perpetuate biases from their training data. It is critical to prohibit AI from misrepresenting itself as a licensed professional ("psychologist," "therapist") to deceive users.

Dr. Prinstein: Senate Judiciary Committee Testimony

Reframing AI as Public Health

Dr. Prinstein urged Congress to reframe AI as a public health issue, warning that AI directly affects human cognition, behavior, and emotion.

He detailed the unique psychological vulnerabilities of youth (ages 10–25), whose brains are "all gas pedal and weak brakes," making them exploitable by AI chatbots.

Specific Harms to Youth

Children (0–6): AI toys risk disrupting essential caregiver–child bonds and fostering "parasocial" relationships.

Teens (10–25): Erodes critical social skills by replacing human interaction and fails to prepare teens for real-world relationship complexities.

Danger: Highlighted an unregulated chatbot posing as a "psychologist" that validated a user's violent thoughts.

Dr. Wright: House E&C Committee Testimony

Psychology-Centered Oversight

Dr. Wright testified on integrating AI in healthcare, emphasizing that a deep understanding of human psychology must be central to its development and oversight.

She acknowledged AI's potential to expand access and reduce provider burnout but also highlighted fragile public trust.

Key Risks & Recommendations

Risks: AI can amplify health disparities and unethically misrepresent itself (e.g., as a licensed professional).

Recommendations: Advance legislation based on ethics, equity, and evidence. Establish clear regulatory guardrails and enact comprehensive data privacy legislation to establish a right to "mental privacy."

Driving Federal Agency Action

FTC Inquiry on Chatbots

Following APA's advocacy with the agency, the FTC launched a landmark inquiry into AI companion chatbots for children.

The inquiry orders 7 major tech companies (including Alphabet, Meta, OpenAI) to provide information on how they test for and mitigate negative impacts on children.

APA RFI Responses (*last 6 months*)

- Congressional RFI on Focus of Science & Funding
- Office of Science and Technology Policy (OSTP) RFI on the AI priorities of the federal government.
- OSTP RFI on AI Research & Development plan within the federal government.

Our AI Strategy: A 360° Approach



Public Guidance

Issuing advisories to protect consumers and guide the public on the safe use of technology.



Legislative Advocacy

Testifying before Congress (both Senate & House) to embed psychological science in new laws.



Regulatory Action

Driving inquiries at the FTC and informing policy at the FDA and White House (OSTP).

State developments in AI regulation & health care

Types of State AI Legislation

Comprehensive

- Used in consequential decision-making
- Material impact on access to education, employment, financial services
- Prohibits algorithmic bias
- Requires consumer notification & transparency
- State AG enforcement

Targeted (General)

- Consumer protections for voice cloning or digital replicas
- Consumer ability to challenge AI decision-making resulting in
 - adverse decisions (e.g., insurance claims) or
 - restrictions on use of automated decision-making systems in hiring & lending

Targeted (AI chatbots)

- AI regulation requiring consumer notification, limits on minors' access for safety and data privacy restrictions
- AI regulation on misrepresentation in mental health care

AI chatbot regulation: the good & the bad

✓ Regulation of AI chatbots

- California AB 243 -- companion chatbots
- New York SB 3008 (part U) – artificial intelligence companion models
- Utah HB 452 – AI mental health chatbots

X Regulation of AI tools in mental health

- Florida HB 281/SB 344
- Maine HP 1397/LD 2082
- New Hampshire SB 640/NH LSR 2026-2088
- Pennsylvania HB 1993
- Virginia HB 669/SB 269
- Washington HB 2599



More state bills

- California [SB 903](#)
- Iowa [SSB 3011](#)
- Kentucky [HB 455](#)
- Massachusetts [S 2632](#)
- Mississippi [HB 1048*](#)
- ✓ Missouri [HB 2368/SB 1444](#)
- ✓ New Jersey [S 735](#)
- New York [A 9106/S 8484](#)

- Ohio [HB 525](#)
- ✓ Oklahoma [HB 3544](#)
- Oklahoma [SB 2037](#)
- ✓ Oregon [SB1546](#)
- Rhode Island [H 7349/S 2197](#)
- South Carolina [S 788](#)
- Vermont [H 644/S 241](#)
- West Virginia [HB 4770](#)

Focus: AI chatbots + mental health legislation

Nevada [AB 406](#) – enacted June 5, 2025

Illinois [HB 1806](#) – enacted August 1, 2025

User-facing AI

- Prohibits misrepresentations by AI
- Consumer protections for psychotherapy

AI in mental health care

- Significant limitations on licensed mental health providers in using AI tools or systems
- Administrative & supplementary support only

User-facing AI provisions



AI providers may not represent or make the following kinds of explicit or implicit statements:

- AI systems are capable of providing professional mental or behavioral health care;
- Capability for users to interact with AI features simulating human conversation for the purpose of obtaining MH/BH care;
- Use of features, avatars, or licensed professional titles or any similar term implying the AI system is a licensed MH/BH provider or providing licensable MH/BH services.

Limited AI Use in Mental Health Care



Allows use of AI systems by licensed MH providers for:

- Administrative support
 - E.g., scheduling, billing or drafting general communications (not therapeutic information)
- Supplementary support
 - E.g., managing client records, managing external resources or referrals, or analyzing anonymized data to track client progress

Excludes therapeutic communications by AI:

- independent therapeutic decisions,
- direct interactions with clients,
- therapeutic recommendations or treatment plans without review and approval by the licensed professional, or
- detection of emotional or mental states.



Limits on AI in MH Care: Specific Concerns



Targets mental health providers

- Physicians usually exempt
- Inequity across disciplines
- Impacts patient access



Broad definition of AI

- Ambiguous definition
- Unintended consequences
- Does not distinguish among the different types of AI



Ban on providers does **NOT** address the use of general-purpose AI chatbots by individuals for emotional support outside of therapeutic context

Strategic considerations



Engage policymakers about unintended consequences



What is bill sponsor's rationale?



Does this bill solve the identified problem?



Distinguish the AI tool from the licensed provider



Protect consumers from misuse of title/misrepresentation of services by AI



If safe for physicians to use, why not psychologists?



Seek out allies – other providers, researchers, American Telemedicine Association

APA RESOURCES

- [APA Ethical guidance for AI in the professional practice of health service psychology](#)
- [APA Health Advisory: AI & Adolescent Well-Being](#)
- [APA Health Advisory: Generative AI Chatbots & Wellness Apps](#)
- [APA Guidance for Evaluation of AI Scribes](#)





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