

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3577

By: Pae of the House

and

**Rader** of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to health insurance; creating the  
12                   Artificial Intelligence Utilization Review Act;  
13                   providing definitions; mandating a notice for  
14                   artificial intelligence use in review; mandating  
15                   human review of specialist's denials; providing civil  
16                   liability; providing penalties; providing caps on  
17                   penalties; providing for codification; and providing  
18                   an effective date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20                   SECTION 1.        NEW LAW        A new section of law to be codified  
21                   in the Oklahoma Statutes as Section 6980.1 of Title 36, unless there  
22                   is created a duplication in numbering, reads as follows:

23                   This act shall be known and may be cited as the "Artificial  
24                   Intelligence Utilization Review Act (AURA)".

1 SECTION 2. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6980.2 of Title 36, unless there  
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "Artificial intelligence-based algorithms" means any  
6 artificial system that performs tasks under varying and  
7 unpredictable circumstances without significant human oversight or  
8 that can learn from experience and improve performance when exposed  
9 to data sets;

10 2. "Commissioner" means the Oklahoma Insurance Commissioner;

11 3. "Covered person" means a policyholder, subscriber, or other  
12 individual who is entitled to receive health care services under a  
13 health insurance policy;

14 4. "Department" means the Oklahoma Insurance Department;

15 5. "Health care provider" means a licensed hospital or health  
16 care facility, medical equipment supplier, or person who is  
17 licensed, certified, or otherwise regulated to provide health care  
18 services under the laws of Oklahoma;

19 6. "Health care service" means any covered treatment,  
20 admission, procedure, medical supplies and equipment, or other  
21 services, including behavioral health, prescribed or otherwise  
22 provided or proposed to be provided by a health care provider to a  
23 covered person for the diagnosis, prevention, treatment, cure, or  
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1 relief of a health condition, illness, injury, or disease under the  
2 terms of a health insurance policy;

3 7. "Health insurance policy" means a policy, subscriber  
4 contract, certificate, or plan issued by an insurer that provides  
5 medical or health care coverage. The term does not include:

- 6 a. an accident-only policy,
- 7 b. a credit-only policy,
- 8 c. a long-term care or disability income policy,
- 9 d. a specified disease policy,
- 10 e. a Medicare supplement policy,
- 11 f. a TRICARE policy, including a Civilian Health and  
12 Medical Program of the Uniformed Services (CHAMPUS)  
13 supplement policy,
- 14 g. a fixed indemnity policy,
- 15 h. a hospital indemnity policy,
- 16 i. a dental-only policy,
- 17 j. a vision-only policy,
- 18 k. a workers' compensation policy,
- 19 l. an automobile medical payment policy,
- 20 m. a homeowner's insurance policy, or
- 21 n. any other similar policies providing for limited  
22 benefits;

23 8. "Insurer" means an entity licensed by the Department that  
24 offers, issues, or renews an individual or group health insurance

1 policy. The term does not include an entity operating as a Medical  
2 Assistance Program or Children's Health Insurance Program (CHIP)  
3 Managed Care Plan;

4 9. "Medical Assistance" or "CHIP Managed Care Plan" means a  
5 health care plan that uses a gatekeeper to manage the utilization of  
6 health care services by medical assistance or CHIP enrollees and  
7 integrates the financing and delivery of health care services;

8 10. "Specialist" means a health care provider whose practice is  
9 not limited to primary health care services and who has additional  
10 postgraduate or specialized training, has board certification, or  
11 practices in a licensed specialized area of health care; and

12 11. "Utilization review" means a set of formal techniques  
13 designed to monitor the use of or evaluate the medical necessity,  
14 appropriateness, efficacy, or efficiency of health care services,  
15 procedures, or settings, including prior authorization, second  
16 opinion, certification, concurrent review, case management,  
17 discharge planning, or retrospective review, in order to make a  
18 determination regarding coverage of the service under the terms of a  
19 health insurance policy or an agreement with the Department of Human  
20 Services.

21 SECTION 3. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 6980.3 of Title 36, unless there  
23 is created a duplication in numbering, reads as follows:

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1 A. An insurer shall disclose to a health care provider, all  
2 covered persons, and the general public if artificial intelligence-  
3 based algorithms are used, not used, or will be used in the  
4 insurer's utilization review process. An insurer shall disclose  
5 information about the use or lack of use of artificial intelligence-  
6 based algorithms in the utilization review process on the insurer's  
7 publicly accessible Internet website.

8 B. An insurer shall submit the artificial intelligence-based  
9 algorithms and training data sets that are being used or will be  
10 used in the utilization review process to the Department for  
11 transparency. The insurer shall submit an attestation to the  
12 Department, annually by December 31, in the manner and form  
13 prescribed by the Department on its website certifying that these  
14 artificial intelligence-based algorithms and training data sets have  
15 minimized the risk of bias based on the covered person's race,  
16 color, religious creed, ancestry, age, sex, gender, national origin,  
17 handicap or disability, and adhere to evidence-based clinical  
18 guidelines.

19 SECTION 4. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 6980.4 of Title 36, unless there  
21 is created a duplication in numbering, reads as follows:

22 A specialist who participates in a utilization review process  
23 for an insurer that initially uses artificial intelligence-based  
24 algorithms for a utilization review shall open and document the

1 utilization review of the individual clinical records or data prior  
2 to the individualized documented decision of a denial.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6980.5 of Title 36, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. 1. A violation of this act shall be deemed to be an unfair  
7 method of competition and an unfair or deceptive act or practice.

8 2. Upon satisfactory evidence of a violation of this act by an  
9 insurer or other person, one or more of the following penalties may  
10 be imposed at the Oklahoma Insurance Commissioner's discretion:

11 a. suspension or revocation of the license of the insurer  
12 or other person,

13 b. refusal, for a period not to exceed one (1) year, to  
14 issue a new license to the insurer or other person,

15 c. a fine of not more than Five Thousand Dollars  
16 (\$5,000.00) for each violation of this act, or

17 d. a fine of not more than Ten Thousand Dollars  
18 (\$10,000.00) for each willful violation of this act.

19 B. 1. Fines imposed against an insurer under subsection A of  
20 this section may not exceed Five Hundred Thousand Dollars  
21 (\$500,000.00) in the aggregate during a single calendar year.

22 2. Fines imposed against any other person under subsection A of  
23 this section may not exceed One Hundred Thousand Dollars  
24 (\$100,000.00) in the aggregate during a single calendar year.

1 C. The enforcement remedies imposed under subsection A of this  
2 section are in addition to any other remedies or penalties that may  
3 be imposed under any other applicable law of this state.

4 SECTION 6. This act shall become effective November 1, 2024.

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6 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION AND  
7 TECHNOLOGY, dated 02/21/2024 - DO PASS, As Amended and Coauthored.  
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