

# AI and the Future of Health Care: A Massachusetts and National Outlook

September 2026

William Gordon, MD | *Senior Advisor, Manatt Health*



**Will Gordon, MD**

**Senior Advisor**

617.646.1465

WGordon@manatt.com

- **The AI Moment**
- **Federal Policy and Regulatory Landscape**
- **State Policy and Regulatory Landscape**

# The AI Moment

**We are seeing an unprecedented capital investment in AI**

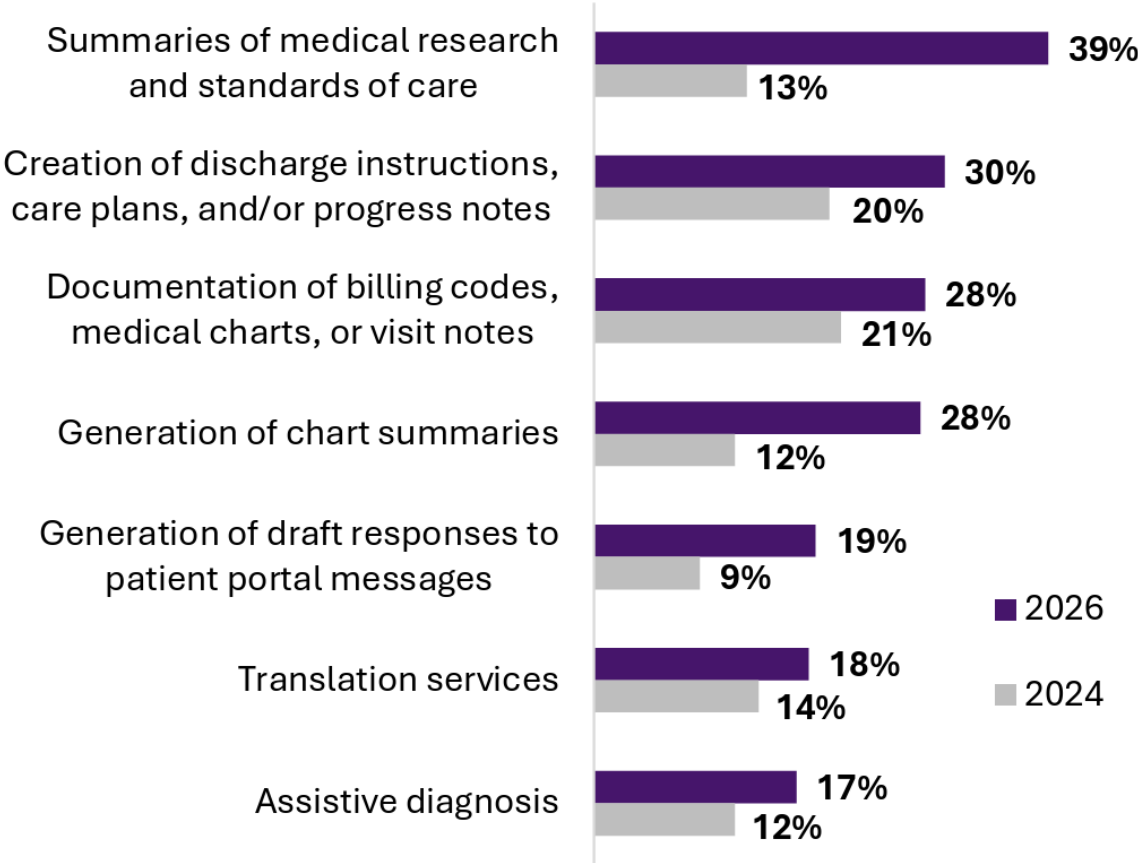
**\$690B**  
**projected Big Tech AI**  
**CapEx in 2026 alone**

Amazon (\$200B), Google (\$175B), Microsoft (\$120B), Meta (\$115B), and Oracle (\$50B) are spending more on AI infrastructure in a single year than the inflation-adjusted cost of the Interstate Highway System (\$600B). This is the largest private capital deployment in history.

# Increasing Adoption of AI Tools in Clinical Practice

The American Medical Association’s (AMA) annual augmented intelligence survey shows physicians increasingly adopting AI tools and feeling increasingly optimistic about the use of AI in clinical practice.

## How Physicians Are Using AI in 2026:



**Over 80%**  
of physicians are using AI in clinical practice, more than doubling the share reported in 2023.

**Over 75%**  
of physicians say AI provides an advantage in their ability to care for patients.

**Data Privacy and Validation of Safety/Efficacy**  
are the top two factors that physicians say would facilitate adoption of AI.

Source: AMA’s most recent Augmented Intelligence survey captured input from over 1,500 physicians, collected from January 15 – February 2, 2026. Available [here](#).

# Patients Aren't Waiting for Permission to Use AI

Consumers are already using AI as a healthcare resource at massive scale — often outside the clinical relationship.

60%

of US adults have asked an AI tool healthcare questions in the past 3 months

More than 5% of all ChatGPT messages globally are health-related.

*OpenAI, Jan 2026*

70%

of health conversations happen outside clinic hours

Patients are turning to AI when providers are unavailable — evenings, weekends, and holidays.

*OpenAI, "AI as a Healthcare Ally," 2026*

50%

of AI users with mental health needs use chatbots for support

ChatGPT may now be the largest mental health provider in the US — bigger than the Veterans Affairs (VA)

*Rousmaniere, et al. Practice Innovations.*

## Why This Matters:

Patients are seeking AI guidance because they can't reach providers fast enough. For many, AI has become the front door for healthcare.

This is not a technology trend — it is a shift in patient behavior.

## The Risks:

The Emergency Care Research Institute (ECRI) named AI chatbot misuse the #1 health technology hazard for 2026 — citing erroneous diagnoses, fabricated clinical information, and bias against underrepresented populations.

**And who is liable for errors?**

# Federal Activity

# The AI Regulatory Landscape: State and Federal Trends

Federal and state policymakers are approaching AI regulation from different perspectives: states are focused on establishing guardrails for use and promoting transparency, while the federal government has taken a deregulatory posture, actively promoting the use of AI in health care and seeking to deter state action on AI.



Scoop: White House pressures Utah lawmaker to kill AI transparency bill **AXIOS**



# Federal Agencies Are Engaging AI Across Multiple Fronts

The Centers for Medicare and Medicaid Services (CMS), Food and Drug Administration (FDA), and Advanced Research Projects Agency – Health (ARPA-H) are exploring AI as a care delivery enabler and embedding it into payment methodology.

## CMS

Creating new reimbursement pathways for AI-enabled care delivery and embedding AI into payment methodology:

- **Care Delivery** through ACCESS and the Rural Health Transformation Program
- **Payment Methodology** through LEAD
- **Prior Authorization and Program Integrity** through WiSER, CRUSH

## FDA

Accelerating AI-enabled device authorization while evolving its regulatory framework to account for the adaptive nature of AI systems:

- **Device Authorization and Regulatory Relief** through TEMPO Pilot
- **Regulatory Framework** through guidance on AI-enabled device software functions

## ARPA-H

Funding the development of the first FDA-authorized autonomous clinical AI agents, with an initial focus on cardiovascular disease:

- **Autonomous Clinical AI** through ADVOCATE

*Agency activity is discussed in greater detail on following slides.*

# CMMI’s Advancing Chronic Care with Effective, Scalable Solutions (ACCESS) Model

CMMI’s ACCESS Model is a 10-year national voluntary demonstration that incorporates Outcome-Aligned Payments (OAPs) to Medicare Part B for chronic condition management

- Under ACCESS, participating organizations receive recurring OAPs for helping manage qualifying chronic conditions, with half of total payment tied to hitting specified outcome measures across the enrolled population.
- Payment rates are low (\$180–\$360 per patient, per year, max), far lower than current market rates for these products.
- As a result, ACCESS participants likely will lean heavily on automation, AI, and care delivery processes that can be scaled at low reimbursement.

| Track | Qualifying Conditions                                                    | Outcome Measures                                                                         |
|-------|--------------------------------------------------------------------------|------------------------------------------------------------------------------------------|
| eCKM  | Hypertension OR ≥2 of dyslipidemia, obesity/central obesity, prediabetes | Improvement/control of BP, lipids, weight, HbA1c                                         |
| CKM   | Diabetes, chronic kidney disease (CKD), or ASCVD                         | Improvement/control of BP, lipids, weight, HbA1c<br>eGFR/UACR reporting for CKD/diabetes |
| MSK   | Chronic musculoskeletal pain                                             | Improvement in validated PROMs: pain intensity, interference, function                   |
| BH    | Depression and/or anxiety                                                | Improvement via PHQ-9 or GAD-7; WHODAS 2.0 functional assessment                         |

**CMS Expands Access:**  
On September 15, 2026, CMS [announced](#) that, beginning spring 2027, CMS will add tracks for **heart failure, COPD, substance use disorders, and tobacco cessation**, extending technology-supported chronic care to more Original Medicare beneficiaries.

FDA is advancing access to AI-enabled digital health devices through the TEMPO Pilot program:

- The FDA's TEMPO pilot (launched in partnership with the ACCESS Model) reflects a **coordinated federal approach to evaluating and overseeing digital health and AI tools**. TEMPO allows manufacturers of digital health devices that do not yet have FDA authorization to apply to participate and request FDA exercise **enforcement discretion**, with the intention to expand access to innovative digital health devices while safeguarding patient safety.
- ACCESS participants who use a device in the TEMPO Pilot must obtain **enhanced consent from beneficiaries**, informing them that the device is part of an FDA pilot and that specific data will be shared with the FDA, as required by federal privacy and security laws.
- FDA began [announcing](#) participants in July 2026. Participants leveraging AI include:
  - Dexcom, Inc: Glucose Health Program including AI insights
  - Limbic Unpacked: Talk Therapy via AI Voice Agent

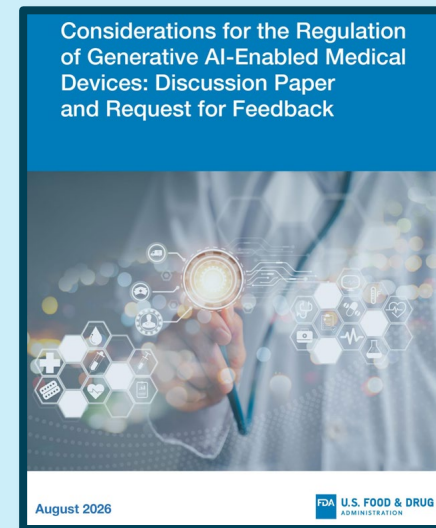


Source: [TEMPO for Digital Health Devices Pilot Frequently Asked Questions | FDA](#)

The Food and Drug Administration (FDA) has been actively engaging with health AI tools and agents and considering its role as a regulator of the rapidly-evolving space.



- In late June, UpDoc announced that it obtained FDA clearance for an AI product that interacts directly with patients in between appointments and adjusts medication doses within parameters set by the patient's clinician.
- This clearance makes UpDoc the first digital health company to receive **Software as a Medical Device (SaMD) clearance** for a product that uses patient-facing large language models.



- In August 2026, FDA's Center for Devices and Radiological Health (CDRH) released a discussion paper and request for feedback on the regulation of GenAI-enabled medical devices.
- Presents a two-axis risk framework based on device activity (non-directive information, action-directing, or action-taking) and the severity of harm from an incorrect output.
- Describes a competency-based premarket approach consisting of device benchmarking and clinical confirmation, and outlines post-market monitoring approaches.

# CMMI's Wasteful and Inappropriate Service Reduction (WiSER) Model

13



The WiSER Model is the **first CMMI model where technology vendors are the sole participants**. Six AI/ML companies use enhanced technology combined with human clinical review to manage **prior authorization for select Medicare fee-for-service services**.



WiSER introduces **performance-based shared savings**: technology vendors earn a percentage of cost savings from reducing wasteful or inappropriate services. All coverage denials **require human clinician review** with relevant clinical expertise.

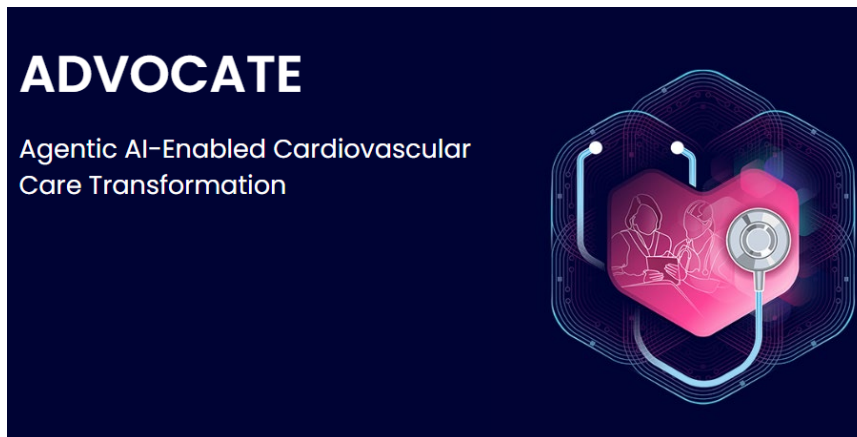


The model includes a **“gold carding” feature** (launching mid-2026): providers with a **90%+ approval rate** are exempted from prior authorization requirements, reducing administrative burden for high-performing clinicians.

# The ADVOCATE Model

14

In 2026, the federal Advanced Research Projects Agency-Health (ARPA-H) launched and recently awarded contracts under the ADVOCATE Model, seeking to develop the first FDA-authorized agentic AI technology to provide 24/7 specialty care for cardiovascular disease.



The ADVOCATE Model seeks to develop autonomous clinical AI agents that interact directly with patients as a “new member of the care team” (e.g., adjusting appointments or changing and refilling prescriptions).

The clinical AI agents will be monitored by a supervisory AI “overseer” for safety and efficacy – while the supervisory AI may escalate to human support, there is not a human in the loop for all decisions.

ARPA-H also establishes an independent verification lab to curate training datasets and support trials of the agent.

ARPA-H expects both the autonomous clinical AI agents and the supervisory AI “overseer” to pursue FDA authorization.

**Awards announced Sept. 9, 2026:** ARPA-H selected teams to build ADVOCATE under a four-year, up to \$62.7M program (\$33.7M year one), targeting FDA-authorized, patient-facing cardiovascular AI for the ~50% of U.S. counties without a cardiologist.

# State Activity

# The State Legislative Landscape in 2026

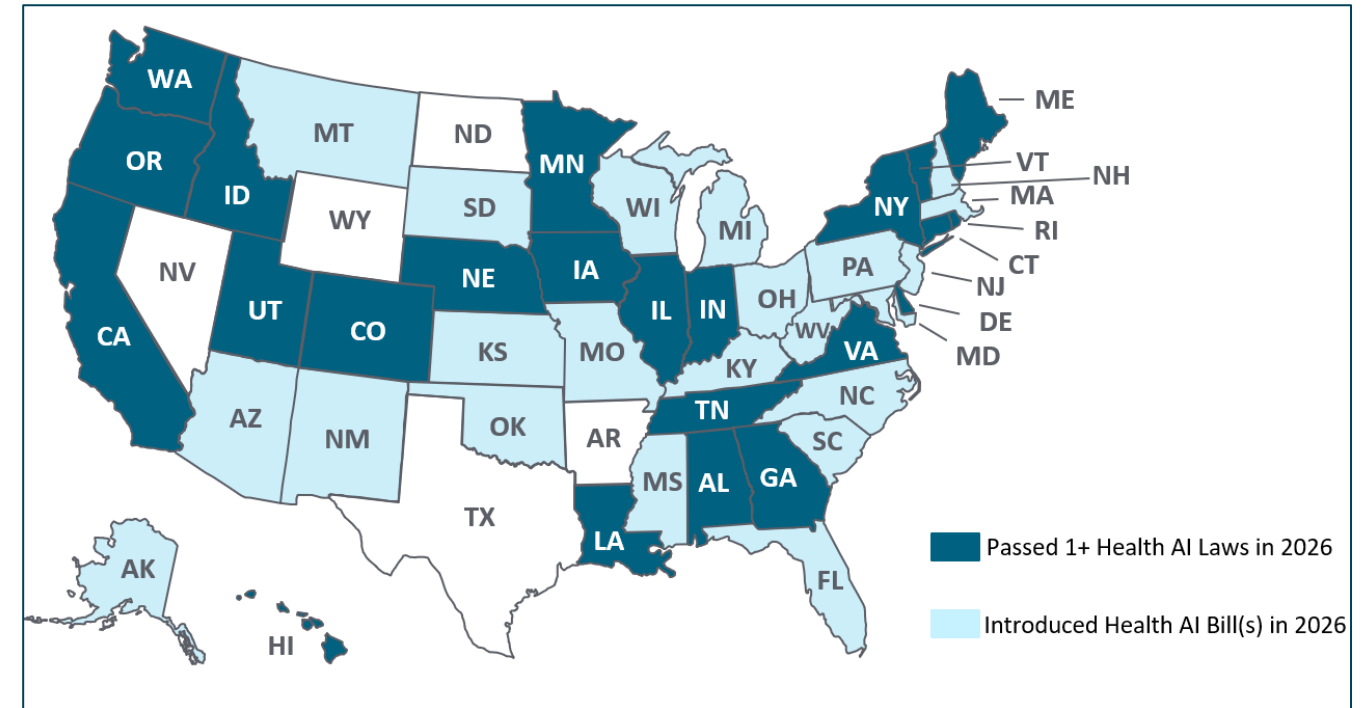
## 280+

AI bills introduced just in 2026 that impact healthcare stakeholders.

## 37

signed into law in 2026.

### *State Action in 2026:*



Nearly every state has at least one AI law shaping healthcare. This emerging patchwork of regulation is particularly challenging to navigate for multistate payers and health systems, digital health companies, and other nationally-operating entities.

# Focus Areas for State Regulation

17

01



**AI Chatbots**

02



**Transparency/  
Disclosure**

03



**Payer Use of AI**

04



**Clinical Use of  
AI**

05



**AI Sandboxes**

## Colorado SB 189

- Colorado substantially pulled back its earlier comprehensive AI framework ([SB 205](#)), eliminating broad duties to prevent algorithmic discrimination, risk-management programs, impact assessments, and affirmative reporting, and replacing them with a narrower notice-and-documentation regime for automated decision-making technologies that materially influence consequential decisions.
- The revised law also includes important accommodations for HIPAA-covered entities and business associates and FDA-regulated medical devices.

## Connecticut SB 5

- Establishes broad, use-case-specific AI rules covering companion chatbots; employment AI; frontier-model whistleblowers; synthetic-content provenance; AI literacy and workforce initiatives; and creates a pilot for up to five Independent Verification Organizations (IVOs) to assess AI models.
- Companion chatbot provisions include a focus on mental health guardrails and crisis response protocols, as well as protections for minors.

## California SB 1119

- Builds upon California's existing AI chatbot law with focus on children's safety, defining "covered harms" to child users (physical, financial, severe emotional, privacy, and discrimination).
- Adds risk assessments, independent child-safety audits, crisis response protocols, parental controls, and measures preventing the chatbot from encouraging self-harm, providing unlicensed treatment, or claiming to be human.
- Requires independent child-safety audits with summaries to the Attorney General.

# AI Sandboxes and Regulatory Mitigation Agreements: State Action

States are at the forefront of establishing AI Sandboxes and regulatory mitigation agreements:

*Two states have launched AI sandboxes and/or regulatory mitigation programs:*

*Two states are actively developing AI regulatory sandboxes:*

## Utah SB 149

*Effective May 1, 2024*

Utah created a state Office of Artificial Intelligence Policy (OAIP) to oversee a “regulatory learning laboratory” and administer a regulatory relief program, waiving specific state legal and regulatory requirements.

## Texas HB 149

*Effective January 1, 2026*

Texas established an AI regulatory sandbox program that enables “legal protection and limited access to the market” in Texas for the purposes of testing innovative AI systems without a license, registration, or other regulatory authorization, including to promote safe and innovative use of AI in health care.

## Delaware HJR 7

*Effective July 23, 2025*

The Delaware Artificial Intelligence Commission is actively collaborating with the Secretary of State to establish an AI regulatory sandbox framework to test technologies that utilize agentic AI. Draft legislation is under development.

## Connecticut SB 5

*Effective July 1, 2027*

The Commissioner of Economic and Community Development must develop and submit a plan to establish an AI regulatory sandbox program, including an assessment of the feasibility of establishing a reciprocal multistate AI sandbox program.

# Doctronic: *Utah Regulatory Relief Program Participant*

20

Doctronic, a health technology company using AI to streamline the prescription refill process, entered into a regulatory relief agreement in Utah to deploy its AI refill tool in October 2025.



Ok, let's get your  
prescription refilled

You'll select your prescription, do a quick consult  
with our AI doctor, and pay a \$4.00 service fee.  
Medication costs not included.

Start AI Refill >

- **Demonstration:** Allows Doctronic to authorize the renewal of medications, launched in a three-phased approach. The agreement limits autonomous renewals to roughly 200 commonly-prescribed medications, excluding controlled or addictive medications.
- **Reporting / Monitoring:** Monthly report to the Office of Artificial Intelligence Policy (OAIP), including detailed qualitative and quantitative user information
- **Duration of Agreement:** 12 months with potential for a 12-month extension
- **Direct to consumer** – no traditional RCM/CPT capabilities needed

## Phased Implementation Approach:

**Phase 1:** First 250 patients will have their AI-generated renewal decision reviewed by licensed physicians **prior to submitting the renewal** to the pharmacy.

**Phase 2:** Next 1,000 patients will have their AI-generated renewal decision **retrospectively reviewed** by licensed physicians.

**Phase 3:** **Structured sampling** approach to ensure quality oversight, including a **monthly review of 5-10% of processed renewals, comprehensive quarterly analysis of escalated cases, and annual systematic review** of performance metrics and clinical outcomes.

**While Massachusetts has not enacted AI legislation, two bills introduced in 2025 have seen continued activity in 2026.**

## HB 1210

- **Provider Implications:** Would require providers to inform patients when AI-generated information has not been reviewed by a clinician
- **Payor Implications:** Would require insurers to disclose AI use in claims review and submit annual algorithm and training data reports to the Division of Insurance (DOI).

## SB 2632

- **Provider Implications:** Would restrict AI use in therapy and psychotherapy and would apply to MassHealth managed care plans pending federal approval.
- **Payor Implications:** Would prohibit AI from denying, delaying, or modifying health services, require medical necessity determinations to be made by a licensed professional, and extend audit authority to both the DOI and the Executive Office of Health and Human Services.

# Massachusetts Affordability Working Group

Convened by Governor Healey in 2026, the HCAWG brought together policymakers and health care stakeholders to develop consensus recommendations for improving health care affordability in Massachusetts.

THE OFFICE OF  
**GOVERNOR MAURA HEALEY**  
LT. GOVERNOR KIM DRISCOLL

## 5 Actions to Make Health Care More Affordable



Convened by Governor Healey in 2026, the HCAWG brought together policymakers and health care stakeholders to develop consensus recommendations for improving health care affordability in Massachusetts.

## ***Artificial Intelligence***

New health care technologies, including AI, have the potential to improve patient care and reduce administrative costs if they are tested safely. Massachusetts wants to allow promising AI tools to be tried under strict oversight so innovation can move forward without putting patients at risk. Carefully tested AI tools could help providers work more efficiently and lower costs over time. At the same time, insurers and health care organizations increasingly use AI for coding, claims review, and coverage decisions that affect care and bills. Massachusetts should establish clear rules and transparency around how AI is used in these health care processes so decisions are fair, accountable, and do not cause errors, unfair denials, or delays in care. The Healey-Driscoll Administration supports responsible innovation and anticipates the creation of a future AI advisory group to inform needed changes.

| <b>Executive Actions</b>             | <ul style="list-style-type: none"><li>• No AI-specific mandates or analytics initiatives yet from HPC or CHIA</li><li>• Massachusetts eHealth Institute (MeHI), MassTech, designated state entity for promoting digital health innovation to improve the safety, quality, and efficiency of health care in MA but their prominence in state-level health care conversations is limited</li><li>• MassHealth Helper: Retrieval tool developed by AI for Impact supporting enrollment center staff in navigating eligibility rules and application procedures for MassHealth. No clear utilization data or results on efficiencies publicly available.</li><li>• EOHHS RFI on AI for Program Integrity (closed 5/14/2026) Solicits input on post-payment applications of AI tools to (1) detect FWA, (2) recover overpayments (3) support managed care integrity and (4) conduct claims review, documentation, and medical necessity</li></ul>                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Non-Health Related Activities</b> | <ul style="list-style-type: none"><li>• Governor Healey established the Massachusetts AI Strategic Task Force in February 2024 to develop recommendations on responsible AI adoption across the Commonwealth.<ul style="list-style-type: none"><li>• State capacity builder: The AI Center of Excellence (within the Executive Office of TSS)<ul style="list-style-type: none"><li>• In February 2026, MA became the first state to launch an AI assistant for state employees, procuring a 3-year agreement with OpenAI (ChatGPT)</li></ul></li><li>• Convener and catalyst: The Massachusetts AI Hub, Massachusetts Technology Collaborative (MassTech)<ul style="list-style-type: none"><li>• Hub established in December 2024 to ensure Massachusetts’s competitiveness in a rapidly evolving landscape while setting a standard for responsible AI deployment</li><li>• Active initiatives include private partnerships with IBM and Red Hat to establish an incubator for Massachusetts-based AI startups; creating AI Compute Resources (AICR) environment to supply compute and data necessary for AI innovation</li></ul></li><li>• Higher Education partnerships: The AI for Impact Co-Op, Healey-Driscoll Administration + Northeastern Pilot projects for applying AI inside state government workflows</li></ul></li></ul> |

- AI is rapidly moving from administrative support toward autonomous clinical decision-making and care delivery.
- Federal and state policymakers are taking divergent approaches, creating a fragmented and fast-changing regulatory environment.
- Massachusetts has an opportunity to pair clear guardrails with flexible pathways that enable responsible AI adoption and experimentation





**Will Gordon, MD**

**Senior Advisor**

617.646.1465

WGordon@manatt.com