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TO: **Members of the Legislative Council Study Committee on the Use of Artificial Intelligence in Health Care**

FROM: **Andrew Hanus, Policy Counsel**
Abbey Rude, Vice President Government Relations

DATE: **September 3rd, 2026**

RE: **Overview of AI Use in Wisconsin Hospitals and Policy Considerations**

Artificial Intelligence (AI) systems are transforming health care in Wisconsin and around the world. The Wisconsin Hospital Association (WHA) appreciates interest on this topic from the legislature and the formation of the Legislative Council Study Committee on AI in Health Care. We share the committee's goals of ensuring basic standards are in place for the safe utilization of, and access to, AI in health care.

This brief offers an overview of current AI health care use cases and policy options that promote confidence and understanding of this new tool without stifling innovations to reduce cost and improve patient outcomes.

Artificial Intelligence in Wisconsin Hospitals

As the committee began hearing during its August meeting, hospitals and health systems in Wisconsin are already using AI to reduce administrative burdens and costs, improve patient outcomes and experience, and expand access to care. Examples of current use cases include:

- **Reducing Administrative Burden on Clinicians:** Ambient listening technology assists clinicians in documentation of patient visits, allowing the clinician to better focus on the patient and reduce clinician "pajama time."
- **Increasing Patient Outcomes:** AI systems predict and provide early warning against conditions like sepsis.
- **Improving Patient Experience:** Virtual assistants provide instant help for scheduling and patient questions.
- **Improving Diagnostics:** AI assists in interpretation of complex radiological imaging and to predict treatment responses.

However, these deployments are not occurring in a regulatory vacuum. Existing health care rules and regulations already apply when AI is utilized by Wisconsin health care providers.

For example, all hospitals deploying an AI system must ensure compliance with robust privacy and confidentiality requirements in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and chapter 146 of the Wisconsin state statutes. Additionally, the Food and Drug Administration (FDA) regulates AI applications that meet the

relevant definition of medical device under federal law. Finally, any individual health care professional utilizing AI in the provision of health care is also accountable to their specific state licensing body.

We therefore encourage the committee to distinguish between AI deployed by highly regulated health care institutions and professional providers versus consumer grade AI programs that may present unaccountable health advice.

Policy Considerations

Avoid Duplicative Regulation by Prioritizing Gaps in Patient Protections: As the committee begins exploring options in this novel area of policymaking, consider whether existing laws or regulations already address a particular concern.

For example, state professional licensure laws could provide a starting point for evaluating AI that performs clinical functions. When a licensed health care provider uses AI to support documentation, gather information or inform clinical judgment, the professional remains responsible for that patient's care. It is their license on the line.

A different issue would arise if an AI system acts independently (without a licensed "human-in-the-loop") to help diagnose a condition, suggest or order a treatment, or provide medical advice. WHA is not aware of any members currently using AI in that manner, however, we suggest that the committee examine whether existing professional licensure laws already prohibit or regulate such a use case.

If not, this would be a policy gap worth exploring, particularly because people seeking medical help or advice may assume that they have the same accountability associated with care provided by a licensed health care provider, when in fact they do not.

The same approach applies more broadly to privacy and safety. In addition to existing state health care information privacy laws, HIPAA already establishes robust confidentiality and data security requirements for protected health information handled by covered health care providers and their business associates, including their AI vendors. In contrast, if an AI product is not working with a health care provider, the applicability of HIPAA is less clear; for example, the consumer-focused Health in ChatGPT states that it is not a HIPAA covered entity and does not offer a HIPAA business associate agreement.[1]

Similarly, the FDA regulates AI-enabled technology when it qualifies as a medical device, evaluating safety and effectiveness through established pathways. Therefore, WHA suggests the committee should avoid creating any sort of parallel regulatory mechanism that would duplicate these established requirements *for licensed health care institutions and clinicians*.

Instead, policymaking would be best focused on regulatory gaps not addressed by existing state or federal laws. For example, entities offering AI products that may blur the line between conversation and medical advice ought to clearly disclose limitations on health care discussions. Disclosure should be required if a health care communication is not protected by HIPAA and/or is not under the responsibility of a licensed health care provider.

Enable regulatory flexibility through waivers to develop and test innovative uses of AI: Health care is highly regulated, and state regulations can unnecessarily inhibit innovation in health care that would result in better efficiency, lower costs, or better outcomes. Recognizing this, other states have enacted "AI regulatory sandbox" laws that permit health care providers to request variances or waivers of state laws to test an innovative use of AI that would be limited under existing state health regulations.

[1] https://help.openai.com/en/articles/20001036-health-in-chatgpt.

In states that are implementing this idea (including Utah, Texas, and now Delaware), health care providers can utilize these waivers for specific use cases with patient protections, defined accountability and scope limits, and ongoing monitoring established in the granted waiver. For example, Utah utilized their AI regulatory sandbox law to grant a waiver allowing routine prescription refills authorized directly by an AI agent of a health care institution rather than a clinician.

This approach would help simplify the myriad of complex health care regulations that often stymy innovation, allowing Wisconsin health care institutions to develop and evaluate new technologies that could improve efficiencies, lower costs, or improve health outcomes, under terms established by the state agency that grants the waiver or variance of existing regulation. Creating this monitored flexibility will enable Wisconsin to be an innovator in safe, effective uses of AI technology to improve health care delivery.

Conclusion

WHA appreciates the committee's thoughtful consideration of these important issues and stands ready to serve as a resource to ensure Wisconsinites can benefit from safe, accountable, and innovative uses of AI in health care. Please contact Andrew Hanus, Policy Counsel, or Abbey Rude, Vice President of Government Relations, with any questions or if WHA can provide additional information as the committee continues its work.