ata ACTION
Telehealth Policy to Transform Healthcare

February 13, 2026

The Honorable Donna Bailey
Senate Chair, Committee On Health Coverage, Insurance and Financial Services
Maine Legislature
3 State House Station
Augusta, Maine 04333

The Honorable Kristi Mathieson
House Chair, Committee On Health Coverage, Insurance and Financial Services
Maine Legislature
Room 333, State House
2 State House Station
Augusta, Maine 04333-0002

RE: ATA ACTION COMMENTS ON LD 2082, HP 1397

Dear Chair Bailey, Chair Mathieson and members of the Committee On Health Coverage, Insurance and Financial Services,

On behalf of ATA Action, I am writing to share our association's perspective on LD 2082, HP 1397 regarding the use of artificial intelligence to provide services requiring a professional license. Our organization appreciates the Legislature's focus on patient protection and the quality of mental health services, and we are broadly supportive of the intent of this legislation. However, we are concerned that, as written, this proposal could unintentionally prohibit physicians from providing therapy, cause confusion for providers due to the presence of broad definitions and a failure to consider FDA-cleared products.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system–by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

ATA Action has followed and engaged in the development of state policies regarding the use of AI in healthcare, including the recently enacted Illinois AI mental health framework (HB 1806)–which appears to have served as the inspiration for LD 2082, HP 1397. Illinois enacted HB 1806 with significant flaws in place, over our opposition, which included an unintentional ban on physician's delivering therapy, failure to consider FDA-cleared products, overly broad definitions and arbitrary restrictions that limit licensed clinicians from using AI tools consistent with their scope of practice and the standard of care. Unfortunately, LD 2082, HP 1397 appears to have imported many of these issues, and we believe amendments are necessary if this bill is to be advanced.

First, ATA Action is deeply concerned about the bill's prohibition on physicians providing therapy. The definition of "licensed professional" (§1730-B.1.E.(13)) explicitly excludes physician from the list of

professionals. This exclusion raises significant problems when paired with the language of §1730-B.4. which states that "A person may not provide, advertise or otherwise offer therapy or psychotherapy services, including through the use of Internet-based artificial intelligence, to the public unless the therapy or psychotherapy services are provided by a licensed professional." We believe it needs to be made clear that physicians may offer therapy and psychotherapy services by removing the exclusion of physicians from the definition of "licensed professional."

Furthermore, our organization believes that, for the sake of clarity and to avoid unintended consequences, the definition of "therapy or psychotherapy services" needs to be narrowed. LD 2082, HP 1397's definition of "therapy or psychotherapy services" includes not only services that diagnose and treat, but any services that "*improve* an individual's mental health or behavioral health." We have concern that the inclusion of "improve" is overly broad and captures a wide range of resources, products, or services that are not currently provided by licensed professionals and that might improve an individual's mental health. Indeed, the relevant mental health professional associations do not define therapy or psychotherapy, or the requisite scope of practice so broadly. Given that the bill contains significant requirements and prohibitions about "therapy or psychotherapy services," we believe it is important that this definition is narrowly tailored as suggested below.

H. "Therapy or psychotherapy services" means services provided to diagnose~~,~~ **or** treat~~, or improve~~ an individual's mental health or behavioral health.

Likewise, the definition of "therapeutic communication" is too broad, potentially causing confusion or restricting use of beneficial AI software. As with the inclusion of the word improve in the definition of therapy, the use of the word "address" in this definition is broad and potentially confusing as there is a wide variety of things which could "address" an individual's mental health condition that are not "therapeutic communication." Furthermore, we believe, for the sake of clarity, that certain sections of the definition of "therapeutic communication" should be replaced with actions that constitute the delivery of psychotherapy services in order to avoid any confusion with activities included in the definition of therapeutic communication but not in the definition of therapy or psychotherapy services. This will also ensure technology such as live journals patients can use between sessions are not impacted. Finally, we believe there could be further refinement to the language regarding patient distress. This change, along with the others described in this paragraph, is included in the redlined definition below.

G. "Therapeutic communication" means any verbal, nonverbal or written interaction, conducted in a clinical or professional setting, that is intended to diagnose~~,~~ or treat ~~or address~~ a client's mental, emotional or behavioral health concerns. "Therapeutic communication" includes, but is not limited to:

(1) Direct interactions with clients that constitute the delivery of therapy or psychotherapy services ~~for the purpose of understanding their thoughts, emotions or experiences~~;

(2) Providing independent clinical guidance, therapeutic strategies or interventions designed to achieve mental health outcomes;

(3) Offering emotional support, reassurance or empathy in response to suicidal or self-harm ideation ~~psychological or emotional distress~~;

(4) Collaborating with clients to develop or modify therapeutic goals or treatment plans; and

(5) Offering behavioral feedback that constitutes the delivery of therapy or psychotherapy services ~~intended to promote psychological growth or address mental health conditions~~.

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Finally, as currently drafted, LD 2082, HP 1397 does not consider Food and Drug Administration (FDA)-cleared products and instead treat all products the same, which we believe is potentially harmful to patient care. FDA-regulated digital therapeutics and AI tools are held to rigorous standards, including quality management systems, cybersecurity requirements and mandatory adverse event reporting, ensuring both safety and efficacy. Our organization represents Digital Therapeutics, which are clinically validated and FDA-regulated Software as a Medical Device products that incorporate artificial intelligence and other technologies into treatments delivered to patients through phones, tablets, computers and VR headsets. The FDA cleared its first prescription digital therapeutic in 2017 and has since approved more than 20 through this rigorous review process under both the Biden and Trump administrations.

These products undergo clinical validation, are subject to pre- and post-market oversight and involve regulated healthcare practitioners as gatekeepers, protecting patients throughout the care process. In contrast, unregulated mobile health apps operate without these safeguards, rely only on general consumer protections, and may compromise patient data while making unproven health claims. Maintaining the distinction between regulated and unregulated products is essential to protect patients while allowing safe, evidence-based digital interventions to thrive. Indeed, given the existing federal oversight, Colorado's AI Act–the country's first comprehensive AI law–exempts high-risk AI systems already approved, authorized, or certified by the FDA.

To address this issue, we suggest exempting from the provisions of this legislation any artificial intelligence tool or system that has been reviewed and cleared for use by the FDA or another federal agency tasked with approving artificial intelligence and artificial intelligence algorithms for use in health care. Our suggested language for this new addition to section 7 is included below:

C. *This section shall not apply to any artificial intelligence system that has been reviewed and cleared for use by the Federal Food and Drug Administration, or another federal agency tasked with approving artificial intelligence and artificial intelligence algorithms for use in health care.*

Thank you for the opportunity to comment. We urge the Committee to consider our feedback above before advancing LD 2082, HP 1397 to strike the best balance between patient safety, innovation and clarity. If you have any questions or would like to discuss the telehealth industry's perspective further, please contact me at hyoung@ataaction.org.

Kind regards,

Hunter Young

Hunter Young
Head of State Government Relations
ATA Action