

JAN 23 2026

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

1 SECTION 1. The legislature finds that artificial
2 intelligence and advanced analytics systems are increasingly
3 used across the insurance lifecycle, including underwriting,
4 pricing, policy servicing, and claims handling, and may improve
5 efficiency and accuracy. However, these systems can also create
6 risks of error, unfair discrimination, lack of transparency, and
7 adverse consumer outcomes when relied upon without appropriate
8 human accountability and governance controls.

9 The legislature further finds that health insurance, unlike
10 many other lines of insurance, operates as a managed care
11 platform that directly affects access to clinical services and
12 treatment outcomes, and therefore requires heightened guardrails
13 when artificial intelligence systems are used to support medical
14 necessity determinations and utilization management decisions.
15 Stakeholders have raised concerns that adverse coverage
16 determinations may be made or supported by artificial
17 intelligence in ways that are not meaningfully reviewable by



1 providers or patients, and that guardrails should exist at the
2 point of initial denial, rather than only during appeals.

3 Therefore, the legislature finds that denials of health
4 insurance coverage tied to medical necessity should be subject
5 to review by appropriately qualified, licensed clinicians.

6 The legislature also finds that property insurers
7 increasingly use aerial images, including images analyzed by
8 machine learning and similar tools, to support underwriting
9 decisions, including nonrenewals, and that consumers may be
10 unaware of the images used or may be unable to rebut errors or
11 remedy identified conditions. National legislative work has
12 emphasized reasonable standards requiring the provision of
13 date-stamped images, clear notice, and a meaningful opportunity
14 to cure or rebut the identified issue before nonrenewal when
15 aerial imagery is used as the sole basis for an adverse action.

16 Accordingly, the purpose of this Act is to:

17 (1) Establish a tool-neutral governance and accountability
18 framework for insurers' use of artificial intelligence
19 systems that is consistent with widely adopted
20 regulatory expectations emphasizing transparency,
21 fairness, accountability, and compliance with existing



- 1 unfair trade practices and unfair discrimination
2 standards;
- 3 (2) Require licensed clinician review for specified
4 adverse determinations when artificial intelligence
5 systems are used to make or support medical necessity
6 decisions; and
- 7 (3) Establish consumer protections against the use of
8 aerial images and artificial intelligence systems as
9 the sole basis for specific adverse underwriting
10 actions in residential property insurance, including
11 rebuttal and cure procedures; disclosure, image
12 access, and renewal-after-cure requirements; and
13 limits on cross-insurer sharing of imagery-derived
14 data.

15 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
16 amended by adding a new part to article 13 to be appropriately
17 designated and to read as follows:

18 **"PART . ARTIFICIAL INTELLIGENCE SYSTEMS IN INSURANCE**

19 A. General Provisions

20 **§431:13-A Definitions.** As used in this part:



1 "Artificial intelligence system" means a machine-based
2 system that, for a given set of objectives, generates outputs
3 such as predictions, recommendations, content, classifications,
4 scores, or similar outputs that influence decisions in real or
5 virtual environments, and that operates with varying levels of
6 autonomy.

7 "Artificial intelligence system governance program" or
8 "program" means the written governance, risk management, and
9 internal control program required pursuant to section 431:13-D.

10 "Commissioner" means the insurance commissioner of the
11 State.

12 "Consumer" means an applicant, policyholder, insured
13 individual, covered person, claimant, beneficiary, or other
14 natural person who is the subject of an insurance practice.

15 "Insurance practice" means underwriting, rating, marketing,
16 sales, policy administration, utilization management, claims
17 handling, fraud detection, or any other practice in the business
18 of insurance that may impact consumers, as determined by the
19 commissioner by rule.

20 "Insurer" has the same meaning as defined in section
21 431:1-202. "Insurer" includes any person or entity subject to

1 the jurisdiction of the commissioner under this chapter, to the
2 extent that the person or entity uses an artificial intelligence
3 system in an insurance practice that may impact consumers.

4 "Vendor" means a third party that provides, develops,
5 licenses, procures, maintains, or materially modifies an
6 artificial intelligence system used by an insurer in an
7 insurance practice.

8 **§431:13-B Violations; enforcement; no private right of**
9 **action.** (a) Any violation of this part shall constitute an
10 unfair method of competition or unfair or deceptive trade act or
11 practice in the business of insurance in violation of section
12 431:13-102.

13 (b) This part shall be enforced exclusively by the
14 commissioner. Nothing in this part shall be construed to create
15 or imply a private right of action.

16 **§431:13-C Rules.** The commissioner shall adopt rules
17 pursuant to chapter 91 to implement this part, including rules
18 establishing:

- 19 (1) Additional definitions and clarifications of scope;
20 (2) Standards for recordkeeping, documentation, notices,
21 and disclosures;



1 (3) Minimum testing, monitoring, and auditing expectations
2 for artificial intelligence systems proportionate to
3 consumer risk; and

4 (4) Procedures for the submission and protection of
5 confidential and proprietary information.

6 B. Artificial Intelligence Governance Requirements Applicable
7 To All Insurers

8 **§431:13-D Artificial intelligence system governance**

9 **program.** (a) Any insurer using an artificial intelligence
10 system in any insurance practice that may impact consumers shall
11 develop, implement, and maintain an artificial intelligence
12 system governance program pursuant to the requirements of this
13 section.

14 (b) An artificial intelligence system governance program
15 shall be risk-based and proportionate to the nature of the
16 decisions supported by the artificial intelligence system and
17 the degree of potential harm to consumers. The program shall
18 include:

19 (1) Board or senior management accountability for
20 artificial intelligence system strategy, oversight,
21 and compliance;



- 1 (2) Documented policies and procedures addressing
2 procurement, development, use, monitoring, and
3 retirement of artificial intelligence systems;
- 4 (3) Data governance controls, including data quality,
5 relevance, limitations, and documented data lineage to
6 the extent practicable;
- 7 (4) Model validation and testing protocols, including
8 processes to identify material errors, bias, and model
9 drift;
- 10 (5) Controls addressing risks relating to third-party
11 artificial intelligence systems and vendors, including
12 contractual requirements for cooperation with
13 regulatory inquiries and audits; and
- 14 (6) Recordkeeping requirements sufficient to demonstrate
15 compliance with this part.
- 16 (c) Nothing in this section shall be construed to require
17 public disclosure of proprietary source code or trade secrets;
18 provided that an insurer shall maintain sufficient documentation
19 to demonstrate compliance with the requirements of this subpart
20 to the commissioner upon request.



1 **§431:13-E Testing; monitoring; auditing.** (a) An insurer
2 shall conduct and document pre-deployment testing and continuous
3 monitoring for each artificial intelligence system used in an
4 insurance practice that may impact consumers.

5 (b) Testing and monitoring conducted pursuant to this
6 section shall be reasonably designed to detect:

- 7 (1) Material errors or performance degradation;
8 (2) Unfair discrimination or disparate consumer impacts
9 inconsistent with applicable law;
10 (3) Model drift and data shifts; and
11 (4) Cybersecurity and data integrity risks that materially
12 affect the reliability of outputs.

13 (c) The commissioner may adopt rules pursuant to section
14 431:13-C to establish minimum testing requirements and audit
15 elements for classes of artificial intelligence system use cases
16 based on consumer risk.

17 **§431:13-F Submission of records; examination;**
18 **confidentiality.** (a) Upon request of the commissioner, an
19 insurer shall provide its records of any artificial intelligence
20 system used in an insurance practice that may impact consumers,



1 including documentation regarding governance, validation,
2 testing, monitoring, auditing, and vendor arrangements.

3 (b) Any records and information submitted to the
4 commissioner pursuant to this section that is a trade secret or
5 confidential commercial or financial information shall be
6 treated as confidential to the extent permitted by law.

7 C. Artificial Intelligence Systems In Health Insurance

8 **§431:13-G Definitions.** As used in this subpart:

9 "Adverse determination" has the same meaning as defined in
10 section 432E-1.

11 "Health benefit" means those health care services to which
12 a consumer is entitled under the terms of a health benefit plan.

13 "Health benefit plan" has the same meaning as defined in
14 section 431:26-101.

15 "Health care services" has the same meaning as defined in
16 section 431:26-101.

17 "Health insurer" means any insurer, nonprofit health
18 service plan, mutual benefit society, health maintenance
19 organization, or other entity authorized to issue, deliver, or
20 renew a health benefit plan in the State, as determined by the
21 commissioner by rule.



1 "Medical necessity determination" means a decision
2 regarding whether a health care service, treatment, procedure,
3 medication, device, or setting is medically necessary or
4 otherwise covered under the terms of a health benefit plan.

5 **§431:13-H Adverse medical necessity determinations;**
6 **licensed clinician review requirements.** (a) No health insurer
7 shall use an artificial intelligence system as the sole basis
8 for making an adverse determination for a medical necessity
9 determination.

10 (b) Whenever an artificial intelligence system is used to
11 make or support a medical necessity determination that results
12 in an adverse determination, the health insurer shall verify the
13 final adverse determination; provided that verification shall
14 require that the adverse determination is reviewed and affirmed
15 by:

16 (1) A physician or other appropriately licensed health
17 care professional authorized to make the relevant
18 clinical determination within the scope of the
19 professional's license; and

20 (2) A reviewer with training and experience in the same or
21 similar specialty that typically manages the



1 condition, service, or treatment at issue, as
2 determined by the commissioner by rule.

3 (c) Each health insurer shall maintain documentation
4 sufficient to demonstrate its compliance with this section,
5 including the identity and credentials of the reviewing
6 clinicians and the basis for each determination; provided that
7 the documentation may be protected as confidential when
8 submitted to the commissioner pursuant to section 431:13-F.

9 **§431:13-I Transparency to providers and consumers; notice**

10 **requirement.** (a) Whenever an artificial intelligence system is
11 used to make or support an adverse determination, the health
12 insurer shall provide to the consumer and, when applicable, the
13 requesting provider, the following:

- 14 (1) Notice of the use of an artificial intelligence
15 system;
- 16 (2) A description of the primary factors that materially
17 contributed to the adverse determination; and
- 18 (3) Clear instructions describing how to submit additional
19 clinical information, seek reconsideration, or pursue
20 any available internal or external appeal rights;



1 provided that the disclosures shall be made in plain
2 language and in the manner prescribed by the
3 commissioner by rule.

4 (b) The notice required pursuant to subsection (a) shall
5 not require disclosure of proprietary source code or trade
6 secrets; provided that the notice shall be sufficient for a
7 reasonable person to understand the basis for the adverse
8 determination and how to contest or supplement the record.

9 **§431:13-J Health insurance oversight metrics;**
10 **requirements.** (a) Any health insurer that uses an artificial
11 intelligence system to make or support medical necessity
12 determinations, prior authorization decisions, or other
13 utilization management decisions shall conduct and document
14 continuous monitoring of the artificial intelligence system.

15 The monitoring shall include:

- 16 (1) Pre-deployment testing; and
- 17 (2) Post-deployment surveillance for errors, bias, and
18 drift.

19 (b) At minimum, the health insurer shall track and retain,
20 by service category and as feasible by clinically relevant



1 cohort, the following performance and oversight metrics for
2 examination:

- 3 (1) Denial rate and approval rate;
- 4 (2) Average time-to-decision;
- 5 (3) Appeal rate and overturn rate;
- 6 (4) Rate of clinician overrides of artificial intelligence
7 system-supported recommendations;
- 8 (5) Material error rates identified through audits or
9 quality assurance reviews; and
- 10 (6) Disparity indicators designed to detect differential
11 impacts on protected classes or other groups, as
12 determined by the commissioner by rule.

13 (c) The commissioner may require submission of aggregated
14 metrics collected pursuant to this section in a form and
15 frequency determined by rule; provided that the commissioner
16 shall maintain the confidentiality of trade secrets and
17 commercial information to the extent permitted by law.

18 D. Artificial Intelligence Systems And Aerial Images In
19 Residential Property Insurance

20 **§431:13-K Definitions.** As used in this subpart:



1 "Adverse underwriting action" or "action" means a
2 cancellation, nonrenewal, refusal to renew, reduction in
3 coverage, or other adverse action affecting the availability or
4 terms of insurance coverage, as determined by the commissioner
5 by rule. "Adverse underwriting action" includes any nonrenewal
6 of insurance coverage for which an aerial image is used as the
7 sole basis for the nonrenewal.

8 "Aerial image" means an image or set of images of an
9 insured property captured from an airborne platform, including a
10 manned aircraft, satellite, or unmanned aerial vehicle.

11 "Aerial-image-derived output" means a score,
12 classification, recommendation, or other output generated by an
13 artificial intelligence system, machine learning model, or
14 analytics process that is materially based on an aerial image.

15 "Residential property insurance" means any homeowners or
16 property insurance policy issued for a residential property in
17 the State, as determined by the commissioner by rule.

18 "Residential property insurance" includes personal lines
19 insurance.

20 **§431:13-L Adverse underwriting action based solely on**
21 **aerial images; limitations; notice requirement.** (a) Except as



1 provided in this subpart, no insurer shall take an adverse
2 underwriting action on a residential property insurance policy
3 using an aerial image or aerial-image-derived output as the sole
4 basis for the action.

5 (b) An insurer may use an aerial image or
6 aerial-image-derived output as the sole basis for the nonrenewal
7 of a residential property insurance policy; provided that the
8 insurer shall include with the written notice of nonrenewal:

- 9 (1) The date-stamped aerial image or images used to
10 justify the action, with clear identification of the
11 specific condition or characteristic the insurer
12 asserts is out of compliance with the insurer's
13 underwriting guidelines;
- 14 (2) Disclosure of the use of an artificial intelligence
15 system or similar analytics process;
- 16 (3) A plain-language explanation of the specific
17 underwriting issue; and
- 18 (4) Clear instructions describing how the consumer may
19 rebut the asserted issue or certify completion of
20 corrective action sufficient to cure the issue
21 pursuant to section 431:13-M.



1 (c) Following the issuance of the notice required pursuant
2 to subsection (b) and upon request of the consumer, the insurer
3 shall provide to the consumer a copy of the relevant
4 aerial-image-derived output in a form understandable to a
5 reasonable person; provided that the insurer shall not be
6 required to disclose proprietary source code or trade secrets in
7 fulfilling the disclosure requirement under this subsection.

8 (d) No insurer shall utilize an aerial image older than
9 twelve months at the time the insurer initiates a nonrenewal
10 notice as the basis for that nonrenewal; provided that an
11 insurer may utilize an older aerial image if the insurer
12 demonstrates to the commissioner that a longer period is
13 reasonably necessary due to documented limitations in imagery
14 availability for the relevant geography.

15 (e) The commissioner may adopt rules pursuant to section
16 431:13-C to:

17 (1) Establish a maximum aerial image or
18 aerial-image-derived output utilization period;
19 provided that the established period shall not exceed
20 twenty-four months; and



1 (2) Ensure disclosures pursuant to subsections (b) and (c)
2 balance transparency and consumer comprehension with
3 protection of proprietary information.

4 **§431:13-M Point of contact; rebuttal; cure period.** (a)

5 Each insurer shall designate a point of contact to receive
6 communications from consumers regarding a nonrenewal based
7 solely on an aerial image or aerial-image-derived output. The
8 insurer shall include a contact method for the designated point
9 of contact in the notice required pursuant to section
10 431:13- (L) (b) .

11 (b) The consumer shall have a cure period of not less than
12 sixty days from the date the insurer transmits the notice
13 required pursuant to section 431:13-L(b) to address the adverse
14 underwriting action. During the cure period, the consumer may:

15 (1) Submit documentation disputing the insurer's
16 interpretation of the aerial image, including
17 photographs, inspection reports, contractor
18 statements, or similar evidence; or

19 (2) Certify completion of corrective action addressing the
20 identified condition.



1 (c) The insurer shall review any information submitted
2 pursuant to subsection (b) in good faith and shall provide a
3 written determination of its review to the consumer within a
4 timeframe established by the commissioner by rule.

5 **§431:13-N Renewal after cure; limitation on repeated**
6 **nonrenewal for same condition.** (a) If the consumer timely
7 cures the identified condition or successfully rebuts the
8 asserted underwriting issue to the satisfaction of the insurer,
9 the insurer shall offer a renewal on substantially similar
10 terms; provided that nothing in this subsection shall prohibit
11 nonrenewal for reasons unrelated to the condition identified
12 through the aerial image or aerial-image-derived output.

13 (b) The commissioner may adopt rules pursuant to section
14 431:13-C to prevent repeated nonrenewals based on substantially
15 the same alleged condition without meaningful consideration of
16 rebuttal or cure documentation submitted by a consumer.

17 **§431:13-O Cross-insurer sharing of aerial image**
18 **information without consent; prohibited.** No insurer shall sell,
19 transfer, or otherwise share with another insurer any aerial
20 image, aerial-image-derived output, or underwriting
21 determination derived from an aerial image that is reasonably



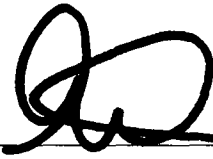
1 linkable to an identified consumer or insured property without
2 having obtained the written consent of the consumer in the
3 manner prescribed by the commissioner by rule."

4 SECTION 3. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 4. This Act shall take effect on July 1, 2026.

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INTRODUCED BY:


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S.B. NO. 2953

Report Title:

Insurance Commissioner; Artificial Intelligence Systems; Health Benefit Determinations; Aerial Images; Residential Property Insurance; Consumer Protections; Rules

Description:

Establishes consumer protections and insurer governance requirements for the use of artificial intelligence systems in certain insurance practices, including health insurance benefit determinations and residential property underwriting decisions. Establishes review, monitoring, recordkeeping, disclosure, rebuttal, and cure requirements for the use of artificial intelligence systems in certain insurance practices. Requires the Insurance Commissioner to adopt rules.

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