

BRAD SHERMAN
REGULATORY CONFERENCE
(formerly CARE Conference)
Compliance and Regulatory Education:
Best Practices for Athletic Trainer Regulation



AI and Healthcare Regulation in 2026

What Boards Need to Know — and Practical Tools to Use



BOARD OF CERTIFICATION
FOR THE ATHLETIC TRAINER

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BEFORE WE START

Ground rules



Not legal advice
Nothing here is legal advice. I am a lawyer, but I am not your lawyer — this is informational only.



My views, not FSMB's
These are my personal views — not the official position of FSMB, the BOC, or any member board.



I used AI to build this
I use AI in my own work, including preparing this deck, being transparent about that matters — especially in this room.

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INTRODUCTION

About FSMB

1912

FOUNDED

FSMB has supported medical regulation in the U.S. for more than a century.

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MEMBER BOARDS

The medical and osteopathic boards of every state, D.C., and the territories.

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CORE SERVICES

FCVS credentials verification, the Physician Data Center, and the USMLE.

We don't license or discipline — our member boards do. We support that work.

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PART ONE

Where AI is actually showing up

Capabilities first — then what they mean for a regulator.

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WHAT'S HAPPENING

What changed

What you couldn't do six months ago, you can do today.

THEN - 2023-2024

Models were products

- One vendor, brittle prompts
- Six-figure contracts
- Six-month procurement cycles

NOW - 2024

Models are commodities

- Multiple providers at near-parity
- They catch their own mistakes
- Working tools in days, not quarters

The cost of trying has collapsed — meaningful pilots now fit a board's budget.

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WHAT'S HAPPENING

Three kinds of AI, three different questions

CATEGORY ONE

Administrative

Scheduling, correspondence, transcripts, documentation. No clinical judgment involved — and by volume, most of what your certificants touch today.

Your existing tools reach this comfortably.

CATEGORY TWO

Decision support

The tool proposes a person diagnoses, it flags a finding, suggests a plan, drafts a note. A credentialed human stays in the loop, and on the hook.

A judgment question, and you already review those.

CATEGORY THREE

Autonomous / agentic

The tool acts. It orders, adjusts, renews, or responds without a human reviewing each step. The newest category, and the one furthest from the loop.

Here the existing analysis starts to strain.

Same technology across all three. What moves is how far the human sits from the decision.

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WHAT'S HAPPENING

AI goes direct to patients

UTAH - JAN 2024

Doctronic — AI prescription renewals

Issues renewals of already-prescribed medications under a state mitigation agreement — physician reviewed in phase one. Utah's licensing board has urged the state to shut it down.

commerce.utah.gov

FDA - DEC 2023

UpDoc — first AI agent cleared

Adjusts insulin doses, orders labs, and checks in with patients between visits, within clinician-set parameters. Live at major health systems.

ptnewsvoice.com

PENNSYLVANIA - MAY 2024

Suing chatbots posing as clinicians

The state has sued Character.AI to stop companion bots from posing as licensed clinicians — test bots produced fake Pennsylvania license numbers on request.

pa.gov

When a tool does what your certifiants do — who oversees it?

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POLICY & PRACTICE

Where the 2024 map ends

Adapted from Fig. 1, FSIIR Report on Ethics and Governance of AI (adopted April 2024)

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PART TWO

Where the regulatory risk lands

Seven familiar problems, arriving in an unfamiliar wrapper.

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POLICY & PRACTICE

Seven places the risk actually lands

1

Misrepresentation — A tool that presents itself as a credentialed clinician — or a certificant who lets a patient believe a human did the work.

2

Standard of care — What a reasonable certificant does with a tool's output: follow it, check it, or override it — and how a board reviews that choice after the fact.

3

Transparency and disclosure — Whether the patient or athlete knows AI was involved, at what point in the encounter, and whether anyone asked.

4

Documentation — Whose words are in the record. An AI-drafted note carries the certificant's signature, and the certificant's exposure.

5

Bias and safety — Whether the tool performs the same across the population a certificant actually serves — and who would notice if it did not.

6

Vendor claims — "FDA-cleared," "validated," and "HIPAA-compliant" are not self-defining. The cleared indication is usually narrower than the sales deck.

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Supervision and accountability — When a tool acts inside a certificant's practice, your authority reaches the certificant. Whether it reaches the tool is a statutory question.

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LOOKING AHEAD

The examination problem

JAN 2024

A tool reports a perfect exam score

OpenEvidence reports scoring 100% on USMLE-style question sets, and has launched an explanation model alongside it.

openevidence.com

JUL 2024

The same tool now issues credit

A free AI platform delivering accredited continuing education and Maintenance of Certification credit to NPI-verified physicians, PAs and nurse practitioners.

openevidence.com/aiexamcerts

JUN 2024

And clinicians have adopted it

A national survey of physicians reported AI use at 81 percent — more than double the 2023 rate — averaging 2.3 use cases each.

aha-ahon.org

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PART THREE

How states are responding

Legislation, sandboxes, standards — and who ends up holding the gate.

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POLICY & PRACTICE

The policy landscape

States are legislating
Hundreds of health AI bills since 2024 — provider oversight of AI decisions, and disclosure to patients.

Only humans hold licenses
Washington's medical commission is drafting policy affirming that only human beings can be licensed.

Regulatory sandboxes
Utah's AI office runs one today; a national coalition is preparing sandbox bills for the 2027 sessions.

Federal preemption
Active proposals would restrict state-level AI regulation. Board authority derives from state statute.

Two of these expand what a board can do. Two of them change who decides.

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POLICY & PRACTICE

Sandboxes are spreading

UTAH

The first, and the test case

Utah's AI office — not the medical board — issued the agreement authorizing AI prescription renewals. The board asked the state to suspend it; the state declined.

www.legis.utah.gov

AS OF JUNE 2024

Four enacted, seven proposed

Delaware, Kansas, Texas and Utah have enacted healthcare AI sandboxes. Seven more states have bills pending, alongside an FDA-CMMI partnership.

FSMB Advocacy

AI Sandbox Legislation chart
Updated June 2024 - fsmb.org

In each of these the question is the same — who is the gatekeeper?

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WHAT'S HAPPENING

What boards are doing

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MEDICAL AND OSTEOPATHIC BOARDS
WITH AI ON THE AGENDA SINCE 2023

Review of public board minutes — 63 medical and osteopathic boards, mid-2022 to present.

Utah — Oversight of a direct-to-consumer AI care pilot, plus a Healthcare AI Learning Agenda with the state's AI office.

North Dakota — Procured an AI-assisted investigations tool for the board's own casework.

West Virginia — Stood up a new ad hoc committee on AI.

New Mexico — Runs a standing AI subcommittee.

Most boards are at awareness — a handful have moved to structured pilots and procurement.

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POLICY & PRACTICE

Standards taking shape

The technology moved first — the standards are catching up.

A horizontal timeline with blue dots representing key events. The events are as follows:

Date	Event
APR 2018	IDv-DR — first autonomous AI cleared by FDA
NOV 2022	ChatGPT released
APR 2024	FSMB AI Policy adopted
2024	FSMB convenes AI Workgroup
JUN 2024	Joint Commission AI certification
FALL 2024	AI symposium
APR 2027	Report to FSMB House of Delegates

Underneath all of it, one question — can it be trusted, and who is accountable?

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PART FOUR

Tools you can use on Monday

What earns its keep in regulatory work — and what to keep off the keyboard.

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PRACTICAL TOOLS

Where AI earns its keep in regulatory work

The infographic consists of five white boxes with icons and text, arranged in a row. Each box represents a tool used in regulatory work:

- Meeting minutes:** Record, transcribe, and draft structured minutes with speaker attribution.
- Inquiry chatbots:** Answer FAQs and guide applicants through credentialing steps.
- Record summaries:** Translates from record sets that used to cost an investigator a weekend.
- Complaint triage:** Priority flag and structured summaries at intake.
- Packet one-pagers:** Thirty page board packets reduced to one-page signals.

None of these touch a licensing decision. All of them touch the hours before one.

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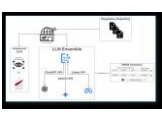
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PRACTICAL TOOLS

Built at FSMB



regulAIfor
Complaint triage — intake summaries, priority flags, case queue.



Policy Navigator
Research assistant grounded in FSMB's own policy library.



Project Endeavor
NPD board order drafting — now in beta with several state boards.

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PRACTICAL TOOLS

Using AI on regulatory work



Confidentiality
Complainant identity, unredacted records, and matters under seal are the hard line. De-identify first, or run the tool somewhere the data does not leave your control.



Accuracy
The tool does not know when it is wrong. It will produce a citation that does not exist, with complete confidence. Every fact and every cite gets checked by a person.



The record
AI-drafted work product is still your board's work product — discoverable, and in most states subject to public-records law. Assume it will be read aloud.

In every one of these — AI drafts, a human decides.

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LOOKING AHEAD

Before your board relies on a tool

QUESTIONS TO ASK

What is it actually doing?

- Which decisions does it make, and which does it only suggest?
- Who is accountable when it is wrong — vendor, employee, or certification?
- What happens to the data that goes into it?
- Can a user tell when the tool is uncertain?

EVIDENCE TO REQUEST

Show me, don't tell me

- The clearance letter and its indications for use — not the marketing page.
- Performance broken out across the populations you actually serve.
- An independent evaluation, or the protocol behind the vendor's own.
- A written description of where human review sits in the workflow.

GUARDRAILS TO CONSIDER

What travels with the tool

- A named human accountable for each output.
- Disclosure to the patient at the point the tool is used.
- A record of what the tool produced and what the human changed.
- A review interval — performance drifts as the model and the population change.

Most of these are questions your board already asks about any delegated task.

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LOOKING AHEAD

Questions for your board

- 1 Scope of practice** — When an AI tool performs work your practice act defines as athletic training, how does your statute reach it?
- 2 Accountability** — When a certificant relies on a tool and a patient is harmed, how does your board analyze responsibility?
- 3 Board operations** — Does your board have a written policy on staff use of AI in credentialing and discipline work?
- 4 Complaint intake** — If an AI-related complaint arrived tomorrow, would your process recognize it as one?
- 5 State coordination** — Who regulates AI in your state today, and is your board part of that conversation?

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RESOURCES

References & links

Scan a QR code to open the resource on your phone — every link is also clickable in this deck.

	FSMB AI Policy (April 2024) fsmb.org/policy		UpDoc — first FDA-cleared clinical AI agent www.updoc.com
	FSMB — Artificial Intelligence resources fsmb.org/artificial-intelligence		Pennsylvania v. Character.AI pa.gov
	FSMB AI Sandbox Legislation chart fsmb.org/ai-sandbox		Joint Commission — Responsible use of AI certification jointcommission.org
	Utah OAIIP — Doctronic malpractice agreement commerce.utah.gov		FDA authorization of IDx-DK (2018) www.fda.gov
	Utah Medical Licensing Board response commerce.utah.gov (PDF)		AMA — physician AI usage survey ama-assn.org

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Let's talk.

Questions — including the ones you want to argue with.




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