



Legislative Session Update Presentation to THSA Mini Interoperability Summit

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Background

Nora Cox

- 30+ years in public policy with an emphasis on health care technology
- Senior leadership roles in Texas Medicaid and the Governor's Office
- Won computer programming contest in the 1980s and still has the trophies



Background

TeHA

- What is the Texas e-Health Alliance?
- State's leading advocate, from local communities to the national level, for the use of health information technology to improve the health system for patients
- 501(c)6 nonprofit started in 2009 and serves as a trade association for HIT companies
 - As such, cannot recommend or endorse specific products or companies

Presentation Outline

- Overall Session Dynamics
- TRAIGA- HB 1709
 - Bill Provisions
 - Regulatory Themes
- Refiled Bills

Overall Session Dynamics

- In the aftermath of the general election, the House has elected a new Speaker, and we're currently waiting on committee assignments
- The House Public Health Committee will look significantly different in 2025:
 - Not returning: Price (retiring), Smith (lost primary), Jetton (lost primary), Klick (lost primary runoff)
 - Returning: Campos, Johnson, Tinderholt, J. Jones, Oliverson, Collier, V. Jones
 - The committee has been expanded to 13 members and will have a new standing subcommittee on Disease Prevention and Women and Children's Health
- The Senate and Senate HHS will look (about) the same.
 - Sen. Cook has replaced Sen. LaMantia

HB 1709

Representative Giovanni Capriglione, who is the House appointee to the AI Advisory Council and the chair of the Select Committee on AI and Emerging Technologies, filed [HB 1709](#) on December 23rd, 2024.

“The Texas Responsible AI Governance Act (TRAIGA) a pivotal step toward safeguarding Texans from the potential risks of artificial intelligence while fostering innovation in the rapidly growing AI sector. With AI increasingly shaping critical decisions in areas such as hiring, healthcare, and law enforcement, HB 1709 addresses concerns about algorithmic discrimination, data misuse, and a lack of accountability. TRAIGA mandates transparency, requiring developers of high-risk AI systems to disclose their processes and conduct risk assessments to ensure ethical compliance. By setting clear standards and enforcing penalties for violations, this legislation seeks to build public trust, protect consumer rights, and position Texas as a leader in responsible AI governance.”

Key Provisions

- The bill's provisions are not applicable to government actors (this will be separate legislation)
- Includes a list of unacceptable uses that will apply to any AI system:
 - manipulation of human behavior to circumvent informed decision making,
 - social scoring
 - facial recognition
 - categorization based on sensitive attributes
 - utilization of personal attributes for harm
 - biometric capture without consent, and
 - child sexual abuse material.

Key Provisions

Has a strong focus on regulating high-risk AI systems that make a decision that has a material, legal, or similarly significant, effect on a consumer's access to, cost of, or terms or conditions of:

- (A) a criminal case assessment, a sentencing or plea agreement analysis, or a pardon, parole, probation, or release decision;
- (B) education enrollment or an education opportunity;
- (C) employment or an employment opportunity;
- (D) a financial service;
- (E) an essential government service;
- (F) residential utility services;
- (G) a health-care service or treatment;
- (H) housing;
- (I) insurance;
- (J) a legal service;
- (K) a transportation service;
- (L) constitutionally protected services or products; or
- (M) elections or voting process.

Key Provisions

- **Developers** of HR AIS would need to develop a statement of intended use to share with deployers, which includes a risk analysis and a description of the training data. Unlawful use must be corrected and report to the AG.
- **Deployers** of HR AIS will need to complete impact assessments, disclose the use of the AI to consumers before or at the time of use, and provide a consumer notice for an explanation of any decision made by the AI.
- **Distributors** (anyone who makes a HR AIS available in the market) must withdraw any HR AIS found to be out of compliance with these regulations from the market.
- Each role is responsible for using reasonable means to protect consumers from algorithmic discrimination.
- Developers and deployers must follow the NIST AI Risk Management Framework.

Other Provisions

- Other provisions include:
 - Updating definitions of software in statute to include AI
 - Requirements for social media companies and digital advertisers to prevent algorithmic discrimination by HR AIS on their platforms
 - A 30 day cure period for corrections before any regulatory action can be taken by the AG (which can include injunctions and fines)
 - Sandboxes for development in partnership with state agencies
 - Exemptions for small businesses and free, open-source AI
 - Local pre-emption to avoid conflicting regulatory requirements
 - Updating and funding AI-related workforce training programs
 - Establishment of the Texas Artificial Intelligence Council at the Office of the Governor

Key AI Regulatory Themes

- The Texas Legislature has made privacy protections a high priority across a number of policy areas (healthcare, consumers), and that will continue in any AI legislation that passes.
- There are no established best practices for regulating AI at the state level, and the bills that have passed in states like Colorado may need revisions to be workable. It is difficult, but not impossible, to regulate an evolving technology.
- The differences between development and deployment are well understood, as are the relevant national frameworks that Texas can reference while creating our own regulatory structure. There needs to be more progress made in distinguishing between the different levels of AI (assistive vs. decision making).

Key AI Regulatory Themes

- Very little of the interim activity focused on healthcare, but there is an acknowledgement that healthcare regulation is more complex and may not fit directly into a one-size-fits-all regulatory approach.
- Consumer-facing AI systems, both in general and in healthcare, will be expected to clearly convey how they are using AI and how a consumer can access a human or appeal a decision as needed.
- One area of risk for healthcare is possible overclassification of tools like predictive analytics in the AI “bucket”. Using clear definitions should help keep that from happening.
- Allowing regulatory boards to address AI in rulemaking may be a good idea, but this will need stakeholder input to ensure that new technologies are not inadvertently ruled out by the rules.

Refiled Bills

- [HB 997](#) (Shaheen)- Relating to the provision of telehealth and telemedicine medical services by certain health professionals located outside of this state; requiring registration to engage in an occupation; authorizing fees. (This bill was [HB 592](#) last session)
- [HB 1021](#) (Shaheen)- Relating to telemedicine medical services and telehealth services covered by certain health benefit plans or provided by a pharmacist. (This bill was [HB 1390](#) last session)
- [HB 1027](#) (Shaheen)- Relating to the provision of telepharmacy services. (This is similar to Rep. Shaheen's [HB 594](#) from last session)
- [HB 1066](#) (Bohani)- Relating to conducting certain medical examinations using telehealth services and telemedicine medical services under the workers' compensation system. (This is similar to Rep. Bohani's [HB 4524](#) from last session)

More Bills

- [HB 1265](#) (Schatzline)- Relating to artificial intelligence mental health services. (This is similar to Rep. Jetton's [HB 4695](#) from last session)
- [HB 1699](#) (Fairly)- Relating to the disclosure of certain medical information by electronic means. (This bill is similar to Sen. Hancock's [SB 1467](#) last session)
- [SB 397](#) (Sparks) and [HB 1700](#) (Fairly) - Relating to rules regarding the provision by a health professional of a telemedicine medical service, teledentistry dental service, or telehealth service. (These bills were Rep. Price's [HB 1771](#) last session).



Questions?

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