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Healthcare Alert

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Proposed California law seeks to curb AI tools impersonating health care providers

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AB 489 seeks to regulate the use of artificial intelligence (AI) in the health care profession in California to address concerns that AI-generated communications may mislead patients.



What's the impact?

- The bill seeks to prevent non-licensed individuals and entities from indicating to consumers, via an AI system, that a licensed health care professional is providing advice or care.
- AB 489 piggybacks on existing laws prohibiting unlicensed individuals from using certain terms that imply they are authorized to practice medicine.

California's AB 489 is the latest state bill aimed at regulating the use of artificial intelligence (AI) in the health care profession in California. The proposed legislation seeks to address the growing concern that potential AI-generated communications may mislead or confuse patients into thinking that they are interacting with a licensed health care professional.

What is the goal of AB 489?

Specifically, the bill seeks to prevent non-licensed individuals and entities from indicating to consumers, via an AI system, that a licensed health care professional is providing advice or care. This is consistent with the state's overarching goals of patient and consumer transparency, as evidenced by existing parameters around advertising by California health care professionals and California's corporate practice of medicine (CPOM) prohibition.

AB 489's intersection with existing law

Under existing California law, unlicensed individuals are prohibited from using certain terms or letters that suggest they are authorized to practice a health care profession. For example, California Business and Professions Code Section 2054 specifically prohibits persons from advertising or making use of post-nominal letters—i.e., terms or letters indicating or implying that the person is a physician or licensed by either the Medical Board of California or the Osteopathic Medical Board of California (e.g., "M.D." or "D.O."). Additional state licensing acts restrict licensees from advertising for services beyond the licensee's existing scope of practice. California's CPOM prohibition further prohibits lay persons and entities from providing or engaging in clinical health care practices, including holding oneself out to provide these services.

AB 489 proposes an expansion on this by prohibiting the use of post-nominal letters or phrases in the advertising or functionality of AI technology that indicates that a user of the technology is receiving care or advice from an appropriately licensed health care professional. AB 489 makes each use of a prohibited term, letter, or phrase punishable as a separate violation. The applicable state licensing agency would oversee compliance and have jurisdiction over these violations.

Outstanding questions about AB 489

While it is clear that AB 489 attempts to have a broad sweep, the bill contains a number of terms that will require further clarification, including how this would be implemented from a practical standpoint, and including whether state licensing agencies have the capacity and capability to monitor and oversee compliance.

The Nixon Peabody team continues to monitor regulatory developments on AI and its impact on health care providers. For more information on the content of this alert, please contact your Nixon Peabody attorney or:

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