

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 system includes artificial intelligence.

18 "AI systems program" means the health insurance issuer's
19 controls and processes for the responsible use of AI systems,
20 including governance, risk management, and internal audit
21 functions, which take into account third-party AI systems and
22 data.

23 "Algorithm" means a clearly specified mathematical process

1 for computation and a set of rules that, if followed, will give
2 a prescribed result.

3 "Artificial intelligence" or "AI" has the meaning given to
4 the term "artificial intelligence" in Section 2-101 of the
5 Illinois Human Rights Act.

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

8 "Department" means the Department of Insurance.

9 "Health insurance coverage" has the meaning given to that
10 term in Section 5 of the Illinois Health Insurance Portability
11 and Accountability Act. "Health insurance coverage" includes
12 excepted benefits under the Department's jurisdiction other
13 than insurance under the Illinois Insurance Code that falls
14 outside Class 1(b) or 2(a) of Section 4 of that Code.

15 "Health insurance issuer" has the meaning given to that
16 term in Section 5 of the Illinois Health Insurance Portability
17 and Accountability Act. "Health insurance issuer" includes a
18 company offering accident and health insurance under Class
19 1(b) or 2(a) of Section 4 of the Illinois Insurance Code, a
20 dental service plan corporation, a health maintenance
21 organization, a limited health service organization, a limited
22 health services organization, or a health services plan
23 corporation transacting or authorized to transact business
24 under the Department's jurisdiction.

25 "Machine learning" means a field within artificial
26 intelligence that focuses on the ability of computers to learn

1 from provided data without being explicitly programmed.

2 "Predictive model" means the processing of historic data
3 using algorithms or machine learning to identify patterns and
4 predict outcomes that can be used to make decisions or support
5 decision-making.

6 "Third party" means an organization other than the health
7 insurance issuer that provides services, data, or other
8 resources related to AI, including any person who develops or
9 uses AI to support the health insurance issuer in
10 administering its health insurance coverage.

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

12 (a) The Department's regulatory oversight of health
13 insurance coverage includes oversight of the use of AI systems
14 or predictive models to make or support adverse consumer
15 outcomes. The Department's authority in an investigation or
16 market conduct action includes review regarding the
17 development, implementation, and use of AI systems or
18 predictive models and the outcomes from the use of those AI
19 systems or predictive models. The Department may also request
20 other information or documentation relevant to an
21 investigation or market conduct action, and a health insurance
22 issuer or any other person described in subsection (b) of
23 Section 132 of the Illinois Insurance Code must comply with
24 that request. The Department's inquiries may include, but are
25 not limited to, questions regarding any specific model, AI

1 system, or application of a model or AI system. The Department
2 may also make requests for information and documentation
3 relating to AI systems governance, risk management, and use
4 protocols; information and documentation relating to the
5 health insurance issuer's preacquisition and preutilization
6 diligence, monitoring, and auditing of data or AI systems
7 developed or used by a third party; and information and
8 documentation relating to implementation and compliance with
9 the health insurance issuer's AI systems program.

10 (b) A health insurance issuer authorized to do business in
11 this State shall not issue an adverse consumer outcome with
12 regard to the denial, reduction, or termination of health
13 insurance coverage or benefits that result solely from the use
14 or application of any AI system or predictive model. Any
15 decision-making process concerning the denial, reduction, or
16 termination of insurance plans or benefits that results from
17 the use of AI systems or predictive models shall be
18 meaningfully reviewed, in accordance with review procedures
19 established by Department rules, by an individual with
20 authority to override the AI systems and the determinations of
21 the AI systems. When an adverse consumer outcome is an adverse
22 determination regulated under the Managed Care Reform and
23 Patient Rights Act, the individual with authority to override
24 the AI systems and the determinations of the AI systems shall
25 be a clinical peer as required and defined under that Act.

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

10 Section 20. Compliance with Act.

11 (a) All health insurance issuers authorized to do business
12 in Illinois shall comply with this Act regarding any decisions
13 impacting consumers that are made or supported by AI systems
14 and machine learning, and must comply with all applicable
15 insurance laws and regulations, including laws addressing
16 unfair trade practices and unfair discrimination. All
17 decisions made and actions taken by authorized health
18 insurance issuers using AI systems must comply with applicable
19 federal and State laws, regulations, and rules.

20 (b) A health insurance issuer shall ensure that its health
21 insurance coverage is administered in conformity with this
22 Act. The health insurance issuer's AI systems program shall
23 include policies and procedures to ensure such conformity by
24 all employees, directors, trustees, agents, representatives,
25 and persons directly or indirectly contracted to administer

1 the health insurance coverage. The health insurance issuer
2 shall be responsible for any noncompliance under this Act with
3 respect to its health insurance coverage. Nothing in this
4 Section relieves any other person from liability for failure
5 to comply with the Department's investigations or market
6 conduct actions related to a health insurance issuer's
7 compliance with this Act.

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

10 (215 ILCS 165/15.35 new)

11 Sec. 15.35. Artificial Intelligence Systems Use in Health
12 Insurance Act. A health service plan corporation is subject to
13 the provisions of the Artificial Intelligence Systems use in
14 Health Insurance Act.