

JAN 23 2026

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;



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



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.




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.

5

INTRODUCED BY: 



S.B. NO. 2768

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.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

