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WHA Presents Recommendations to Legislative Study Committee on AI in Health Care

Memo urges legislators to focus on regulatory gaps

On Sept. 3, WHA submitted a memo to the newly formed Legislative Council Study Committee on the Use of Artificial Intelligence (AI) in Health Care, which is led by Senator Rachael Cabral-Guevara, who is also chair of the Senate Committee on Health.

The committee is made up of four bipartisan state legislators and 12 expert public members, including four leaders from Wisconsin health systems. According to its scope, the committee is tasked with "recommending legislation that addresses standards for the use of AI in health care services and insurance."

In the memo and during a recent meeting with Cabral-Guevara, WHA emphasized that Wisconsin hospitals and health systems are already safely using AI tools to improve care delivery and reduce administrative burdens on clinicians, including examples like sepsis early warning systems, ambient listening and virtual assistants.

WHA urged the committee to recognize that AI use by health systems and licensed health care professionals is not occurring in a regulatory vacuum. In such deployments, existing patient privacy, confidentiality, licensure and medical device regulations already apply. This highlights the need to distinguish between AI tools deployed within already-highly-regulated health care organizations and consumer-focused AI products that may provide health information without the same privacy protections or licensed professional accountability.

The WHA memo points out that "Health in ChatGPT" warns it is not a HIPAA-covered entity. Therefore, the committee should consider whether requiring such a disclosure by all consumer-level health AI platforms could help address an important gap in patient understanding.

WHA also encouraged the committee to consider legislation creating AI flexibilities in state laws and regulations, often called an "AI Regulatory Sandbox." In states that have enacted these laws (most notably Utah and Texas), health care providers may request variances or waivers of state laws to test an innovative use of AI that would be restricted under existing regulations. These approaches typically include enhanced safety measures, accountability and oversight.

WHA will continue engaging with the study committee as it evaluates potential policy recommendations affecting hospitals, health systems, clinicians and patients. For more information, contact WHA Policy Counsel Andrew Hanus.

IN THIS ISSUE

- Wisconsin Hospitals Lead the Nation in Five-Star Patient Experience Ratings
- WHA's Ann Zenk Announces Retirement; Recruitment Begins for New Workforce Lead
- Wisconsin Implements APRN Licensure
- WHA Presents Recommendations to Legislative Study Committee on AI in Health Care
- WHA Expresses Concern Over Cuts to WI Hospitals in 2027 Outpatient Rule

EDUCATION EVENTS

Sep. 10, 2026

Caring for Wisconsin's Caregivers: 2026 WHA Healthcare Workforce Well-being Summit

Sep. 16, 2026

Sep. 21, 2026

Swing-bed Fundamentals