ADVANCING HEALTHCARE TECHNOLOGY
OHIO NEEDS A REGULATORY SANDBOX
FOR ARTIFICIAL INTELLIGENCE

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BUCKEYE POLICY BRIEF

Introduction

Ohio's complex and data-intensive healthcare industry stands to benefit immensely from burgeoning developments in artificial intelligence (AI). But those benefits must be weighed against understandable concerns for patient privacy, safety, and security. Despite acknowledging AI's potential to improve healthcare and reduce costs, most Americans worry that care providers may be adopting AI too quickly and without understanding all the risks for patients.[1]

To balance those interests and allay those fears, Ohio should build a "regulatory sandbox" so that AI innovators can develop new technologies in a controlled but flexible environment supervised by state regulators. Conventional regulatory frameworks tend to reduce innovation and cannot keep pace with accelerating AI developments, but a nuanced regulatory sandbox will allow healthcare providers, AI developers, and policymakers to collaborate and responsibly test novel technologies related to drug development, medical imaging, disease diagnosis, gene therapy, medical research, and health data management with lower costs and less red tape. An AI healthcare sandbox will also help ease the public's worries by building trust between regulators, developers, care providers, and the patients they serve, and move Ohio to the fore of the field—further enhancing Ohio's worldclass healthcare systems without sacrificing patient privacy. This win-win scenario fosters faster, cost-effective innovation for improving patient health safely and, as AI yields efficiencies in diagnostics, data management, and research, doctors and nurses will have more time to interact directly with patients.[2]

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[1] Alec Tyson, Giancarlo Pasquini, Alison Spencer and Cary Funk, **60% of Americans Would Be Uncomfortable With Provider Relying on AI in Their Own Health Care**, Pew Research Center, February 22, 2023.

[2] Rea S. Hederman Jr. and Logan Kolas, *A Healthcare World Reimagined: How Big Government Threatens Healthcare AI and What to Do About It*, The Buckeye Institute, April 1, 2024.

The Current Regulatory Environment

Regulating AI development can pose significant financial and operational costs when done poorly. At the federal level, the Biden administration's "Unity Agenda" gave billions of dollars to agencies to regulate AI, and Executive Order 14110[3] imposed expensive, rigid safety and reporting requirements along with complex and confusing standards that many healthcare AI developers simply could not afford to meet.[4] The Biden administration also proposed a Blueprint for an AI Bill of Rights, which would have authorized federal agencies to regulate any algorithm suspected of being discriminatory or misleading. Critics rightly argued that the administration had pursued a European regulatory model that would likely constrain rather than catalyze innovation, jeopardizing America's leadership in AI and healthcare technology.[5]

Fortunately, the Trump administration immediately rescinded the heavy-handed Biden executive order, reducing the risk of regulatory confusion and inefficiencies created by competing state and federal requirements, and clearing space for Ohio and other states to build AI sandboxes. Rather than prematurely adopting broad, restrictive federal guidelines for healthcare AI, Ohio has preferred more strategic state regulations that encourage innovation while protecting patient privacy. The state's IT-17 policy,[6] for example, authorized the Cleveland Clinic to fuse predictive AI with its systems,[7] and Ohio Senate Bill 90[8] and Ohio House Bill 176[9] should expand opportunities for AiCure, Caption Health, CloudMedx and other innovative technology developers to make groundbreaking discoveries in healthcare AI and automation. And should Ohio build an AI sandbox it would not be alone. At least 15 states—including Ohio—have already experimented with regulatory sandboxes for other industries.[10] Arizona and Utah have gone further, with Arizona taking a free market approach to AI regulation[11] and Utah adopting a sweeping universal sandbox across all sectors.[12] Two bills in the Ohio General Assembly would make Ohio the fifth state with a universal sandbox.

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[3] President Joseph R. Biden, **Executive Order 14110**, October 30, 2023.

[4] Adam Thierer, **Testimony** Before the Subcommittee on Cybersecurity, Information Technology, and Government Innovation, Committee on Oversight and Accountability, US. House of Representatives, March 21, 2024.

[5] Adam Thierer, **The Biden Administration's Plan to Regulate Ai without Waiting for Congress**, Medium.com, May 4, 2023.

[6] **State of Ohio Administrative Policy: Use of Artificial Intelligence in State of Ohio Solutions**, Ohio Department of Administrative Services, December 4, 2023.

[7] Adam Thierer, **What I Learned about the Power of AI at the Cleveland Clinic**, Medium.com, May 6, 2022.

[8] **Ohio Senate Bill 90**, 136th Ohio General Assembly (Last visited March 31, 2025).

[9] **Ohio House Bill 176**, 136th Ohio General Assembly (Last visited March 31, 2025).

[10] **Regulatory Sandboxes: Your State Needs a Sandbox**, Libertas Institute (Last visited March 31, 2025).

[11] Governor Doug Ducey, **Welcome to the State of Innovation: Arizona**, Trade and Industry Development, September 17, 2018.

[12] Caden Rosenbaum, **Utah's Universal Sandbox Is Open for Business**, Libertas Institute, February 4, 2022; and **Utah Office of Regulator Relief Pending Applications**, Utah.gov. (Last visited March 31, 2025).

The Sandbox Essentials

A well-designed AI healthcare regulatory sandbox should be instructive, voluntary, secure, impartial, and coordinated. A proper sandbox provides clear guidelines and support for navigating the regulatory landscape over the long-term. It offers participants choices and the freedom to accept or decline participation. It protects and secures patient information even as it allows new AI technologies to analyze confidential data for medical insights. A sandbox must maintain trust and fairness by guarding against regulator partiality or bias. And finally, a well-structured sandbox harmonizes standards and healthcare practices with other states to promote wider adoption and innovation in AI-driven solutions.

Instructive. To build a productive regulatory sandbox, state policymakers must maximize industry participation. Guidelines must be clear and tailored to the limits and liberties of the regulated industry so that participants can demonstrate compliance and progress. Without clear instruction to participants, regulators will lack the accurate information needed for making regulatory adjustments and assessing the risks and benefits of a novel technology going forward.

Voluntary. Industry innovators and healthcare providers should be free to choose whether to participate in a regulatory sandbox without state coercion. The National Institute of Standards and Technology has developed a risk management framework that Ohio could use for implementing a voluntary sandbox.[13]

Secure. All participants in an AI healthcare sandbox—patients, regulators, care providers, and developers—must be assured that confidential data is being handled and stored securely. Data encryption and federated learning can be developed within the sandbox to protect patient information while allowing AI to analyze that information for new medical insights.

Impartial. Regulators tasked with evaluating applications for sandbox participation must assess every AI-driven healthcare solution impartially. The market—not regulatory bodies—must determine which firms and innovations thrive. The sandbox should be available to new and established firms, and regulators should focus on how sandbox applicants and participants will enhance patient outcomes and mitigate patient risks.

Coordinated. Regulations should be consistent and harmonized among states to facilitate efficiency, reduce compliance burdens, and improve product development. Conflicting regulatory requirements increase costs, which hinders compliance and innovation for smaller firms that struggle to navigate different regulatory standards. By coordinating with other states, Ohio can enhance its competitive advantage over more heavily regulated jurisdictions and make it easier for local AI healthcare firms to compete against foreign firms adhering to uniform regulatory

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[13] The National Institute of Standards and Technology, **Artificial Intelligence Risk Management Framework: Generative Artificial Intelligence Profile**, U.S. Department of Commerce, July 2024.

standards.[14] The sandbox should also be available for several years so companies can have regulatory certainty.

Conclusion

Accelerating advances in medical innovation call for a new kind of oversight that can keep pace without discouraging developers or potential patients. A short-sighted, conventional, costly regulatory approach to the use of AI in healthcare runs such a risk. Regulatory sandboxes offer a better, more nuanced way to ensure patient safety without strangling cutting-edge technologies in bureaucratic red tape. An AI-specific sandbox can allow new and existing firms to collaborate with regulators and healthcare providers in a flexible, controlled environment. Ohio should carefully construct such a sandbox with input from market participants to maximize voluntary participation, ensure patient data security, maintain regulatory impartiality, and coordinate rules across state lines. As other states propose hundreds of complex AI regulations, Ohio can distinguish itself by attracting AI firms to a nuanced regulatory framework that streamlines oversight and appreciates the costs, challenges, and long-term benefits of innovation.

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[14] Logan Kolas and Trey Price, *In the Matter of the Request for Comment on Workshop on Promoting Competition in Artificial Intelligence*, The American Consumer Institute, July 15, 2024.

About the Author

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