

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 3577

By: Pae

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7 COMMITTEE SUBSTITUTE

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

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

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

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

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

As used in this act:

- 1 1. "Artificial intelligence-based algorithms" means any
2 artificial system that performs tasks under varying and
3 unpredictable circumstances without significant human oversight or
4 that can learn from experience and improve performance when exposed
5 to data sets;
- 6 2. "Commissioner" means the Oklahoma Insurance Commissioner;
- 7 3. "Covered person" means a policyholder, subscriber, or other
8 individual who is entitled to receive health care services under a
9 health insurance policy;
- 10 4. "Department" means the Oklahoma Insurance Department;
- 11 5. "Health care provider" means a licensed hospital or health
12 care facility, medical equipment supplier, or person who is
13 licensed, certified, or otherwise regulated to provide health care
14 services under the laws of Oklahoma;
- 15 6. "Health care service" means any covered treatment,
16 admission, procedure, medical supplies and equipment, or other
17 services, including behavioral health, prescribed or otherwise
18 provided or proposed to be provided by a health care provider to a
19 covered person for the diagnosis, prevention, treatment, cure, or
20 relief of a health condition, illness, injury, or disease under the
21 terms of a health insurance policy;
- 22 7. "Health insurance policy" means a policy, subscriber
23 contract, certificate, or plan issued by an insurer that provides
24 medical or health care coverage. The term does not include:

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

8. "Insurer" means an entity licensed by the Department that offers, issues, or renews an individual or group health insurance policy. The term does not include an entity operating as a Medical Assistance Program or Children's Health Insurance Program (CHIP) Managed Care Plan;

9. "Medical Assistance" or "CHIP Managed Care Plan" means a health care plan that uses a gatekeeper to manage the utilization of

1 health care services by medical assistance or CHIP enrollees and
2 integrates the financing and delivery of health care services;

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

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

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

19 A. An insurer shall disclose to a health care provider, all
20 covered persons, and the general public if artificial intelligence-
21 based algorithms are used, not used, or will be used in the
22 insurer's utilization review process. An insurer shall disclose
23 information about the use or lack of use of artificial intelligence-

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1 based algorithms in the utilization review process on the insurer's
2 publicly accessible Internet website.

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

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

17 A specialist who participates in a utilization review process
18 for an insurer that initially uses artificial intelligence-based
19 algorithms for a utilization review shall open and document the
20 utilization review of the individual clinical records or data prior
21 to the individualized documented decision of a denial.

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

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

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

6 a. suspension or revocation of the license of the insurer
7 or other person,

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

10 c. a fine of not more than Five Thousand Dollars
11 (\$5,000.00) for each violation of this act, or

12 d. a fine of not more than Ten Thousand Dollars
13 (\$10,000.00) for each willful violation of this act.

14 B. 1. Fines imposed against an insurer under subsection A of
15 this section may not exceed Five Hundred Thousand Dollars
16 (\$500,000.00) in the aggregate during a single calendar year.

17 2. Fines imposed against any other person under subsection A of
18 this section may not exceed One Hundred Thousand Dollars
19 (\$100,000.00) in the aggregate during a single calendar year.

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

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

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