

February 17, 2025

To Members of the House Committee on Health Care:

We are a group of clinical social workers and mental health counselors who live in Vermont and are employed in community mental health centers that serve children, families, adults, and elders. We chose this work to be of service in our communities. Our codes of ethics call upon us to act to expand choice and opportunity for all people, with special regard for vulnerable, disadvantaged, oppressed, and exploited people and groups.

We acknowledge that the systems of providing public mental and medical healthcare are severely understaffed and challenged to meet ever-increasing demands of the mental health crisis. At the same time, the administration of these agencies has become top-heavy. Our leaders often overlook the systemic needs of the people we serve and those of us on the front lines providing care and prioritize short-term solutions aimed at streamlining billing and increasing 1:1 service. We write today about the concerning implementation of one such “solution” – the implementation of AI, or “augmented intelligence” in our clinical settings.

Community mental health is about being accessible and available to people who might otherwise not be able to afford or access therapy. Many of the people we serve – our clients – are poor/working class, people of color, LGBTQIA+, immigrants and refugees, and people with disabilities. The clinics we work for represent important values that we believe in and strive to maintain, including providing care that is transparent, collaborative, culturally aware, and upholds the choice and resiliency of those we serve.

We were concerned on many levels when our agencies chose to sign contracts with Eleos, a tech start-up based in Tel-Aviv, Israel, and Boston, MA, in order to provide AI tools as part of clinical notes documentation. The Eleos AI tool that we are being required to use has been offered by agency leadership as an answer for helping providers with the burdensome task of writing clinical notes. However, implementation of this technology has been rushed through, without time for meaningful input or feedback from service providers or clients.

Our concerns focus on the following:

Ethics and Inherent Bias

The use of AI in healthcare, while rapidly growing, is still in the early stages of application within the field of mental healthcare. There are few studies on AI's clinical validity and generalizability as a means of diagnosing and developing treatment for mental health disorders. On a broader level, AI has been found to [reproduce systemic inequities](#) and biases; AI systems conceptualize race as a fixed category, and have been shown to have [built-in biases](#) that reflect systemic racism, sexism, and ableism. There is ample documentation about the links between AI software and [surveillance](#) of historically marginalized and oppressed groups like many of those who make up our client base.

Lack of Informed Consent

A 2021 [report](#) by the World Health Organization (WHO) proposed an ethics of practice for use of AI in health settings, and called for transparency in providing information that includes “meaningful public consultation and debate on how the AI technology is designed and how it should be used” (p. 27). By contrast, our agencies did not offer any type of public forum before AI was implemented and rolled out. Staff training about the software emphasized neutrality over transparency. For instance, during training for use of the tool at one agency, staff were encouraged to minimize the amount and type of information that is given to clients about Eleos, (e.g. “*just don’t make it a big deal*”). Staff were told that consent to the use of AI is wrapped into the consent that clients give when they begin services at the agency, and seeking additional layers of consent was a courtesy, not a necessity. This may be true technically and from a legal/liability standpoint, but it is not aligned with the value of transparent and client-directed care.

One of the Eleos AI-tools is a small box which is connected to the agency computers. Each therapist gets their own box with a unique code, which is not meant to be shared. The box is turned on at the start of a session and listens in on the session. At the end of a session, the clinician turns the box off and the software generates a note within the client’s electronic medical record. It is the clinician’s responsibility to go through the note and edit for accuracy. The tool makes inferences and judgments that the therapist normally would. It suggests the use of clinical terms including “depression,” “anxiety,” and “paranoia.” The information selected to be kept in the note by the clinician teaches the tool how to sound more like the provider who is using it. Any information retained in the note is also transmitted into the analytics that Eleos uses to refine the tool, in conjunction with clinicians that the company works with. When asked about the privacy and safety of this data so that we can educate and seek informed consent from clients, Eleos has only provided information that is jargon-heavy and not understandable to people without an IT or tech background. The need for a high level of data literacy to make informed decisions goes against best practices for autonomous decision-making and transparent, client-directed care.

Clients who are aware of the AI application have shared with us that they do not feel they can speak freely and they will limit what they say if there is a device listening to the session, no matter what happens to the information afterwards. Others have shared that they are afraid that if they don’t consent to the technology it will reflect poorly on them, make it seem like they have something to hide, and will lead to increased vulnerability to surveillance by other means, or that they will face some sort of punitive consequence, such as having services withheld.

While this is not the intent of our agency’s implementation of this technology, nevertheless these fears are often grounded in very real lived experiences of historic marginalization. The inherent power dynamic at play and the fact that there is little to no information given to clients about Eleos makes the question of client consent highly suspect.

In testimony to the board of one of the agencies that has implemented Eleos AI, a client of that agency stated: “I suffer from anxiety, depression and paranoia. The implementation of Eleos has had a significant effect on my well-being. Being paranoid is not the same as being wrong. I don’t know what is worse – being paranoid or having my fears vindicated.”

Our agencies serve some of the most marginalized members of our community. Due to the inherent power imbalance the use of this technology creates, any consent obtained from clients is questionable. Our responsibility as providers involves not only our clients’ civil and legal rights, but also our relationships with our clients and the mental health system as a whole.

Centuries of history of mental health treatment are rife with examples of how clients’ right to informed consent and privacy have been curtailed. This lack of informed consent does real harm. It breaks trust and deepens fears of mistreatment in the system. It reproduces the conditions in which many of our clients have previously been traumatized: a lack of power and autonomy over their own bodies, minds, and privacy.

Pace of Implementation

The rollout of AI systems at our agencies has been fast, with little time taken to understand the perspectives, opinions, and needs of staff and clients. Our questions about the ethics of using AI and informed consent practices have gone unanswered. The leadership of our agencies have cited how AI technology will help save time in clinical notes documentation and increase productivity. The implication is that staff who are already over-taxed will be required to increase productivity as a result of the use of AI.

Confidentiality and Data Security

Our legal and ethical responsibility to protect our clients’ civil rights and confidentiality, which is a dynamic part of the therapeutic relationship, is undermined by the mandated use of AI technology, especially when there are still so many unknowns about how AI is developed and used and how client data will be collected, stored and protected.

Security breaches are a well-documented risk associated with the digital storage of private information. Considering recent actions by tech-billionaire Elon Musk via the Department of Government Efficiency, electronic records appear to be more vulnerable than ever to unauthorized access. Clinical ethical responsibilities require us to consider the climate we are operating in as we determine how to best protect client confidentiality and determine acceptable risk. The possible security breach and surveillance implications of AI tools such as Eleos Health outweigh the potential benefits of easing documentation burden on clinicians.

Conclusions

We are deeply concerned about the implications for client consent and privacy under HIPAA. We are calling upon our agencies to function in alignment with their stated value of

client-centered care by slowing down the implementation of AI long enough to meaningfully center the voices, concerns and guidance of clients, staff and regulatory ethics boards regarding issues and questions related to privacy, informed consent, data security and surveillance in the use and implementation of AI.

In order to meaningfully consent, clients need to be educated about the risks of surveillance technology and security breaches. They need to be given a clear choice, including the choice to opt out completely with no repercussions for their treatment, and they need to be informed about the company and the individuals who developed the technology and profit from its use.

We call upon the state to require that these vital community service agencies live in alignment with their value for client-centered care by slowing down the implementation of AI long enough to meaningfully center the voices and concerns of clients and clinicians about its use.

Sincerely,

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References

Akselrod, O. (2021). *How Artificial Intelligence Can Deepen Racial and Economic Inequities*. ACLU.

<https://www.aclu.org/news/privacy-technology/how-artificial-intelligence-can-deepen-racial-and-economic-inequities>

Moodley, K. (2024). Artificial intelligence (AI) or augmented intelligence? How big data and AI are transforming healthcare: Challenges and opportunities. *S Afr Gen Pract.*, 5(4), 170-175.

<https://doi.org/10.7196/SAMJ.2024.v114i2.1631>

Morley, P. (June 28, 2024). *AI at the Border: Racialized Impacts and Implications*. Just Security.

<https://www.justsecurity.org/97172/ai-at-the-border/>

Toft Djanegara, N.D., Zhang, D., Uz Zaman, H.B., Meinhardt, C., Watkins, G., Nwankwo, E., Wald, R., Kosoglu, R., Koyejo, S., & Elam, M. (March 1, 2024). *Exploring the Impact of AI on Black Americans: Considerations for the Congressional Black Caucus's Policy Initiatives*.

Stanford University Human-Centered Artificial Intelligence.

<https://hai.stanford.edu/sites/default/files/2024-02/Exploring-Impact-AI-Black-Americans.pdf>

World Health Organization (2021). *Ethics and governance of artificial intelligence for health: WHO guidance*.

<https://iris.who.int/bitstream/handle/10665/341996/9789240029200-eng.pdf?sequence=1>