# *AI: Navigating Legal Demands and Emerging Technology in YOUR Practice*

10th Annual Mental Health & Addiction Treatment Symposium

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# Learning Objectives

- Identify ethical and legal liability considerations when using AI ***tools*** in mental health practice, including confidentiality, client consent, and professional boundaries, recognition of data bias
- Recognize that YOUR CODE OF ETHICS provides the legal guardrails that govern AI use: competence, privacy, consent, documentation
- Differentiate between administrative vs. clinical uses and risk levels

# What is AI?

- Artificial intelligence (AI) is used across industries and is integrated into many of our daily activities, such as banking, social media, online shopping, streaming services, and more.
- AI encompasses several types of technology. While there is no single, universally accepted definition, AI is generally defined as a subdiscipline of computer science that aims to produce programs that simulate human intelligence.

# Ethical Guardrails & Standard of Care

- **Competence**: Use tools you understand and can audit.
- **Confidentiality**: PHI only in compliant systems under contracts/BAAs.
- **Transparency**: Inform clients when AI is used (consent addendum).
- **Accountability**: Document acceptance/rejection of AI output; maintain human oversight.
- **Equity**: Watch for biased outputs; mitigate and document your review.

# Cambridge University Press Research Article (2025)

1. How is AI used in diagnosing mental health illnesses, monitoring disease progression and treatment effectiveness, and conducting **AI-assisted** mental health interventions?
2. What are the limitations, challenges, and ethical concerns in the application of AI technologies in mental health?

# Real-world applications and future directions (85 research articles)

"This systematic review underscores the significant potential of AI to transform the landscape of mental health diagnosis, monitoring, and intervention. With over half of the studies assessed rated as good in quality, ***AI methodologies have demonstrated commendable accuracy in detecting and predicting mental health conditions across diverse datasets.***

Notably, machine learning algorithms showed efficacy in classifying various mental disorders and predicting treatment responses, suggesting a promising pathway for personalized mental health care. ***However, the review also high lighted critical limitations, including methodological inconsistencies, issues with data quality and diversity, and ethical challenges related to privacy and informed consent."***

**Remember:**

# *YOUR* ETHICAL CODE GOVERNS

# United States — Core Federal Rules

HIPAA Privacy & Security rules apply to ANY TOOL that handles PHI: PHI use/disclosure; safeguards; BAAs with vendors

Note: Section 1557 of the ACA (2024, eff. 5/1/25) prohibits discrimination via patient-care decision support tools (expands physical and digital accessibility, tackles bias in health technology, and more).

## 2025 NIH research study: The Use of AI in Mental Health Services to Support Decision-Making

"The health care professionals, in the 4 studies looking at the contexts in which treatment selection AI was used, expressed two main ways in which they found the AI system useful: (1) improving patient-clinician communication . . . (2) improving clinical practice such as potentially saving time, ***providing more objectivity to the practice, confirming or suggesting options, using it as a guideline, or as a source of extra information.***"

# Principal findings of NIH study:

The state of research on AI systems in mental health is in the ***pre-implementation stage in clinical processes.***

Although studies have evaluated the use of AI systems and their potential impact on clinical processes, none of the studies have explored the full adoption or long-term implementation of AI systems in care settings.

# KRS 42.722 COT Definitions

- (12) "High-risk artificial intelligence system": (a) Means any artificial intelligence system that is a substantial factor in the decision-making process or specifically intended to autonomously make, or be a substantial factor in making, a consequential decision; and (b) Does not include a system or service intended to perform a narrow procedural task, improve the result of a completed human activity, or detect decision making patterns or deviations from previous decision-making patterns *and is not meant to replace or influence human assessment without human review*, or perform a preparatory task in an assessment relevant to a consequential decision;

# 907 KAR 3:170 Medicaid Telehealth

One reference to AI in Section 6 (7):

Each asynchronous telehealth service shall involve timely actual input and responses from the provider, and shall not be solely the result of reviewing an artificial intelligence messaging generated interaction with a recipient.

# *Administrative & Clinical Uses

Time saving methods to streamline administrative tasks and use where AI could be employed are:

- Automating scheduling and appointment reminders
- Streamlining routine communication—such as providing educational information or answers to frequently asked questions
- Generating clinical notes
- Summarizing health records
- Facilitating billing—such as checking insurance benefits, completing prior authorizations, and submitting claims

*Artificial Intelligence in Mental Health Care (APA, 2024-25)

# *Clinical Use

- **Early detection**: potential to aid in the early detection of persons at risk for developing mental health concerns.
  - AI does this by noticing patterns from vast amounts of data
  - For example, AI could be used to analyze a person's entire medical record to help identify those who might benefit from early intervention.
- **Clinical (higher risk):** diagnosis suggestions, treatment plans, assessments – can it be used as a trustworthy and accurate SECOND OPINION?

# *Clinical Use, continued

**INTEGRATION AS A DIGITAL TOOL:**

- AI is being incorporated into many types of clinical support tools, including digital therapeutics, which are evidence-based, clinically validated software programs, are one category of digital tools that show considerable promise to augment care.

IS THERE SUFFICIENT DATA TO VALIDATE PROGRAMS?

- AI-enabled wearable devices can monitor symptoms and provide feedback both to the patient and clinician about a patient's functioning. This category of devices offers opportunities to enhance real-time symptom monitoring, prompt the use of relevant therapeutic skills in the moment, and facilitate outcomes assessment.

# *Ethical Considerations

While using AI in mental health care has considerable potential, there also are many ethical considerations that must be navigated to harness AI responsibly, including:

- mitigating algorithmic bias,
- obtaining informed consent from patients, and
- safely handling and protecting sensitive data.

# THE HUMAN TOUCH

**AI may draft but the clinician authors, verifies, and uses their own HUMAN judgment**

# Ethical Guardrails & Standard of Care

- Competence: sufficient training, understanding, and the ability to audit outputs
- Confidentiality: PHI only in HIPAA compliant tools under contracts/BAAs
- Transparency: inform clients if/when AI is used
- Accountability: document acceptance or rejection of AI output

# Informed Consent & Documentation

- Client consent agreement: purpose (admin vs clinical), benefits/limits, security assurances, client choice to opt-out
- Charting therapy notes: AI assisted; clinician reviewed and finalized
- Vendor due diligence: data use limits, do NOT authorize training on your data or audit logs

# What Can Go Wrong?

- ✓ Exposure of your client's PHI via non-secure tools
- ✓ Bias/discrimination in decision making
- ✓ Overreliance by the HUMAN and misdiagnosis
- ✓ Failure to meet YOUR ethical standard of care

# Questions for the Room

1) Are you using AI tools for your work?

2) Do you know NOT TO ENTER personal identifying info?

3) Do you disclose AI for client consent?

4) Employer policy, licensure board, or professional association guidance?

5) Biggest concerns vs. perceived benefits?

# Now and in the future:

*YOUR* ETHICAL CODE GOVERNS

# Key Takeaways

- Empirical research and laws lag – but the use of AI tools are EMERGING AND EVOLVING; your ethics & documentation fill the gaps
- Keep PHI in HIPAA compliant systems
- Disclose, verify, and document human judgment on all AI-assisted tasks
- **WORK SMART – stay informed, be cautious!**