New Mexico Medical Board Policy on the Use of Artificial Intelligence (AI) in Medical Practice

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Background Information

Artificial and Augmented Intelligence (AI) technologies represent a rapidly evolving frontier in medicine. AI may be as simple as an email spam filter or as complex as a black-box algorithm recommending treatment pathways for diseases such as heart failure or cancer. These tools, often embedded in clinical workflows, can enhance diagnostic accuracy, personalize treatment, and improve operational efficiencies. However, they also carry the risk of bias, overreliance, misinformation, and loss of patient trust.

Regardless of their level of complexity or source, the introduction of AI into clinical practice carries ethical, legal, and professional implications. As such, physicians and physician assistants licensed by the New Mexico Medical Board (NMMB) must remain responsible stewards of patient care, ensuring that all tools—including AI—are applied ethically and safely.

Definitions

Artificial Intelligence (AI): The science and engineering of making intelligent machines that can perform tasks typically requiring human intelligence, including but not limited to machine learning, natural language processing, computer vision, and predictive analytics. Augmented Intelligence focuses on using AL to enhance human capabilities and decision-making, rather than replacing them.

AI-Enabled Medical Device: Any medical device that incorporates AI/ML technology as defined by FDA guidance (21 CFR 860.3).

Clinical Decision Support (CDS): Health information technology that provides clinicians with patient-specific assessments and evidence-based recommendations to aid clinical decision-making.

Machine Learning (ML): A subset of AI that enables systems to learn and improve from experience without being explicitly programmed.

Algorithm: A set of rules or instructions designed to solve problems or perform specific tasks, which may or may not incorporate AI/ML techniques.

Purpose

The purpose of this policy is to establish clear expectations for the responsible, ethical, and transparent use of AI technologies in clinical practice by licensees of the New Mexico Medical Board. The policy aligns with professional principles and protects patient safety while promoting innovation.

Scope

This policy applies to all New Mexico Medical Board licensees who use AI technologies in any clinical capacity, including diagnostic support, clinical decision-making, workflow management, and patient engagement.

FDA-Approved Indications

AI tools used in clinical practice must meet one or more of the following criteria:
- Be FDA-approved, cleared, or authorized for medical use under applicable regulations (e.g., 21 CFR Part 820, 21 CFR Part 11).
- Be classified as "decision support software" that does not independently diagnose, treat, or prevent disease but instead aids a licensed practitioner.
- Clearly disclose their intended use, limitations, training data sources, and known biases.

Use of non-FDA-cleared AI tools for clinical decision-making must comply with the same standards of care applicable to any intervention or diagnostic method.

Policy Guidelines

1. AI as a Support Tool: AI shall be considered a decision-support tool. It may augment, but must not replace, the clinical reasoning and judgment of licensed practitioners.

2. AI Literacy: Licensees should demonstrate a basic understanding of AI technologies.

3. Clinical Oversight and Accountability: Licensees remain legally and professionally responsible for any care decisions influenced by AI.

4. Bias Detection and Mitigation: The licensee should be aware of the limitations and biases of AL.

5. Transparency with Patients: Patients must be informed when AI is used in their care, including the role of the AI, limitations or uncertainty, and the practitioner's responsibility for final decisions.

6. Data Privacy and Security: AI tools used in clinical practice must comply with HIPAA and other relevant federal/state data privacy regulations.

Ethical and Legal Considerations
The Board expects licensees to apply the foundational ethical principles of medical practice—autonomy, nonmaleficence, beneficence, and justice—to the use of AI.

- Autonomy: Patients have a right to know how their care is being informed or shaped by AI and must be empowered to ask questions.
- Nonmaleficence: Licensees should ensure AI tools do not cause harm through inaccuracy, bias, or misuse.

- Beneficence: Licensees should prioritize actions that promote well-being and serve the best interests of individuals and society.

- Justice: The use of AI must not exacerbate existing health disparities.

Under the New Mexico Medical Practice Act (NMSA 1978, Section 61-6-1 et seq.), licensees must practice medicine with reasonable skill and safety. Failure to properly understand or oversee AI use could constitute unprofessional or dishonorable conduct under Section 61-6-15.

Educational Requirements
- Continuing medical education (CME) related to digital health and AI ethics is strongly encouraged.

Enforcement and Disciplinary Action

Violations of this policy may result in investigation and disciplinary action under NMSA 1978, Section 61-6-15. Disciplinary measures may include:
- Letters of concern or reprimand
- Fines
- Mandatory retraining
- License suspension or revocation

The Board retains discretion to evaluate the appropriateness of AI use on a case-by-case basis.

References
- New Mexico Medical Practice Act: NMSA 1978, §§ 61-6-1 through 61-6-35
- New Mexico Administrative Code: Title 16, Chapter 10 (16.10 NMAC)
- Federation of State Medical Boards (FSMB), "Incorporation of AI into Medical Practice" (2024):
https://www.fsmb.org/siteassets/advocacy/policies/incorporation-of-ai-into-practice.pdf
- American Medical Association, "Augmented Intelligence in Health Care" (2019):
https://www.ama-assn.org/system/files/2019-08/ai-2018-board-policy-summary.pdf
- U.S. Food and Drug Administration, "Artificial Intelligence and Machine Learning (AI/ML)-Based Software as a Medical Device (SaMD) Action Plan" (2021)
- HIPAA Privacy Rule, 45 CFR Part 160 and Subparts A and E of Part 164

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