



Rep. Bob Morgan

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1 AMENDMENT TO HOUSE BILL 35

2 AMENDMENT NO. _____. Amend House Bill 35 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Artificial Intelligence Systems Use in Health Insurance Act.

6 Section 5. Definitions. In this Act:

7 "Adverse consumer outcome" means a decision by a health
8 insurance issuer that is subject to insurance regulatory
9 standards enforced by the Department that adversely impacts
10 the consumer in a manner that violates those standards or any
11 claim denial as determined by the use of an AI system.

12 "AI system" means a machine-based system that can, with
13 varying levels of autonomy, for a given set of objectives,
14 generate outputs such as predictions, recommendations, content
15 (such as text, images, videos, or sounds), or other outputs
16 influencing decisions made in real or virtual environments. AI

1 system includes artificial intelligence.

2 "AI systems program" means the health insurance issuer's
3 controls and processes for the responsible use of AI systems,
4 including governance, risk management, and internal audit
5 functions, which take into account third-party AI systems and
6 data.

7 "Algorithm" means a clearly specified mathematical process
8 for computation and a set of rules that, if followed, will give
9 a prescribed result.

10 "Artificial intelligence" or "AI" has the meaning given to
11 the term "artificial intelligence" in Section 2-101 of the
12 Illinois Human Rights Act.

13 "Company" has the meaning given to that term in Section 2
14 of the Illinois Insurance Code.

15 "Department" means the Department of Insurance.

16 "Health insurance coverage" has the meaning given to that
17 term in Section 5 of the Illinois Health Insurance Portability
18 and Accountability Act. "Health insurance coverage" includes
19 excepted benefits under the Department's jurisdiction other
20 than insurance under the Illinois Insurance Code that falls
21 outside Class 1(b) or 2(a) of Section 4 of that Code.

22 "Health insurance issuer" has the meaning given to that
23 term in Section 5 of the Illinois Health Insurance Portability
24 and Accountability Act. "Health insurance issuer" includes a
25 company offering accident and health insurance under Class
26 1(b) or 2(a) of Section 4 of the Illinois Insurance Code, a

1 dental service plan corporation, a health maintenance
2 organization, a limited health service organization, a limited
3 health services organization, or a health services plan
4 corporation transacting or authorized to transact business
5 under the Department's jurisdiction.

6 "Machine learning" means a field within artificial
7 intelligence that focuses on the ability of computers to learn
8 from provided data without being explicitly programmed.

9 "Predictive model" means the processing of historic data
10 using algorithms or machine learning to identify patterns and
11 predict outcomes that can be used to make decisions or support
12 decision-making.

13 "Third party" means an organization other than the health
14 insurance issuer that provides services, data, or other
15 resources related to AI, including any person who develops or
16 uses AI to support the health insurance issuer in
17 administering its health insurance coverage.

18 Section 10. Regulatory oversight of the use of AI systems.

19 (a) The Department's regulatory oversight of health
20 insurance coverage includes oversight of the use of AI systems
21 or predictive models to make or support adverse consumer
22 outcomes. The Department's authority in an investigation or
23 market conduct action includes review regarding the
24 development, implementation, and use of AI systems or
25 predictive models and the outcomes from the use of those AI

1 systems or predictive models. The Department may also request
2 other information or documentation relevant to an
3 investigation or market conduct action, and a health insurance
4 issuer or any other person described in subsection (b) of
5 Section 132 of the Illinois Insurance Code must comply with
6 that request. The Department's inquiries may include, but are
7 not limited to, questions regarding any specific model, AI
8 system, or application of a model or AI system. The Department
9 may also make requests for information and documentation
10 relating to AI systems governance, risk management, and use
11 protocols; information and documentation relating to the
12 health insurance issuer's preacquisition and preutilization
13 diligence, monitoring, and auditing of data or AI systems
14 developed or used by a third party; and information and
15 documentation relating to implementation and compliance with
16 the health insurance issuer's AI systems program.

17 (b) A health insurance issuer authorized to do business in
18 this State shall not issue an adverse consumer outcome with
19 regard to the denial, reduction, or termination of health
20 insurance coverage or benefits that result solely from the use
21 or application of any AI system or predictive model. Any
22 decision-making process concerning the denial, reduction, or
23 termination of insurance plans or benefits that results from
24 the use of AI systems or predictive models shall be
25 meaningfully reviewed, in accordance with review procedures
26 established by Department rules, by an individual with

1 authority to override the AI systems and the determinations of
2 the AI systems. When an adverse consumer outcome is an adverse
3 determination regulated under the Managed Care Reform and
4 Patient Rights Act, the individual with authority to override
5 the AI systems and the determinations of the AI systems shall
6 be a clinical peer as required and defined under that Act.

7 Section 15. Disclosure of AI system utilization. The
8 Department of Insurance may adopt rules that include standards
9 for the full and fair disclosure of a health insurance
10 issuer's use of AI systems that may impact consumers, that set
11 forth the manner, content, and required disclosures including
12 notice before the use of AI systems, notice after an adverse
13 decision, the way personal information is used to inform
14 decisions, a process for correcting inaccurate information,
15 and instructions for appealing decisions.

16 Section 20. Compliance with Act.

17 (a) All health insurance issuers authorized to do business
18 in Illinois shall comply with this Act regarding any decisions
19 impacting consumers that are made or supported by AI systems
20 and machine learning, and must comply with all applicable
21 insurance laws and regulations, including laws addressing
22 unfair trade practices and unfair discrimination. All
23 decisions made and actions taken by authorized health
24 insurance issuers using AI systems must comply with applicable

1 federal and State laws, regulations, and rules.

2 (b) A health insurance issuer shall ensure that its health
3 insurance coverage is administered in conformity with this
4 Act. The health insurance issuer's AI systems program shall
5 include policies and procedures to ensure such conformity by
6 all employees, directors, trustees, agents, representatives,
7 and persons directly or indirectly contracted to administer
8 the health insurance coverage. The health insurance issuer
9 shall be responsible for any noncompliance under this Act with
10 respect to its health insurance coverage. Nothing in this
11 Section relieves any other person from liability for failure
12 to comply with the Department's investigations or market
13 conduct actions related to a health insurance issuer's
14 compliance with this Act.

15 Section 95. The Voluntary Health Services Plans Act is
16 amended by adding Section 15.35 as follows:

17 (215 ILCS 165/15.35 new)

18 Sec. 15.35. Artificial Intelligence Systems Use in Health
19 Insurance Act. A health service plan corporation is subject to
20 the provisions of the Artificial Intelligence Systems use in
21 Health Insurance Act."