Assembly Bill No. 406–Assemblymembers
Jackson and Nadeem

CHAPTER.....

AN ACT relating to health; prohibiting certain uses of artificial intelligence in public schools; requiring the Department of Education to develop a policy concerning certain uses of artificial intelligence; imposing certain restrictions relating to the marketing and programming of artificial intelligence systems; prohibiting certain persons from representing themselves as qualified to provide mental or behavioral health care; imposing certain restrictions relating to the use of artificial intelligence by providers of mental or behavioral health care; providing civil penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prescribes the authority and duties of a school counselor, school psychologist and school social worker. (NRS 391.293, 391.294, 391.296) **Section 2** of this bill prohibits a public school from using artificial intelligence to perform the functions and duties of a school counselor, school psychologist or school social worker which relate to the mental health of pupils. **Section 2** additionally requires the Department of Education to develop a policy for the use of artificial intelligence by such school employees while providing therapy, counseling or other mental or behavioral health services to pupils. **Section 2** requires the policy to include a method for the Department to examine the accuracy and efficacy of the use of artificial intelligence for such purposes.

Existing law: (1) regulates the practice and requires the licensure of certain mental health professionals, including psychiatrists, psychologists, marriage and family therapists, clinical professional counselors, registered nurses, social workers, alcohol and drug counselors and problem gambling counselors; and (2) prohibits unlicensed persons from engaging in the practices of those professions. (Chapters 630, 632, 633 and 641-641C of NRS) **Section 7** of this bill prohibits, with certain exceptions, an artificial intelligence provider from offering to users in this State an artificial intelligence system that is specifically programmed to provide a user with a service or an experience that would constitute the practice of professional mental or behavioral health care if provided by a natural person. **Section 7** also prohibits, with certain exceptions, an artificial intelligence provider or a natural person who is not licensed to practice professional mental or behavioral health care from making certain representations that would lead a person to believe that the provider, the artificial intelligence system operated by the provider or the natural person is capable of or qualified to provide mental or behavioral health care. **Section 8** of this bill imposes certain restrictions and prohibitions on the use of an artificial intelligence system by a licensed provider of mental and behavioral health care.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** (Deleted by amendment.)

**Sec. 2.** Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. A public school, including, without limitation, a charter school or university school for profoundly gifted pupils, shall not use artificial intelligence to perform the functions and duties of a school counselor, school psychologist or school social worker as prescribed in NRS 391.293, 391.294 and 391.296, respectively, which relate to the mental health of pupils.***

***2. The Department shall develop a policy for the use of artificial intelligence by a school counselor, school psychologist, school social worker or other educational personnel while providing therapy, counseling or other mental or behavioral health services to pupils. The policy developed pursuant to this subsection must include, without limitation, a method for the Department to examine the accuracy and efficacy of any artificial intelligence used for such purposes. The Department may collaborate with the Division of Public and Behavioral Health of the Department of Health and Human Services in developing the policy.***

***3. The provisions of subsection 1 do not prohibit a school counselor, school psychologist, school social worker or other educational personnel from using artificial intelligence in accordance with the policy developed pursuant to subsection 2 or to perform tasks for administrative support, which may include, without limitation:***

***(a) Scheduling;***

***(b) Managing records;***

***(c) Analyzing data for operational purposes; and***

***(d) Organizing, tracking and managing files or notes pertaining to a pupil.***

***4. As used in this section, "artificial intelligence" means a machine-based system that, for any explicit or implicit objective, infers from the inputs the system receives how to generate outputs, including, without limitation, content, decisions, predictions or recommendations, that can influence physical or virtual environments.***

**Secs. 3-6.** (Deleted by amendment.)

**Sec. 7.** Chapter 433 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. An artificial intelligence provider shall not make any representation or statement or knowingly cause or program an artificial intelligence system made available for use by a person in this State to make any representation or statement that explicitly or implicitly indicates that:***

***(a) The artificial intelligence system is capable of providing professional mental or behavioral health care;***

***(b) A user of the artificial intelligence system may interact with any feature of the artificial intelligence system which simulates human conversation in order to obtain professional mental or behavioral health care; or***

***(c) The artificial intelligence system, or any component, feature, avatar or embodiment of the artificial intelligence system is a provider of mental or behavioral health care, a therapist, a clinical therapist, a counselor, a psychiatrist, a doctor or any other term commonly used to refer to a provider of professional mental health or behavioral health care.***

***2. An artificial intelligence provider shall not make available for use by a person in this State an artificial intelligence system that is specifically programmed to provide a service or experience to a user that would constitute the practice of professional mental or behavioral health care if provided by a natural person.***

***3. A natural person shall not represent himself or herself as being qualified to provide professional mental or behavioral health care, including, without limitation, by using the title of "therapist," "psychotherapist" or "counselor," or any similar title, if the person does not possess a valid credential issued by a governmental entity that authorizes the person to practice professional mental or behavioral health care in this State.***

***4. The Division:***

***(a) May investigate potential violations of this section.***

***(b) May bring an action to recover a civil penalty pursuant to subsection 5.***

***(c) Shall deposit any money received from a civil penalty into the State General Fund.***

***(d) Shall develop and disseminate to the public educational materials which contain:***

***(1) Information describing how a person may obtain professional mental or behavioral health care from a licensed or certified provider of professional mental or behavioral health care.***

*(2) Information about free or low-cost services or options that are available to persons in this State who are experiencing a mental or behavioral health crisis.*

*(3) Recommended best practices relating to the use or potential use of artificial intelligence by a person who is seeking care or relief from a mental or behavioral health condition, or who is experiencing a mental or behavioral health event, which may include, without limitation, recommendations concerning the circumstances under which such a person should seek the assistance or care of a provider of professional mental or behavioral health care.*

*5. A person who violates any provision of subsection 1, 2 or 3 is subject to a civil penalty not to exceed $15,000 per violation.*

*6. This section shall not be construed to prohibit:*

*(a) Any advertisement, statement or representation for or relating to materials, literature and other products which are meant to provide advice and guidance for self-help relating to mental or behavioral health, if the material, literature or product does not purport to offer or provide professional mental or behavioral health care.*

*(b) Offering or operating an artificial intelligence system that is designed to be used by a provider of professional mental or behavioral health care to perform tasks for administrative support in conformity with subsection 2 of section 8 of this act.*

*7. As used in this section:*

*(a) "Artificial intelligence provider" means a person who operates or provides an artificial intelligence system.*

*(b) "Artificial intelligence system" means a machine-based system that, for any explicit or implicit objective, infers from the inputs the system receives how to generate outputs, including, without limitation, content, decisions, predictions or recommendations, that can influence physical or virtual environments.*

*(c) "Professional mental or behavioral health care":*

*(1) Means mental or behavioral health care or services relating to the diagnosis, treatment or prevention of mental illnesses or emotional or behavioral disorders which are typically provided by a provider of mental or behavioral health care within his or her authorized scope of practice.*

*(2) Includes, without limitation, the practice of:*

*(I) Psychology, as defined in NRS 641.025.*

*(II) Clinical professional counseling, as defined in NRS 641A.065.*

***(III) Marriage and family therapy, as defined in NRS 641A.080.***

***(IV) Social work and clinical social work, as defined in NRS 641B.030.***

***(V) Counseling persons with alcohol and other substance use disorders and counseling persons with an addictive disorder related to gambling, as defined in NRS 641C.100 and 641C.105, respectively.***

***(VI) Psychiatry.***

**Sec. 8.** Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

***1. Except as otherwise provided by subsection 2 and, where applicable, the policy adopted by the Department of Education pursuant to section 2 of this act, a provider of mental and behavioral health care shall not use an artificial intelligence system in connection with providing professional mental and behavioral health care directly to a patient.***

***2. A provider of mental and behavioral health care may use an artificial intelligence system to assist the provider with performing tasks for administrative support, which may include, without limitation:***

***(a) Scheduling appointments;***

***(b) Managing records;***

***(c) Billing patients and managing records relating to billing;***

***(d) Analyzing data for operational purposes; and***

***(e) Organizing, tracking and managing files or notes relating to an individual session with a patient.***

***3. If a provider of mental and behavioral health care uses an artificial intelligence system for any purpose authorized in subsection 2, the provider shall ensure that such use complies with all applicable federal and state laws governing patient privacy and the security of electronic health records, health-related information and other related data, including, without limitation:***

***(a) The Health Information Technology for Economic and Clinical Health Act, 42 U.S.C. §§ 300jj et seq. and 17901 et seq.;***

***(b) The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended; and***

***(c) The provisions of NRS 439.581 to 439.597, inclusive.***

***4. A provider of mental and behavioral health care shall independently review the accuracy of any report, data or other information compiled, summarized, analyzed or generated by an artificial intelligence system for a purpose described in paragraph (c) or (e) of subsection 2.***

***5. A provider of mental and behavioral health care who violates any provision of this section is guilty of unprofessional conduct and is subject to disciplinary action by the board, agency or other entity in this State by which he or she is licensed or certified.***

***6. As used in this section:***

***(a) "Artificial intelligence system" means a machine-based system that, for any explicit or implicit object, infers from the inputs the system receives how to generate outputs, including, without limitation, content, decisions, predictions or recommendations, that can influence physical or virtual environments.***

***(b) "Professional mental and behavioral health care" means psychotherapy, psychiatry, counseling, therapy or other care or services relating to the diagnosis, treatment or prevention of mental illnesses or emotional or behavioral disorders which are provided by a provider of mental and behavioral health care within his or her authorized scope of practice.***

***(c) "Provider of mental and behavioral health care" means:***

***(1) A psychiatrist licensed to practice medicine in this State pursuant to chapter 630 or 633 of NRS;***

***(2) A psychologist licensed to practice in this State pursuant to chapter 641 of NRS;***

***(3) A social worker licensed in this State as an independent social worker or a clinical social worker pursuant to chapter 641B of NRS;***

***(4) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State pursuant to chapter 632 of NRS;***

***(5) A marriage and family therapist or clinical professional counselor licensed in this State pursuant to chapter 641A of NRS;***

***(6) An alcohol and drug counselor or problem gambling counselor who is licensed or certified pursuant to chapter 641C of NRS; and***

***(7) A person who provides counseling services as part of his or her training for any of the professions listed in subparagraphs (1) to (6), inclusive.***

**Sec. 9.** (Deleted by amendment.)

**Sec. 10.** 1. This section becomes effective upon passage and approval.

2. Sections 1 to 9, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2025, for all other purposes.

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