A BILL FOR AN ACT

RELATING TO HEALTH CARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1   SECTION 1. The legislature finds that there is a growing

2   use of artificial intelligence by major health insurance

3   providers when making coverage and claims decisions, which can

4   adversely affect the ability of the State's residents to obtain

5   appropriate and timely medical care. The legislature further

6   finds that the use of artificial intelligence in health care

7   decision-making raises serious concerns regarding transparency

8   and accountability in health insurance decisions, particularly

9   with regard to determining wrongful denials of health insurance

10   claims.

11   The purpose of this Act is to:

12   (1) Regulate the use of artificial intelligence,

13   algorithms, and other software tools for purposes of

14   decision-making in health insurance utilization

15   reviews; and

16   (2) Require a licensed physician or other licensed health

17   care provider to review all adverse actions made by

1   the health carrier before the health carrier may take

2   an adverse action.

3   SECTION 2. Chapter 432E, Hawaii Revised Statutes, is

4   amended by adding two new sections to part II to be

5   appropriately designated and to read as follows:

6   "§432E-   **Artificial intelligence, algorithms, software**

7   **tools; utilization review; restrictions.** (a) Any health

8   carrier or utilization review organization that uses artificial

9   intelligence, an algorithm, or other software tool for the

10   purpose of utilization review, or that contracts with or

11   otherwise works through an entity that uses artificial

12   intelligence, an algorithm, or other software tool for the

13   purpose of utilization review shall ensure that the artificial

14   intelligence, algorithm, or other software tool:

15   (1) Bases its determination on the following information,

16   as applicable:

17   (A) The enrollee's medical or clinical history;

18   (B) Individual clinical circumstances as presented by

19   the requesting provider; and

20   (C) Other relevant clinical information contained in

21   the enrollee's medical or other clinical record;

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1   (2)   Does not base its determination solely on a group

2   dataset;

3   (3)   Is fairly applied, including in accordance with any

4   applicable federal or state regulations or with any

5   guidance issued by the federal Department of Health

6   and Human Services;

7   (4)   Is configured and applied in a standard and consistent

8   manner for all enrollees and all group health benefit

9   plans so that all resulting decisions are the same for

10   all patients with similar clinical presentation and

11   considerations;

12   (5)   Is open to inspection for audit or compliance reviews

13   by the insurance commissioner;

14   (6)   Does not directly or indirectly cause harm to the

15   enrollee; and

16   (7)   Performance, use, and outcomes are reviewed and

17   revised at least quarterly to maximize accuracy and

18   reliability.

19   (b)   A health carrier or utilization review organization

20   that uses artificial intelligence, an algorithm, or other

21   software tool for the purpose of utilization review shall

1 provide a written disclosure on how the artificial intelligence,

2 algorithm, or other software tool is used in the utilization

3 review process in each policy, plan, contract, or agreement

4 issued by a health carrier in the State.

5   (c) A health carrier or utilization review organization

6 shall not use artificial intelligence, an algorithm, or other

7 software tool to deny, delay, or modify a determination to

8 provide health care services.

9   **§432E-   Adverse actions; health care provider**

10 **independent review.** (a) Before a health carrier may issue an

11 adverse action, including a denial of a request for prior

12 authorization, a licensed health care provider shall conduct an

13 independent review of the claim.

14   (b) The licensed health care provider's independent review

15 shall consist of reviewing and considering the requesting

16 provider's recommendation; the enrollee's medical or other

17 clinical history, as applicable; and the individual clinical

18 circumstances.

19   (c) When conducting the independent review of the adverse

20 action, the licensed health care provider shall exercise

21 independent medical judgment and shall not rely solely on

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1 recommendations from any other sources, including any artificial

2 intelligence, algorithm, or other software tool.

3   (d) For the purposes of this section, "licensed health

4 care provider" means a physician or osteopathic physician

5 licensed pursuant to chapter 453, an advanced practice

6 registered nurse licensed pursuant to chapter 457, a

7 psychologist licensed pursuant to chapter 465, or any other

8 health care provider licensed to practice in the State who is

9 competent to evaluate the specific clinical issues involved in

10 the health care services that are the subject of the claim."

11   SECTION 3. Section 432E-1, Hawaii Revised Statutes, is

12 amended by adding three new definitions to be appropriately

13 inserted and to read as follows:

14   ""Algorithm" means a computerized procedure consisting of a

15 series of analytical steps used to accomplish a determined task.

16   "Artificial intelligence" means an engineered or machine-

17 based system that varies in its level of autonomy and that can,

18 for explicit or implicit objectives, infer from inputs how to

19 generate outputs, including content, decisions, predictions, and

20 recommendations, that can influence physical or virtual

21 environments.

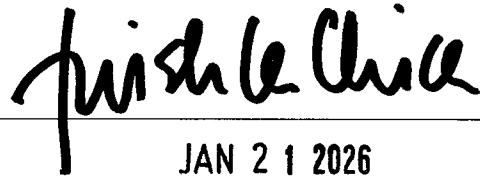# H.B. NO. 1787

1   "Prior authorization" has the same meaning as defined in

2   section 323D-2."

3   SECTION 4. New statutory material is underscored.

4   SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

JAN 2 1 2026

Report Title:
Patient Bill of Rights; Health Insurance; Utilization Review; Artificial Intelligence; Restrictions; Adverse Actions; Health Carriers; Licensed Health Care Providers

Description:
Establishes restrictions on the use of artificial intelligence, algorithms, or other software tools for purposes of decision-making in health insurance utilization reviews. Requires a licensed health care provider to review all adverse actions by the health carrier.

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