

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES BILL ANALYSIS

BILL NUMBER: AB 489

VERSION: INTRODUCED FEBRUARY 10, 2025

AUTHOR: BONTA

SPONSOR:

- SEIU CALIFORNIA
- CALIFORNIA MEDICAL ASSOCIATION

STAFF RECOMMENDED POSITION: SUPPORT

SUBJECT: HEALTH CARE PROFESSIONS: DECEPTIVE TERMS OR LETTERS: ARTIFICIAL INTELLIGENCE

Summary: This bill would prohibit a person or entity who develops an artificial intelligence system from having that system represent or imply that it is a licensed health care provider by using prohibited terms, letters, or phrases. It makes violations subject to the jurisdiction of the applicable licensing board.

Existing Law:

- 1) Provides that unlicensed practice in violation of any of the practice acts for professions within the Department of Consumer Affairs (DCA) is an infraction punishable by a fine. (Business and Professions Code (BPC) §146)
- 2) Provides DCA boards the authority to establish a system for the issuance of an administrative citation for unlicensed practice. (BPC §148)
- 3) If a DCA board has probable cause that a person is advertising the provision of professional services without a license, the board is permitted to issue a citation containing an order of correction, requiring the person to cease the unlawful advertising and to disconnect the telephone number used in the advertisement. (BPC §149)
- 4) Prohibits the practice of marriage and family therapy, educational psychology, clinical social work, and professional clinical counseling in the state without a valid California license and forbids advertising as a licensee or using designated titles and letters without proper licensure. (BPC §§4980, 4989.50, 4996, 4999.30, 4999.82)
- 5) Authorizes the Executive Officer of the Board to issue citations containing orders of abatement and fines of up to \$5,000 for unlicensed practice, which are separate from and in addition to any other civil or criminal remedies. (California Code of Regulation (CCR) Title 16, §§1886.10, 1886.40)

- 6) Prohibits false or misleading statements in advertising and provides that doing so is a misdemeanor punishable by imprisonment in county jail for up to 6 months, a fine of \$2,500, or both. (BPC §17500)
- 7) Permits the Director of Consumer Affairs, Attorney General, or any city attorney, county counsel, or district attorney to request evidence from businesses making false or misleading advertising claims and to take action to correct such claims, including seeking immediate termination or modification of the claims, and disseminating information about the misleading nature of the claims. (BPC §17508)
- 8) Defines “artificial intelligence” as an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. (Government Code (GC) §11546.45.5)

This Bill:

- 1) Defines “artificial intelligence” as having the same meaning defined in GC §11546.45.5. (BPC §4999.8)
- 2) Applies the bill to all health care professions covered under Division 2 of the Business and Professions Code (Healing Arts). (BPC §4999.8)
- 3) Makes a violation of any provision of Division 2 of the BPC that prohibits the use of specified terms, letters, or phrases to imply having a license or certificate to practice a health care profession, without actually having that license or certificate, enforceable against a person or entity who develops an artificial intelligence system using those terms in its advertising or functionality. (BPC §4999.9)
- 4) Prohibits using any term, letter or phrase in advertising or functionality of an AI system that implies the care or advice offered is by a natural licensed person. (BPC §4999.9)
- 5) Provides that each use of a prohibited term or letter is considered a separate violation and provides that violations are subject to the jurisdiction of the applicable licensing board. (BPC §4999.9)

Comment:

- 1) **Author’s Intent.** The author is seeking to prevent artificial intelligence (AI) systems from misrepresenting as licensed health care professionals. They cite instances of AI systems providing health advice while claiming to be a licensed health care provider. They note that while there are many potential benefits for the use of AI systems in health care, misrepresentation can pose a danger to consumers and must be prevented.

- 2) **Enforcement Action.** The Board currently has the authority to take enforcement action against an individual for unlicensed practice, but not a business. For unlicensed practice, the disciplinary action would be a citation and fine. If the fine were not paid, they can be referred to either the Franchise Tax Board or a collection agency for collection.
- 3) **Authority Unclear.** It is currently unclear whether this bill provides the Board sufficient authority to take action against a business or entity (instead of a person). Staff is in the process of working with the author's office to address this question.
- 4) **Fiscal Impact.** It is unknown how frequently this provision would be violated. These cases would likely need to be investigated either by Board staff, or DCA's Division of Investigation. If there were a number of these complaints, then there would likely be a fiscal impact.
- 5) **Related Legislation.** SB 579 (Padilla) would require state government to appoint a mental health and artificial intelligence working group by July 1, 2026, to examine the role of artificial intelligence in mental health treatment.
- 6) **Staff Recommended Position.** Staff recommends that the Board consider taking a "support" position on this bill.

7) Support and Opposition

Support:

- California Medical Association (Co-Sponsor)
- SEIU California (Co-Sponsor)
- American College of Obstetricians & Gynecologists – District IX
- California Academy of Child and Adolescent Psychiatry
- California Alliance of Child and Family Services
- California Association of Orthodontists
- California Dental Association
- California Orthopedic Association
- California Psychological Association
- California Radiological Society
- California Retired Teachers Association
- CFT – a Union of Educators & Classified Professionals, AFT, AFL-CIO
- County Behavioral Health Directors Association
- Kaiser Permanente
- National Union of Healthcare Workers
- Oakland Privacy
- Steinberg Institute

Opposition:

- None at this time

8) History

- 04/01/25 From committee: Do pass and re-refer to Com. on P. & C.P. (Ayes 17. Noes 0.) (April 1). Re-referred to Com. on P. & C.P.
- 04/01/25 Coauthors revised.
- 03/17/25 Referred to Coms. on B. & P. and P. & C.P.
- 02/11/25 From printer. May be heard in committee March 13.
- 02/10/25 Read first time. To print.

Introduced by Assembly Member Bonta

February 10, 2025

An act to add Chapter 15.5 (commencing with Section 4999.8) to Division 2 of the Business and Professions Code, relating to healing arts.

legislative counsel's digest

AB 489, as introduced, Bonta. Health care professions: deceptive terms or letters: artificial intelligence.

Existing law establishes various healing arts boards within the Department of Consumer Affairs that license and regulate various healing arts licensees. Existing laws, including, among others, the Medical Practice Act and the Dental Practice Act, make it a crime for a person who is not licensed as a specified health care professional to use certain words, letters, and phrases or any other terms that imply that they are authorized to practice that profession.

Existing law requires, with certain exemptions, a health facility, clinic, physician's office, or office of a group practice that uses generative artificial intelligence, as defined, to generate written or verbal patient communications pertaining to patient clinical information, as defined, to ensure that those communications include both (1) a disclaimer that indicates to the patient that a communication was generated by generative artificial intelligence, as specified, and (2) clear instructions describing how a patient may contact a human health care provider, employee, or other appropriate person. Existing law provides that a violation of these provisions by a physician shall be subject to the

jurisdiction of the Medical Board of California or the Osteopathic Medical Board of California, as appropriate.

This bill would make provisions of law that prohibit the use of specified terms, letters, or phrases to falsely indicate or imply possession of a license or certificate to practice a health care profession, as defined, enforceable against an entity who develops or deploys artificial intelligence technology that uses one or more of those terms, letters, or phrases in its advertising or functionality. The bill would prohibit the use by AI technology of certain terms, letters, or phrases that indicate or imply that the advice or care being provided through AI is being provided by a natural person with the appropriated health care license or certificate.

This bill would make a violation of these provisions subject to the jurisdiction of the appropriate health care profession board, and would make each use of a prohibited term, letter, or phrase punishable as a separate violation.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 15.5 (commencing with Section 4999.8)
2 is added to Division 2 of the Business and Professions Code, to
3 read:

4
5 **Chapter 15.5. Health Advice From Artificial**
6 **Intelligence**

7
8 4999.8. (a) For purposes of this chapter, “artificial intelligence”
9 has the same meaning as set forth in Section 11546.45.5 of the
10 Government Code.

1 (b) For purposes of this chapter, “health care profession” means
2 any profession that is the subject of licensure or regulation under
3 this division or under any initiative act referred to in this division.

4 4999.9. (a) A violation of this chapter is subject to the
5 jurisdiction of the appropriate health care professional licensing
6 board or enforcement agency.

7 (b) Any provision of this division that prohibits the use of
8 specified terms, letters, or phrases to indicate or imply possession
9 of a license or certificate to practice a health care profession,
10 without at that time having the appropriate license or certificate
11 required for that practice or profession, shall be enforceable against
12 a person or entity who develops or deploys a system or device that
13 uses one or more of those terms, letters, or phrases in the
14 advertising or functionality of an artificial intelligence system,
15 program, device, or similar technology.

16 (c) The use of a term, letter, or phrase in the advertising or
17 functionality of an AI system, program, device, or similar
18 technology that indicates or implies that the care or advice being
19 offered through the AI technology is being provided by a natural
20 person in possession of the appropriate license or certificate to
21 practice as a health care professional, is prohibited.

22 (d) Each use of a prohibited term, letter, or phrase shall
23 constitute a separate violation of this chapter.

24 SEC. 2. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

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