

2026 Regular Session

SENATE BILL NO. 5

BY SENATOR HENSGENS

MENTAL HEALTH. Provides for the regulation of mental health chatbots that use artificial intelligence technology. (gov sig)

1 AN ACT

2 To enact Part I-B of Chapter 1 of Title 28, to be comprised of R.S. 28:16 and 17, relative to
3 mental health chatbots; to provide for definitions; to provide for disclosures; to
4 require certain protocols; to provide for the use of personal information; to provide
5 for advertisements; to provide for enforcement by the attorney general; to provide
6 for civil penalties; to provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

PART I-B. ARTIFICIAL INTELLIGENCE APPLICATIONS

RELATING TO MENTAL HEALTH

§16. Protections for users of mental health chatbots

A. As used in this Part, the following definitions shall apply:

(1)"Artificial intelligence" means an artificial system developed in computer software, physical hardware, or other context that solves tasks requiring human-like perception, cognition, planning, learning, communication, or physical action.

(2)(a) "Mental health chatbot" means an artificial intelligence technology that:

(i) Uses a system that is trained on data and is designed to simulate human conversation with a consumer through text, audio, or visual communication.

(ii) Generates unscripted outputs similar to outputs created by a human, with limited or no human oversight.

(iii) Engages in interactive conversations with a user of the mental health chatbot similar to the confidential communications that an individual would have with a licensed mental health provider.

(iv) Represents to a user or causes a reasonable person to believe that it can or will provide mental health therapy or help a user manage or treat mental health conditions.

(b)"Mental health chatbot" does not include artificial intelligence technology that only provides scripted output, such as guided meditations or mindfulness exercises, or analyzes an individual's input for the purpose of connecting the individual with a human mental health provider.

(3) "Operator" means a person who makes a mental health chatbot platform available to a user.

(4)"User" means an individual located in Louisiana at the time the individual accesses or uses a mental health chatbot.

B. An operator of a mental health chatbot shall cause the chatbot to clearly and conspicuously disclose to a user that the chatbot is an artificial intelligence technology and not a human. The disclosure shall be made:

(1) Before the user may access the features of the mental health chatbot.

(2) At the beginning of any interaction with the user if the user has not used the mental health chatbot within the previous seven days,

(3) Any time a user asks or otherwise prompts the mental health chatbot about whether artificial intelligence is being used.

1 C. An operator of a mental health chatbot shall have protocols in place
2 to address possible suicidal ideation, self-harm, or physical harm to others
3 expressed by the user, including referral to a crisis service provider such as a
4 suicide hotline.

5 D.(1) An operator of a mental health chatbot may not sell to or share
6 with any third party any individually identifiable health information of a user
7 or the user's input. This Subsection shall not apply to individually identifiable
8 health information that is requested by a healthcare provider with the consent
9 of the user, provided to a health plan of a user upon request of the user, or
10 shared to ensure the effective functionality of the mental health chatbot with
11 another party with which the operator has a contract related to such
12 functionality.

13 (2) When sharing information pursuant to this Subsection, the operator
14 and the other entity shall comply with all applicable privacy and security
15 provisions of 45 CFR Part 160 and 45 CFR Part 164, Subparts A and E, as if the
16 operator were a covered entity and the other entity were a business associate,
17 as such terms are defined in 45 CFR 160.103.

18 E. An operator may not use a mental health chatbot to advertise a
19 specific product or service to a user in a conversation between the user and the
20 mental health chatbot unless the chatbot clearly and conspicuously identifies the
21 advertisement as an advertisement and discloses to the user any sponsorship,
22 business affiliation, or agreement that the operator has with a third party to
23 promote, advertise, or recommend the product or service.

24 F. An operator of a mental health chatbot may not use a user's input to:

25 (1) Determine whether to display an advertisement for a product or
26 service to the user, unless the advertisement is for the mental health chatbot
27 itself.

28 (2) Determine a product, service, or category of product or service, to
29 advertise to the user.

(3) Customize how an advertisement is presented to the user.

G. The provisions of this Section shall not prohibit a mental health professional from recommending that a user seek counseling, therapy, or other assistance from a licensed healthcare professional.

§17. Violations; enforcement authority

A. The attorney general may bring a civil action to enforce any violations

B. An operator that violates the provisions of this Part shall be subject to a civil fine of up to ten thousand dollars per violation.

C.(1) At least forty-five days before the day on which the attorney general initiates an enforcement action against an operator who is subject to the requirements of this Part, the attorney general shall provide the operator with a written notice that identifies each alleged violation and an explanation of the basis for each allegation.

(2) Except as provided in Paragraph (3) of this Subsection, the attorney general shall not initiate an action if the operator cures the notice violation within forty-five days after the date on which the operator receives the notice by providing the attorney general with a written statement indicating that the violation is cured and no further violations will occur.

(3) The attorney general may initiate a civil action against an operator who does either of the following:

(a) Fails to cure a violation after receiving the written notice provided for in Paragraph (1) of this Subsection

(b) Commits another violation of the same provision after curing a violation and providing a written statement in accordance with Paragraph (2) of this Subsection

(4) If a court of competent jurisdiction grants judgment or injunctive relief to the attorney general, the court shall award the attorney general reasonable attorney fees, court costs, and investigative costs.

(5) A person who violates an administrative order or court order issued for a violation of this Part shall be subject to a civil penalty of not more than five thousand dollars for each violation. A civil penalty in accordance with this Section may be imposed in any civil action brought by the attorney general.

(6) All monies received from the payment of a fine or civil penalty imposed and collected pursuant to the provisions of this Section shall be used by the attorney general for consumer protection enforcement efforts or to promote consumer protection and education.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Proposed law defines "artificial intelligence", "mental health chatbot", "operator", and "user".

Proposed law requires an operator of a mental health chatbot to disclose to a user that the chatbot is an artificial intelligence technology and not a human at certain intervals.

Proposed law requires an operator of a mental health chatbot to have protocols in place to address possible suicidal ideation, self-harm, or physical harm to others expressed by the user.

Proposed law prohibits an operator of a mental health chatbot from selling or sharing individually identifiable health information of a user or the user's input with any third party, except as authorized by proposed law.

Proposed law prohibits an operator from using a mental health chatbot to advertise a specific product or service unless the chatbot clearly and conspicuously identifies the advertisement as an advertisement and discloses certain information to the user.

Proposed law prohibits using the user's input to tailor advertisements to the user.

Proposed law authorizes the attorney general to bring a civil action against an operator for violations of proposed law.

Proposed law provides for a civil fine of up to \$10,000 per violation.

Proposed law provides for processes for the attorney general to initiate and pursue civil action against an operator.

Proposed law provides for the disposition of funds collected by the attorney general pursuant to proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 28:16 and 17)