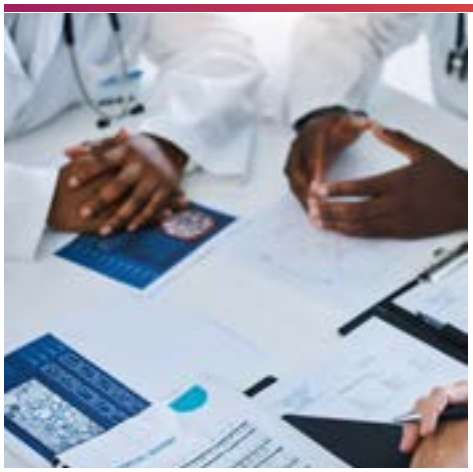
Regulating Health Care-Related Use of Artificial Intelligence



Description of the policy and how it works in practice

Policy strategies in this section were selected because they show significant promise as strategies that will impact Black health and/or complement Policy Roundtable members' current health promotion efforts.

Regulating Health Care-Related Use of Artificial Intelligence (AI)

Regulate the use of artificial intelligence (AI), algorithms, and related technology to prohibit and/ or help prevent AI-related biases in the context of health care decisions and services.

While the Food and Drug Administration (FDA) currently regulates a limited scope of AI technologies as "medical devices," many more uses of AI fall outside this scope and are federally unregulated.[97]

According to a 50-state legal survey conducted by a private law firm, as of May 2025, 14 states have enacted the same, or very similar, consumer bill of rights—giving consumers the right to opt out of automated processing of their information (including through the use of AI) in ways that would impact their health care, or other important areas of life, including housing, insurance, education, and criminal justice, among others.[98]

According to the National Conference of State Legislatures, in the 2024 legislative session 45 states and D.C. proposed AI-related bills, and 31 states adopted or enacted legislation.[99] The most commonly proposed health-related AI laws sought to regulate the use of AI in insurance utilization review (four states—California, New Jersey, New York, Pennsylvania) and in mental health services (three states—Illinois, Massachusetts, and Rhode Island).[100] California was the only state to enact one of these proposed health-related AI laws.[99, 101]

In the 2025 legislative session so far, all 50 states and D.C. have proposed AI-related legislation, and 28 states have already enacted new laws.[100]

Health Impact

AI has potential to improve medical decision-making and health care systems to the benefit of populations facing systemic barriers and biases,[102-104] with evidence for potential benefits in the context of primary care.[102-104] However, AI can also perpetuate and exacerbate health disparities in a variety of ways, such as through biased algorithms or model development and biased or unrepresentative datasets.[102] In addition, there are inequities in who has access to AI and associated benefits or exposure to harms.[105]

Feasibility

Federal preemption of state AI regulation has not been enacted, but federal pressure on state AI laws has grown sharply. In July 2025, the Senate voted 99 to 1 to strip a proposed ten-year moratorium on state AI regulation from the budget reconciliation bill.[106] In December 2025, an executive order titled Ensuring a National Policy Framework for Artificial Intelligence directed the Department of Justice to create an AI Litigation Task Force to challenge state AI laws, directed the Department of Commerce to identify state laws it considers onerous, and conditioned remaining Broadband Equity, Access, and Deployment funds on state compliance. In April 2026, the Department of Justice intervened in a suit against the Colorado AI Act, the first time the federal government sought to invalidate a state AI law in court. States retain the authority to legislate, and advocacy in this area now carries litigation and funding risk.[107, 108]

Overview of the policy's impact on Black health and racial equity

AI can perpetuate systemic biases in the health care system against Black communities, which regulation can seek to prevent. For example, in a landmark study examining the use of AI to identify patients for more resourced care management, the algorithm required Black patients to be sicker to qualify compared to white patients.[109] The researchers identified that the algorithm was perpetuating existing disparities by using health costs, or spending, as a proxy for need. And due to systemic biases, less is spent on Black patients.[109] In another example, AI used to classify skin lesions was less

accurate in its analysis of lesions on Black patients because it was disproportionately trained on images of white patients.[110] Several other examples have been documented.[111]

General policy recommendations to help ensure that AI can improve Black health equity include using more inclusive and complete data, as well as adopting community-centered AI development.[110, 111] Examples of the potential to improve Black health equity include studies that have shown mixed success in mitigating a physician's implicit bias through use of AI, and the use of AI to reduce racial disparities in pain management.[111]

Summary information from policy assessment

- **Policy status**
  LOW TO MODERATE — While evidence illustrates the potential harms and benefits of health care-related AI use, policy advocacy in this space is rated as low to moderate, given (1) the relative newness of AI regulation and lack of evidence around which policies are most effective or most likely to improve health equity, and (2) limitations on using federal policy levers in the policy landscape as of November 2025.

- **Jurisdiction authority (federal, state, county, municipality, other)**

  FEDERAL, STATE, COUNTY, MUNICIPALITY, OTHER — AI regulations can currently be passed at federal and state levels. While localities might theoretically be able to enact AI regulations, our research identified only a single, limited example in New York City. Government agencies and private entities may also develop internal policies governing their own AI use.

- **Resource requirements (high, moderate, low)**
  LOW TO MODERATE — While, theoretically, all states or governments must put AI laws in place, they may benefit from additional funding related to implementation and enforcement. Funding may also be needed to establish and sustain committees or task forces examining potential AI regulation. AI companies have also increased spending on lobbying in the past year, particularly at the federal level.[112]

- **Return on investment (no, yes — social, yes — environmental, yes — economic)**
  NO — No research identified demonstrate ROI.

- **Legal considerations**
  Federal preemption has not been enacted, but the federal government is actively seeking to deter state AI regulation through litigation and conditions on federal funding.

- **Strength of evidence (strong, moderate, weak)**
  MODERATE — While there is increasing evidence of the potential harms and benefits of AI in terms of health equity, given the newness of regulation, there is little to no evidence of which laws and policies may be effective for helping to ensure AI-related equity.

- **Equity (yes, unclear/sometimes, no)**
  UNCLEAR/SOMETIMES — While regulation of AI has the potential to improve health equity, it is currently unclear which laws or policies can, or would best, help achieve greater equity.

- **Operational approach to equity (distributional, procedural, structural)**
  STRUCTURAL AND PROCEDURAL — Regulation of health care-related AI use seeks to interrupt systemic biases within the health care system and make decision-making processes fairer and more transparent.

Examples of the successful implementation of the policy in Black communities

AI regulations have been proposed by the Virginia Legislative Black Caucus.

Colorado enacted the first comprehensive state AI law, SB 24-205, in 2024, which sought to prevent algorithmic discrimination by placing duties of care, disclosure, impact assessment, and risk management on AI developers and deployers.[113] The law never took effect. Its start date was delayed once, from February 1 to June 30, 2026, a federal court suspended enforcement in April 2026 after xAI sued and the Department of Justice intervened, and on May 14, 2026, Governor Polis signed SB 26-189, which repealed and replaced it with a disclosure and consumer rights framework for automated decision-

making technology, effective January 1, 2027.[114] The replacement drops the algorithmic discrimination duties and the mandatory impact assessments that made the original law significant for health equity.[114]

For more targeted AI regulation, in addition to California's insurance laws (described above), Utah regulates the use of AI chatbots in the context of mental health services.[115]

MultiState, a state policy tracking firm, reports that 34 states have a committee, task force, or working group studying AI regulation.[116] Among the states with the largest Black population shares, Mississippi is the only one without such a group.