



# AI Insight Series: State-by-State AI HR Compliance Guide

UNDERSTANDING THE ARTIFICIAL INTELLIGENCE (AI) HR  
COMPLIANCE LANDSCAPE



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# The Artificial Intelligence (AI) Compliance Landscape: Where do I start?

## Navigating AI Compliance in Healthcare Hiring.

Welcome to the inaugural edition of our comprehensive resource guide brought to you by IIA Healthcare. As the HR landscape evolves, so does the integration of Artificial Intelligence (AI) in hiring practices. This guide is not a legal document but a curated compilation of valuable insights from various law firms, government organizations, and industry experts. Designed to be a high-level overview, our guide aims to assist HR leaders in healthcare by providing a state-by-state analysis of AI compliance in hiring. As the industry embraces generative AI, we believe this resource will serve as a valuable compass, offering both depth and clarity, helping you navigate the complexities of AI compliance while exploring innovative tools for hiring, candidate experience, and recruiting.

## Decoding AI: A Primer for Business Leaders

In the ever-evolving landscape of Artificial Intelligence (AI), understanding that not all AI is created equal is paramount for informed decision-making. When someone mentions AI, it is a broad umbrella term that encompasses various technologies and methodologies, each with its unique characteristics and applications. This primer aims to demystify key AI concepts for business leaders, offering definitions that clarify distinctions between terms like Machine Learning, Generative AI, and more. As businesses increasingly integrate AI into their operations, being equipped to ask informed questions about the type of AI being used becomes essential. This becomes particularly crucial when engaging with vendors and interpreting state and federal laws governing AI usage. We have listed a few key definitions below that will help in framing future conversations and learnings.

### **Artificial Intelligence (AI):**

Artificial Intelligence, or AI, refers to the development of computer systems that can perform tasks that typically require human intelligence. These tasks include learning, reasoning, problem-solving, perception, and language understanding.

**Machine Learning (ML):**

Machine Learning is a subset of AI that involves the development of algorithms allowing computers to learn patterns and make decisions without explicit programming. It focuses on creating systems that can improve their performance over time.

**Generative AI:**

Generative AI is a type of AI that involves machines generating new, original content, such as images, text, or other data. It goes beyond replicating existing patterns and can create novel outputs.

**Neural Network:**

A neural network is a computational model inspired by the structure and functioning of the human brain. It consists of interconnected nodes (artificial neurons) organized in layers, allowing it to learn complex patterns.

**Algorithm:**

An algorithm is a set of step-by-step instructions or rules given to a computer to perform a specific task or solve a particular problem.

**Deep Learning:**

Deep Learning is a subset of machine learning that uses neural networks with multiple layers (deep neural networks) to model and process complex data for sophisticated tasks.

**Supervised Learning:**

Supervised learning is a type of machine learning where the algorithm is trained on a labeled dataset, meaning it is provided with input-output pairs to learn the mapping between inputs and corresponding outputs.

**Unsupervised Learning:**

Unsupervised learning is a type of machine learning where the algorithm is given input data without explicit output labels. The system tries to find patterns or relationships within the data on its own.

**Natural Language Processing (NLP):**

Natural Language Processing is a branch of AI that focuses on the interaction between computers and human language. It enables machines to understand, interpret, and generate human-like language.

## **Bias in AI:**

Bias in AI refers to the presence of unfair, prejudiced, or skewed outcomes in machine learning models, often reflecting the biases present in the training data or the design of the algorithm.

## **Which states have passed a law regarding AI?**

As of the beginning of 2024, several states in the United States have passed laws regarding artificial intelligence (AI). At least 12 states, including New York, California, Colorado, Connecticut, Delaware, Indiana, Iowa, Montana, Nevada, Oregon, Tennessee, Texas, and others have taken the lead in regulating AI [2]. In the 2023 legislative session, at least 25 states, Puerto Rico, and the District of Columbia introduced AI bills, and 18 states and Puerto Rico passed them [4]. Legislators in 31 states have introduced at least 191 bills focused on AI [5].

Some specific examples of state AI laws include:

- New York City passed the nation's first-ever law requiring employers to conduct annual bias audits if they use AI in hiring.
- Arizona's Ballot Processing and Electronic Adjudication Limit (SB1565), which would prohibit the use of AI or learning software in ballot processing. However, this bill was vetoed by the governor [3].
- Connecticut's An Act Concerning Artificial Intelligence, Automated Decision-Making, and Personal Data Privacy (S1103), which establishes an Office of Artificial Intelligence and regulates AI's use in various sectors, including healthcare, insurance, and employment. This law went into effect on July 1, 2023 [3].

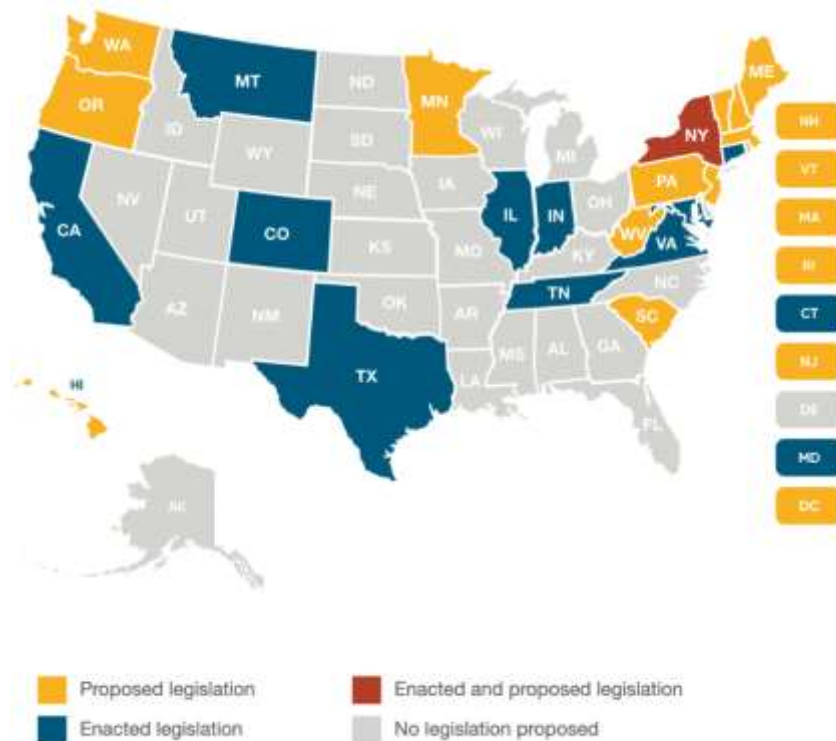
It is important to note that the regulatory landscape for AI is complex and **varies from state to state**. In the absence of comprehensive federal legislation on AI, there is now a patchwork of various state laws [1]. This makes the development and implementation of AI solutions challenging due to the need to comply with different state laws. However, the momentum for AI regulation is at an all-time high, indicating that more states are likely to pass AI-related laws in the future [1].

## Of these states, which have passed laws regarding AI and hiring?

Currently, several states have passed laws that specifically address the use of artificial intelligence (AI) in hiring practices:

1. **Illinois:** The state was the first to enact restrictions with respect to the use of AI in hiring. The Illinois AI Video Interview Act, amended in 2021 and effective in 2022, requires employers using AI-enabled assessments to comply with certain regulations [13].
2. **Maryland:** Maryland has also passed laws regulating the use of AI in hiring, although the specific details of these laws are not provided in the search results [1].
3. **New York City:** In 2023, New York City passed the nation's first-ever law requiring employers to conduct annual bias audits if they use AI in hiring [1].
4. **California:** While California has proposed several bills to regulate the use of AI in employment, including AB 331, which would have imposed obligations on employers to evaluate the impact of an automated decision tool (ADT), this bill died in committee and did not become law in the 2023 session [2][14].
5. **Connecticut:** The state passed An Act Concerning Artificial Intelligence, Automated Decision-Making, and Personal Data Privacy (S1103), which establishes an Office of Artificial Intelligence and regulates AI's use in various sectors, including employment [4][8][12].

Is there a heat map showing which states currently have AI laws in place and AI laws being considered?



BCPL: <https://www.bclplaw.com/en-US/events-insights-news/2023-state-by-state-artificial-intelligence-legislation-snapshot.html>

There are resources that provide a state-by-state snapshot of AI legislation. For instance, JD Supra provides a 2023 State-by-State Artificial Intelligence Legislation Snapshot [1], and the Electronic Privacy Information Center (EPIC) has a comprehensive review of AI laws in US states [12].

The National Conference of State Legislatures (NCSL) also maintains a 50-State Searchable Bill Tracking Database that includes AI legislation [4][8]. Additionally, Bloomberg Government has a feature that visualizes legislation being considered across the country [7].

It is important to note that the regulatory landscape for AI is complex and varies from state to state. In the absence of comprehensive federal legislation on AI, there is now a patchwork of various state laws [3].

For more specific information about AI laws in each state, it would be best to refer to these resources and select the state of interest.

## How will AI legislation impact hiring practices in healthcare?

AI legislation is likely to have a significant impact on hiring practices in healthcare. The use of AI in hiring is becoming increasingly common, with tools being used to screen resumes, conduct interviews, and make hiring decisions [8][11]. However, these tools have raised concerns about potential bias and discrimination, leading to legislative efforts to regulate their use [5][8][11].

One of the key areas of focus in AI legislation is ensuring transparency and fairness in hiring practices. For instance, **New York City's Local Law 144 requires companies to conduct a bias audit of their AI tools, provide job candidates with notice of AI use, and disclose the data used to make hiring decisions [8][9][12].** This law serves as a blueprint for other legislation, with states like New Jersey and Washington, D.C. considering similar laws [8][9].

**AI legislation is also likely to hold employers liable for any biased AI processes [8]. Even if the AI tools are created or operated by a third-party software, employers may still be held responsible for these tools and their potential discriminatory impacts [5].** This means that healthcare organizations will need to carefully assess the impact of these tools on their hiring practices and ensure their use does not lead to discrimination.

In addition to these legal considerations, AI legislation could also impact the way healthcare organizations handle patient data. AI tools often rely on substantial amounts of data to function effectively, and this can raise concerns about patient privacy and HIPAA compliance [4]. Developers of AI tools will need to ensure that these tools are HIPAA compliant, and healthcare professionals will need to understand the implications of AI for patient privacy [4].

Finally, AI legislation could also impact the way healthcare organizations address bias in their AI tools. There is growing recognition that AI tools can reflect and perpetuate existing biases, leading to incorrect diagnoses and care disparities [10][13]. AI legislation could require healthcare organizations to address these biases, both in their hiring practices and in their use of AI in patient care [10][13].

In conclusion, AI legislation is likely to have a profound impact on hiring practices in healthcare, requiring organizations to ensure transparency, fairness, and **compliance** with privacy laws. It will also necessitate a proactive approach to addressing bias in AI tools. As AI legislation continues to evolve, healthcare organizations will need to stay informed and adapt their practices accordingly.

## How are healthcare companies addressing the potential for employment discrimination in AI-based hiring tools?

Healthcare companies are addressing the potential for employment discrimination in AI-based hiring tools through various strategies aimed at ensuring fairness, transparency, and the mitigation of biases. Here are some of the key approaches:

### **Ethical Dynamics and Fairness**

Healthcare organizations are increasingly aware of the ethical implications of using AI in hiring. They are focusing on fairness and transparency in their AI-driven systems to prevent biases against certain groups, such as African American, Latino Americans, and Arab American candidates [1]. This involves implementing measures to ensure that AI complements human decision-making and does not solely dictate hiring outcomes.

### **Bias Measurement and Mitigation**

Companies are actively working to measure and mitigate bias in AI systems. This includes addressing bias throughout the technology product lifecycle (TPLC) to prevent AI tools from propagating health disparities. By focusing on groups defined by various characteristics, such as race, ethnicity, or age, healthcare companies aim to uphold the bioethical principle of justice and ensure health equity [2].

### **Fairness in Clinical Integration**

Healthcare companies are also reviewing best practices for fairness in AI and seeking areas for further research. This involves collaboration among stakeholders, including regulatory authorities, patients, advocacy groups, and professional associations, to develop fair and transparent policies for AI integration in healthcare [3].

### **Legal Compliance**

Healthcare companies are considering the legal implications of AI-based discrimination in medicine. They are aware that algorithmic discrimination can violate civil rights laws, such as Title VI and Section 1557 of the Affordable Care Act. This legal perspective drives healthcare organizations to scrutinize their AI tools for potential biases and ensure compliance with anti-discrimination laws [4].

### **Algorithmic Accountability**

There is a push for algorithmic accountability, where healthcare companies are examining the algorithms used in AI systems for fairness and inclusivity. This includes involving



diverse stakeholders in the development process and ensuring that AI systems do not perpetuate existing biases [5].

### **Human Oversight**

Human intervention is emphasized as a necessary component of the recruitment process. Healthcare companies are ensuring that qualified HR professionals regularly review and calibrate AI systems to maintain a balance between AI and human decision-making [10].

### **Regulatory Guidance**

Healthcare companies are following guidance from regulatory bodies like the Equal Employment Opportunity Commission (EEOC), which has issued guidelines on the use of AI tools in hiring. Employers are expected to take affirmative steps to ensure AI tools comply with federal, state, and local laws, and they may be held liable for any biased outcomes of these tools [11].

### **Addressing Provider Bias**

Healthcare facilities are incorporating human oversight into AI diagnoses to counteract any inaccuracies that may arise from AI bias. This includes healthcare providers examining their own implicit biases and using inclusive data training sets to ensure AI models provide equitable outcomes [12].

In summary, healthcare companies are taking a multi-faceted approach to address the potential for employment discrimination in AI-based hiring tools. They are focusing on ethical considerations, legal compliance, human oversight, and the active measurement and mitigation of biases to ensure that AI hiring practices are fair and do not perpetuate discrimination.

Oftentimes the biggest complaint with AI is understanding where the information was sourced. To support this information that we have provided, we are providing all the sources of information below so that you can continue your research, if you choose, to learn more about the legislative landscape of AI in the United States.

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