
Wisconsin Legislative Council

MINUTES



STUDY COMMITTEE ON THE REGULATION OF ARTIFICIAL INTELLIGENCE IN WISCONSIN

Classroom 2005, Michael Van Asten Campus
Bellin College
Green Bay, WI
August 29, 2024
11:00 a.m. – 1:55 p.m.

CALL TO ORDER AND ROLL CALL

Chair Bradley called the meeting to order and determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Julian Bradley, Chair; Rep. David Armstrong, Vice Chair; Sen. Tim Carpenter; Rep. Clinton Anderson; and Public Members Sarah Alt, Rich Barnhouse, Timothy Dickson, Kathy Henrich, Matt Kirchner, Jay Hill, Christopher Mende, and Eric Toney.

COUNCIL STAFF PRESENT: Brian Larson, Principal Attorney.

APPEARANCES: Krister Mattson, Vice President, Enterprise Analytics and Data Science, Emplify Health; Frank Liao, Senior Director of Digital Health and Emerging Technologies, UW Health; Dr. Seon Yoon Chung, Dean, UW-Oshkosh School of Nursing; and Brian Kay, Chief Strategy Officer, Rogers Behavioral Health.

APPROVAL OF THE MINUTES OF THE JULY 24, 2024, MEETING

Chair Bradley moved to approve the meeting minutes from July 24, 2024. The motion was seconded by Vice Chair Armstrong and approved by unanimous consent.

OPENING REMARKS

Senator Bradley, Chair, Study Committee on the Regulation of Artificial Intelligence (AI) in Wisconsin

Chair Bradley introduced the meeting's topic of AI's use in health care.

DESCRIPTION OF DISTRIBUTED MATERIALS BY LEGISLATIVE COUNCIL COMMITTEE STAFF

Legislative Council (LC) staff provided an overview of Legislative Council, *Consumer Data Privacy Legislation in Select States*, [Memo No. 1](#) (August 22, 2024). LC staff noted that material regarding

workforce development that was requested at the July 24, 2024, meeting would be provided prior to the September 11, 2024, meeting.

ROUNDTABLE DISCUSSION RECAPPING AND DEVELOPING THEMES FROM THE JULY 24, 2024, MEETING

Chair Bradley invited committee members to discuss material and themes from the July 24, 2024, meeting. Ms. Henrich informed the committee on the status of legislation in California related to AI. She noted possible concerns that the bill could impede innovation and indicated that the committee could learn from other states' experiences with regulating AI. Ms. Henrich also noted that the recently released advisory action plan from the Governor's Task Force on Workforce and AI provided useful data with respect to workforce size and AI's potential impact on the workforce, and included certain policy recommendations that could be the basis for future conversations.

Vice Chair Armstrong recommended that a report from California related to AI be distributed to the committee. Chair Bradley responded to a question from Ms. Alt regarding how the committee can best evaluate the advantages and disadvantages of AI-related legislation from other states by indicating that the LC staff can provide the committee with information related to the bills and then the committee members can review and provide feedback. Mr. Kirchner commended Mr. Barnhouse's efforts related to AI at Waukesha County Technical College and noted that the committee may be interested in certain uses of AI in K-12 education around the state.

PRESENTATION BY KRISTER MATTSON, VICE PRESIDENT, ENTERPRISE ANALYTICS AND DATA SCIENCE, EMPLIFY HEALTH

Mr. Mattson's presentation covered several topics related to AI development and adoption in the health care industry, including areas where AI applications are being deployed, the use of an intra-company governance council to evaluate the risks and benefits of potential uses of AI, and certain guiding principles, such as maintaining a human role in AI-augmented processes and empowering clinicians to work at the highest level of their license through reducing administrative burdens. Mr. Mattson also noted that AI tools may ultimately become commonly available in the marketplace, and that the balance between innovation and control and privacy protections is important.

After Mr. Mattson's presentation, he fielded questions from committee members on several topics, including the role and guiding principles of the intra-company governance council, the development and use of AI tools, which entity should have the burden to show the efficacy and safety of an AI tool, the balance between creativity and regulation when deploying AI tools, the ability to hire or train employees with AI-related skills, and the risks of using AI in health care.

PRESENTATION BY FRANK LIAO, SENIOR DIRECTOR, DIGITAL AND EMERGING TECHNOLOGIES, UW HEALTH

Mr. Liao discussed the deployment of AI tools by UW Health, including drafting messages to patients and scribing for providers. Mr. Liao noted that AI-drafted messages cannot be sent automatically and that UW Health tracks how many messages are sent without any changes made by the provider. Mr. Liao reported that AI-drafted messages have shown to decrease a provider's cognitive load, but have not shown to be a time saver. With respect to AI scribing, Mr. Liao indicated that this tool is still in the proof-of-concept phase and discussed the benefits to providers and the risk of unintended effects on documenting a patient's diagnoses.

Mr. Liao also detailed UW Health's AI guiding principles, which include effectiveness, empathy, empowerment, equity, and ethics, and discussed UW Health's strategic imperatives, operational priorities, and the key outcomes and metrics used to evaluate AI tools. Mr. Liao noted that UW Health has an internal, multi-disciplinary advisory council that provides oversight for AI use, including ensuring an AI model is locally validated.

Finally, Mr. Liao highlighted certain takeaways from a recent national roundtable on AI in health care that UW Health co-sponsored. These takeaways relate to AI's potential to address workforce shortages in health care, the need for transparency when AI is used in delivering health care, ensuring access to AI health care tools in rural and underserved areas, and the local validation of an AI tool to ensure AI's efficacy where deployed. Mr. Liao also emphasized that AI is an investment in UW Health's workforce and that different AI use cases will have different risks, with use cases that are closer to diagnosis decisions carrying more risk.

Questions from committee members focused on how AI use cases are developed, deployed, and monitored and specifics relating to AI-drafted messages and AI scribing, including questions related to disclaimers, auto-send, accuracy, accountability, and cost. The committee also asked about standards, best practices, and risk categorization for AI in health care.

PRESENTATION BY DR. SEON YOON CHUNG, DEAN, UW-OSHKOSH SCHOOL OF NURSING

Dr. Chung's presentation covered the general work of clinicians in a clinical setting, including technology commonly used by clinicians, and how AI may impact the work of clinicians in the areas of documentation, diagnosis, and surgery.

Dr. Chung also discussed potential benefits and concerns of using AI in health care, and noted potential guardrails to consider with respect to AI, including obtaining a patient's informed consent, clinician verification of AI work, and continuous validation and improvement of AI tools and related processes. Dr. Chung finished by indicating her perspective is of a nurse and educator who is focused on teaching future clinicians about these new tools so that they can talk with patients about AI tools.

Questions from committee members focused on students' perspectives on the use of AI and whether students are being taught backup methods of practice in the event an AI tool is not available.

PRESENTATION BY BRIAN KAY, CHIEF STRATEGY OFFICER, ROGERS BEHAVIORAL HEALTH

Mr. Kay's presentation covered several topics related to AI in health care and behavioral health, including the types of data available in health care, the AI initiatives at Rogers Behavioral Health, and how to make AI tools explainable to patients and others through informational graphics, such as an "AI nutrition facts" label. The AI initiatives at Rogers Behavioral Health are a chatbot to help increase access to behavioral health services, ambient listening for documentation, and machine learning for treatment plan personalization. Mr. Kay detailed these initiatives and discussed their potential benefits. Finally, Mr. Kay discussed key takeaways, including that AI will augment, not replace, clinicians and providers. He also said that AI will reduce the administrative burden on clinicians, but that health disparities could emerge from only certain hospitals utilizing AI.

Questions from committee members focused on specifics related to the AI chatbot tool and the use of machine learning to identify potential interventions, delays in accessing behavioral health services, transparency of AI tools, and the use of "AI nutrition facts" labels. Committee members also asked about the ability to innovate when making certain disclosures about the use of AI, the effect of

deploying AI tools on provider recruitment, the business case and benefits of utilizing AI tools, and the desired skills of potential employees.

PLANS FOR FUTURE MEETINGS

Chair Bradley thanked the presenters and invited committee members to discuss issues and ideas for research instructions to provide to LC staff. To start, Chair Bradley observed that, based on the testimony and discussion, the committee may have an interest in examining a legislative role around transparency with regard to notification of when AI is used, as well as the issue of informed consent with regard to using AI. Chair Bradley asked LC staff to distribute information to committee members regarding notification and informed consent requirements in health care under current law and the considerations involved in the creation of AI-specific notification and informed consent requirements that benefit consumers, with comparisons with other states' laws where applicable.

Ms. Alt requested that the committee explore ways to allow health care consumers to opt out from the use of AI, or to request human review, in appropriate cases. Mr. Mende suggested that the committee examine information and best practices of organizations in the United States regarding the formation of multi-disciplinary advisory councils that perform due diligence before using an AI tool.

Ms. Henrich noted that there are potential inequities in the deployment of AI tools for organizations of different sizes and that it is important to democratize the gains of AI. Ms. Henrich also noted that policies requiring a human to be involved necessarily require humans with digital skills. She suggested the committee prioritize consideration of the role of government in helping develop these skills in the workforce. Chair Bradley confirmed that he plans for the committee to discuss this topic further.

Mr. Kirchner highlighted the presenters' comments about health care providers' obligations to understand the AI tools that they deploy, and that this obligation may require cooperation and accountability from the vendor. He agreed with the notion, from Mr. Mattson's testimony, that if a vendor does not provide any information regarding how an AI tool functions, then the tool should not be used, because this information is necessary for proper due diligence. Mr. Kirchner suggested that the committee consider requirements relating to minimum due diligence standards to ensure providers understand how an AI tool is making decisions and providing feedback.

The study committee briefly discussed the role of government in regulating private contracts, and LC staff observed that the issue of private contracting had been present in many of the day's presentations and questions from committee members. After noting that the private contracting issue illustrated the complexity of all of the issues raised by committee members, LC staff suggested it would be difficult for the committee to dive into each question enough to make progress on all issues that may emerge. With regard to the prioritization of effort, Chair Bradley said the main goal should be to collect and examine relevant information as a foundation for future work.

Mr. Dickson offered comments regarding data privacy in health care. He said providers already generally know how to navigate certain longstanding requirements, such as the Health Insurance Portability and Accountability Act, when it comes to predictive AI. However, he noted that there are new and different issues arising with regard to data privacy in connection with the use of generative AI in health care and that these issues are evolving.

The committee engaged in a discussion of the potential need for legislation that protects third parties from potential harms that might emerge from the relationship created by contracts relating to AI tools. LC staff explained that the framework already exists in the statutes to allow private parties to contract with one another and assign responsibilities and liabilities among themselves. Ms. Alt noted that it is

not just the parties to a contract who may be impacted by the contract's provisions. After indicating that committee members had raised perspectives of patients, citizens, and those upon whom AI is used, Ms. Alt noted that the contracts relating to AI tools often involve multiple parties and that patients are not able to view those contracts. Ms. Alt also said that there is an acknowledgement that the state of AI has created some novel paths that, even with contract law and other existing laws, we are not necessarily prepared to travel down safely. She stated that the committee's effort includes learning about how contract law and other existing laws may be made to recognize the novel paths created by AI. LC staff noted that there is generally a greater state interest in regulating private contracts in situations where impacts on third parties arise.

CLOSING REMARKS, SENATOR BRADLEY, CHAIR, STUDY COMMITTEE ON THE REGULATION OF AI IN WISCONSIN

Chair Bradley announced that the next meeting of the study committee is scheduled for September 11, 2024, in the Assembly Room of the Marathon County Courthouse. He noted that the focus of the next meeting will be the use of AI in law enforcement and criminal justice.

ADJOURNMENT

The meeting adjourned at 1:55 p.m.

PW:BL:kp;ksm