

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1925 Session of
2025

INTRODUCED BY VENKAT, HOGAN, KHAN, KOSIEROWSKI, SCOTT, HILL-
EVANS, FREEMAN, RIVERA, HANBIDGE, HADDOCK, SANCHEZ, MAYES,
HOWARD, GUZMAN, DONAHUE, GILLEN, GREEN, WAXMAN, PROBST,
PIELLI, McNEILL, BOROWSKI AND SHUSTERMAN, OCTOBER 6, 2025

REFERRED TO COMMITTEE ON COMMUNICATIONS AND TECHNOLOGY,
OCTOBER 6, 2025

AN ACT

1 Amending Titles 35 (Health and Safety) and 40 (Insurance) of the
2 Pennsylvania Consolidated Statutes, providing for artificial
3 intelligence in facilities, for artificial intelligence use
4 by insurers and for artificial intelligence use by MA or CHIP
5 managed care plans; imposing duties on the Department of
6 Health, the Insurance Department and the Department of Human
7 Services; and imposing penalties.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Title 35 of the Pennsylvania Consolidated
11 Statutes is amended by adding a chapter to read:

12 CHAPTER 35

13 ARTIFICIAL INTELLIGENCE IN FACILITIES

14 Sec.

15 3501. Definitions.

16 3502. Disclosure.

17 3503. Responsible use.

18 3504. Artificial intelligence compliance statements.

19 3505. Reports.

1 3506. Retention of records.
2 3507. Oversight.
3 3508. Third-party vendor.
4 3509. Exemption.
5 3510. Enforcement and penalties.
6 3511. Plan of correction.
7 3512. Administrative procedures.
8 3513. Regulations and guidance.
9 § 3501. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Artificial intelligence" or "AI." A machine-based system
14 that can, for a given set of human-defined objectives, make
15 predictions, recommendations or decisions influencing real or
16 virtual environments that use machine-based and human-based
17 inputs to perceive real and virtual environments, abstract the
18 perceptions into models through analysis in an automated manner
19 and use model inference to formulate options for information or
20 action. The term includes generative artificial intelligence
21 which is the class of models that emulate the structure and
22 characteristics of input data in order to generate derived
23 synthetic content which includes information such as images,
24 videos, audio clips and text that has been significantly
25 modified or generated by algorithms, including by artificial
26 intelligence.

27 "Artificial intelligence-based algorithms." The programming
28 and data sets that inform an artificial intelligence system.

29 "Clinical decision making." A patient-centered problem-
30 solving process focused on a health care provider's direct

1 patient care involving gathering information, diagnosing and
2 planning treatments.

3 "Department." The Department of Health of the Commonwealth.

4 "Facility." A health care setting or institution providing
5 health care services, including:

6 (1) A general, special, psychiatric or rehabilitation
7 hospital.

8 (2) An ambulatory surgical facility.

9 (3) A cancer treatment center.

10 (4) A birth center.

11 (5) An inpatient, outpatient or residential drug and
12 alcohol treatment facility.

13 (6) A facility licensed by the Department of Human
14 Services' Office of Mental Health and Substance Abuse
15 Services.

16 (7) A laboratory, imaging, diagnostic or other
17 outpatient medical service or testing facility.

18 (8) A health care provider office or clinic that is
19 owned by or employs a Commonwealth-licensed physician,
20 physician assistant or nurse practitioner.

21 "Health care provider." As follows:

22 (1) A facility or individual who is licensed, certified
23 or otherwise regulated to provide health care services under
24 the laws of this Commonwealth.

25 (2) The term does not include an individual providing
26 emergency services under a licensed emergency medical
27 services agency as defined in section 8103 (relating to
28 definitions).

29 § 3502. Disclosure.

30 (a) Duty to disclose.--A facility shall disclose to patients

of the facility if artificial intelligence-based algorithms are
or will be used for clinical decision making or other similar
tasks. The disclosure shall be:

(1) Provided in all related written communications.

(2) Posted on the publicly accessible Internet website
of the facility.

(b) Communications.--

(1) A facility that uses artificial intelligence to
generate written or verbal patient communications pertaining
to patient clinical information shall include:

(i) A clear and conspicuous disclaimer that
indicates that the communication was generated by
artificial intelligence.

(ii) Clear instructions on how the patient may
contact a human health care provider or relevant employee
of the facility with questions.

(2) The requirements under paragraph (1) shall not apply
to communications that:

(i) only pertain to administrative matters,
including appointment scheduling, billing or other
clerical or business matters; or

(ii) have been individually read and reviewed by a
human health care provider.

(c) Nature and frequency.--The department shall determine
the nature and frequency of disclosure requirements to the
patient. The department may request input from facilities and
health care providers or their representatives in making the
determination.

§ 3503. Responsible use.

(a) Compliance generally.--The criteria for the artificial

intelligence-based algorithms must comply with this chapter and applicable Federal and State law.

(b) Requirements for artificial intelligence-based algorithms.--For each instance in which a facility uses artificial intelligence-based algorithms for clinical decision making, the facility shall comply with the following:

(1) The artificial intelligence-based algorithms must not supersede health care provider clinical decision making.

(2) The artificial intelligence-based algorithms and training data sets must not directly or indirectly discriminate against patients in violation of Federal or State law.

(3) The artificial intelligence-based algorithms must be fairly and equitably applied, including in accordance with any applicable regulations and or guidance issued by the United States Department of Health and Human Services.

(4) The use of the artificial intelligence-based algorithms must be disclosed in accordance with section 3502 (relating to disclosure).

(5) The performance, use and outcomes of the artificial intelligence-based algorithms must be periodically reviewed and revised to maximize accuracy and reliability.

(6) Patient data must not be used beyond the intended and stated purpose of the artificial intelligence-based algorithms, consistent with the laws of this Commonwealth and 42 U.S.C. Ch. 7 Subch. XI Part C (relating to administrative simplification), as applicable.

(7) The artificial intelligence-based algorithms must not create foreseeable, material risks of harm to the patient.

1 § 3504. Artificial intelligence compliance statements.

2 (a) Compliance statement required.--A facility using
3 artificial intelligence-based algorithms for clinical decision
4 making shall annually file with the department in the form and
5 manner prescribed by the department an artificial intelligence
6 compliance statement.

7 (b) Contents.--Each compliance statement must:

8 (1) Summarize the function and scope of artificial
9 intelligence-based algorithms used for clinical decision
10 making.

11 (2) Provide a logic or decision tree of artificial
12 intelligence-based algorithms used for clinical decision
13 making.

14 (3) Provide a description of each training data set used
15 by artificial intelligence-based algorithms for clinical
16 decision making, including the source of the data.

17 (4) Attest that the artificial intelligence-based
18 algorithms and the training data sets comply with section
19 3503 (relating to responsible use) and provide evidence of
20 the compliance.

21 (5) Describe the process of the facility for overseeing
22 and validating the performance and compliance of the
23 artificial intelligence-based algorithms in accordance with
24 section 3503.

25 § 3505. Reports.

26 (a) Annual report required.--No later than one year after
27 the effective date of this chapter and each year thereafter, the
28 department shall compile the information from the most recent
29 annual compliance statements under section 3504 (relating to
30 artificial intelligence compliance statements) and issue a

1 report containing the compiled information, along with any other
2 applicable findings and recommendations. The information in the
3 report shall be aggregated and deidentified.

4 (b) Posting.--The department shall post each report under
5 this section on the publicly accessible Internet website of the
6 department.

7 § 3506. Retention of records.

8 The department shall establish a record retention policy and
9 determine the amount of time a facility shall retain records
10 related to artificial-intelligence algorithms. The department
11 may request input from facilities and health care providers or
12 their representatives in making the determination under this
13 section.

14 § 3507. Oversight.

15 The department may request additional information and
16 evidence from a facility regarding the items provided under
17 sections 3502 (relating to disclosure), 3503 (relating to
18 responsible use) and 3504 (relating to artificial intelligence
19 compliance statements) that are necessary to ensure compliance
20 with this chapter.

21 § 3508. Third-party vendor.

22 A contractor, subcontractor or other third-party vendor that
23 sells, leases, subscribes or otherwise supplies artificial
24 intelligence-based algorithms or services based on artificial
25 intelligence-based algorithms to the facility shall be subject
26 to this chapter. The department shall develop regulations or
27 guidance regarding the responsibility of a contractor,
28 subcontractor or other third-party vendor that sells, leases,
29 subscribes or otherwise supplies artificial intelligence-based
30 algorithms or services based on artificial intelligence-based

1 algorithms to the facility. The department may request input
2 from facilities, third-party vendors and health care providers
3 or their representatives in making this determination.

4 § 3509. Exemption.

5 This chapter shall not apply to validated, static decision-
6 support tools or tools used for administration, scheduling,
7 scribe applications or clinical calculators.

8 § 3510. Enforcement and penalties.

9 (a) Civil penalties.--

10 (1) Subject to paragraph (2), the department may impose
11 a civil penalty not exceeding \$5,000 for a violation of this
12 chapter. For purposes of this paragraph, each instance of
13 nondisclosure shall constitute a separate violation of this
14 chapter.

15 (2) The following apply to limitations on civil
16 penalties under this subsection:

17 (i) A civil penalty imposed against a facility may
18 not exceed \$500,000 in the aggregate during a single
19 calendar year.

20 (ii) A civil penalty imposed against any other
21 person may not exceed \$100,000 in the aggregate during a
22 single calendar year.

23 (b) Injunction.--The department may maintain an action in
24 the name of the Commonwealth for an injunction to prohibit any
25 activity that violates the provisions of this chapter.

26 (c) Nonexclusive remedies.--The enforcement remedies and
27 penalties imposed under this chapter are in addition to any
28 other remedies or penalties that may be imposed under any other
29 applicable law of this Commonwealth, including the act of July
30 19, 1979 (P.L.130, No.48), known as the Health Care Facilities

1 Act.

2 § 3511. Plan of correction.

3 (a) Authorization.--The department may require a facility to
4 develop and adhere to a plan of correction approved by the
5 department. The department may impose a plan of correction in
6 lieu of fines.

7 (b) Compliance.--The department shall monitor compliance
8 with the plan of correction under this section.

9 (c) Availability.--The plan of correction shall, upon
10 request, be made available to patients of the facility.

11 § 3512. Administrative procedures.

12 (a) Applicable procedures.--This chapter shall be subject to
13 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
14 Commonwealth agencies).

15 (b) Appeal.--A party against whom penalties are assessed in
16 an administrative action may appeal to Commonwealth Court as
17 provided in 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial
18 review of Commonwealth agency action).

19 § 3513. Regulations and guidance.

20 The department shall promulgate regulations or guidance
21 necessary to implement, administer and enforce this chapter. The
22 department shall review regulations or guidance every three
23 years to ensure compliance with Federal law or Federal agency
24 guidance.

25 Section 2. Title 40 is amended by adding chapters to read:

26 CHAPTER 52

27 ARTIFICIAL INTELLIGENCE USE BY INSURERS

28 Sec.

29 5201. Definitions.

30 5202. Disclosure.

1 5203. Responsible use.
2 5204. Artificial intelligence compliance statements.
3 5205. Health care provider requirements.
4 5206. Reports.
5 5207. Retention of records.
6 5208. Oversight.
7 5209. Third-party vendor.
8 5210. Exemption.
9 5211. Enforcement and penalties.
10 5212. Plan of correction.
11 5213. Administrative procedures.
12 5214. Regulations and guidance.
13 § 5201. Definitions.

14 The following words and phrases when used in this chapter
15 shall have the meanings given to them in this section unless the
16 context clearly indicates otherwise:

17 "Artificial intelligence" or "AI." A machine-based system
18 that can, for a given set of human-defined objectives, make
19 predictions, recommendations or decisions influencing real or
20 virtual environments that use machine-based and human-based
21 inputs to perceive real and virtual environments, abstract the
22 perceptions into models through analysis in an automated manner
23 and use model inference to formulate options for information or
24 action. The term includes generative artificial intelligence
25 which is the class of models that emulate the structure and
26 characteristics of input data in order to generate derived
27 synthetic content which includes information such as images,
28 videos, audio clips and text that has been significantly
29 modified or generated by algorithms, including by artificial
30 intelligence.

1 "Artificial intelligence-based algorithms." The programming
2 and data sets that inform an artificial intelligence system.

3 "Covered person." A policyholder, subscriber or other
4 individual who is entitled to receive health care services under
5 a health insurance policy.

6 "Department." The Insurance Department of the Commonwealth.

7 "Health care provider." As follows:

8 (1) A facility or individual who is licensed, certified
9 or otherwise regulated to provide health care services under
10 the laws of this Commonwealth.

11 (2) The term does not include an individual providing
12 emergency services under a licensed emergency medical
13 services agency as defined in 35 Pa.C.S. § 8103 (relating to
14 definitions).

15 "Health care service." Any covered treatment, admission,
16 procedure or other services, including behavioral health,
17 prescribed or otherwise provided or proposed to be provided by a
18 health care provider to a covered person for the diagnosis,
19 prevention, treatment, cure or relief of a health condition,
20 illness, injury or disease under the terms of a health insurance
21 policy.

22 "Health insurance policy." As follows:

23 (1) A policy, subscriber contract, certificate or plan
24 issued by an insurer that provides medical or health care
25 coverage.

26 (2) The term does not include:

27 (i) An accident only policy.

28 (ii) A credit only policy.

29 (iii) A long-term care or disability income policy.

30 (iv) A specified disease policy.

1 (v) A Medicare supplement policy.

2 (vi) A TRICARE policy, including a Civilian Health
3 and Medical Program of the Uniformed Services (CHAMPUS)
4 supplement policy.

5 (vii) A fixed indemnity policy.

6 (viii) A hospital indemnity policy.

7 (ix) A workers' compensation policy.

8 (x) An automobile medical payment policy under 75
9 Pa.C.S. (relating to vehicles).

10 (xi) A homeowner's insurance policy.

11 "Insurer." As follows:

12 (1) An entity licensed by the department that offers,
13 issues or renews an individual or group health insurance
14 policy that is offered or governed under any of the
15 following:

16 (i) Chapter 61 (relating to hospital plan
17 corporations) or 63 (relating to professional health
18 services plan corporations).

19 (ii) The act of May 17, 1921 (P.L.682, No.284),
20 known as The Insurance Company Law of 1921, including
21 section 630 and Article XXIV thereof.

22 (iii) The act of December 29, 1972 (P.L.1701,
23 No.364), known as the Health Maintenance Organization
24 Act.

25 (2) The term does not include an entity operating as an
26 MA or CHIP managed care plan.

27 "Participating network provider." A health care provider
28 that has entered into a contractual or operating relationship
29 with an insurer to participate in one or more designated
30 networks of the insurer and to provide health care services to

covered persons under the terms of the insurer's administrative policy.

"Prior authorization request." As defined under section 2102 of The Insurance Company Law of 1921.

"Utilization review." As defined under section 2102 of The Insurance Company Law of 1921.

§ 5202. Disclosure.

(a) Duty to disclose.--An insurer shall disclose to a participating network provider and all covered persons if artificial intelligence-based algorithms are or will be used in the utilization review process of the insurer.

(b) Posting.--An insurer shall post the information about the use of artificial intelligence-based algorithms in the utilization review process of the insurer on the publicly accessible Internet website of the insurer.

(c) Nature and frequency.--The department shall determine the nature and frequency of disclosure requirements to covered persons. The department may request input from insurers or their representatives in making this determination.

§ 5203. Responsible use.

(a) Compliance generally.--The criteria for the artificial intelligence-based algorithms must comply with this chapter and applicable Federal and State law.

(b) Requirements for artificial intelligence-based algorithms.--For each instance in which an insurer uses artificial intelligence-based algorithms in the utilization review process regarding a covered person, the insurer shall comply with the following:

(1) The artificial intelligence-based algorithms must base a determination on all of the following:

1 (i) The medical or other clinical history of the
2 covered person.

3 (ii) Individual clinical or nonclinical
4 circumstances as presented by the requesting health care
5 provider.

6 (iii) Other relevant clinical or nonclinical
7 information contained in the medical or other clinical
8 record of the covered person.

9 (2) The artificial intelligence-based algorithms must
10 not base a determination solely on a group data set.

11 (3) The artificial intelligence-based algorithms must
12 not supersede decision making of the health care provider
13 conducting the utilization review.

14 (4) The artificial intelligence-based algorithms and
15 training data sets must not directly or indirectly
16 discriminate against covered persons in violation of Federal
17 or State law.

18 (5) The artificial intelligence-based algorithms must be
19 fairly and equitably applied, including in accordance with
20 any applicable regulations or guidance issued by the United
21 States Department of Health and Human Services.

22 (6) The use of the artificial intelligence-based
23 algorithms must be disclosed in accordance with section 5202
24 (relating to disclosure).

25 (7) The performance, use and outcomes of the artificial
26 intelligence-based algorithms must be periodically reviewed
27 and revised to maximize accuracy and reliability.

28 (8) The data of the covered person must not be used
29 beyond the intended and stated purpose of the artificial
30 intelligence-based algorithms, consistent with Commonwealth

1 law and 42 U.S.C. Ch. 7, Subch. XI Part C (relating to
2 administrative simplification), as applicable.

3 (9) The artificial intelligence-based algorithms must
4 not create foreseeable, material risks of harm to the covered
5 person.

6 § 5204. Artificial intelligence compliance statements.

7 (a) Compliance statement required.--An insurer using
8 artificial intelligence-based algorithms in the utilization
9 review process shall annually file with the department in the
10 form and manner prescribed by the department an artificial
11 intelligence compliance statement.

12 (b) Contents.--Each compliance statement must:

13 (1) Summarize the function and scope of the artificial
14 intelligence-based algorithms used for utilization review.

15 (2) Provide a logic or decision tree of artificial
16 intelligence-based algorithms used for utilization review.

17 (3) Provide a description of each training data set used
18 by artificial intelligence-based algorithms for utilization
19 review, including the source of the data.

20 (4) Attest that the artificial intelligence-based
21 algorithms and the training data sets comply with section
22 5203 (relating to responsible use) and provide evidence of
23 the compliance.

24 (5) Describe the process of the insurer for overseeing
25 and validating the performance and compliance of the
26 artificial intelligence-based algorithms in accordance with
27 section 5203.

28 § 5205. Health care provider requirements.

29 Prior to issuing or upholding a decision to deny, reduce or
30 terminate benefits for a health care service, including a

decision to deny a prior authorization request, a health care provider who participates in utilization review on behalf of an insurer shall:

(1) Review individual clinical records and other relevant information.

(2) Document the review under paragraph (1).

(3) Based on the review under paragraph (1), exercise judgment independent of any recommendations by the artificial intelligence-based algorithms.

§ 5206. Reports.

(a) Annual report required.--No later than one year after the effective date of this chapter, and annually thereafter, the department shall compile the information from the most recent annual compliance statements under section 5204 (relating to artificial intelligence compliance statements) and issue a report to the General Assembly containing the compiled information, along with any other applicable findings and recommendations. The information in the report shall be aggregated and deidentified.

(b) Posting.--The department shall post each report under this section on the publicly accessible Internet website of the department.

§ 5207. Retention of records.

The department shall establish a record retention policy and determine the amount of time an insurer shall retain records. The department may request input from insurers or their representatives in making this determination.

§ 5208. Oversight.

The department may request additional information and evidence from an insurer regarding the items provided under

sections 5202 (relating to disclosure), 5203 (relating to responsible use) and 5204 (relating to artificial intelligence compliance statements) that are necessary to ensure compliance with this chapter.

§ 5209. Third-party vendor.

A contractor, subcontractor or other third-party vendor that sells, leases, subscribes or otherwise supplies artificial intelligence-based algorithms or services based on artificial intelligence-based algorithms to the insurer services shall be subject to this chapter. The department shall develop regulations or guidelines regarding the responsibility of a contractor, subcontractor or other third-party vendor that sells, leases, subscribes or otherwise supplies artificial intelligence-based algorithms or services based on artificial intelligence-based algorithms to the insurer. The department may request input from insurers, third-party vendors and health care providers or their representatives in making this determination.

§ 5210. Exemption.

This chapter shall not apply to artificial intelligence-based algorithms used for administrative, scheduling or other purposes not pertaining to the insurer's decision to deny, reduce or terminate benefits.

§ 5211. Enforcement and penalties.

(a) Civil penalties.--

(1) Subject to paragraph (2), the department may impose a civil penalty not exceeding \$5,000 for a violation of this chapter. For purposes of this paragraph, each instance of nondisclosure shall constitute a separate violation of this chapter.

(2) The following apply to limitations on civil

1 penalties under this subsection:

2 (i) A civil penalty imposed against an insurer may
3 not exceed \$500,000 in the aggregate during a single
4 calendar year.

5 (ii) A civil penalty imposed against any other
6 person may not exceed \$100,000 in the aggregate during a
7 single calendar year.

8 (b) Unfair Insurance Practices Act.--

9 (1) An insurer shall be subject to the act of July 22,
10 1974 (P.L.589, No.205), known as the Unfair Insurance
11 Practices Act.

12 (2) A violation of any provision of this chapter shall
13 be deemed to be a violation of the Unfair Insurance Practices
14 Act.

15 (c) Injunction.--The department may maintain an action in
16 the name of the Commonwealth for an injunction to prohibit any
17 activity that violates the provisions of this chapter.

18 (d) Effect on enrollment.--The department may issue an order
19 temporarily prohibiting an insurer that violates this chapter
20 from enrolling new covered persons.

21 (e) Nonexclusive remedies.--The enforcement remedies and
22 penalties imposed under this chapter are in addition to any
23 other remedies or penalties that may be imposed under any other
24 applicable law of this Commonwealth, including:

25 (1) The Unfair Insurance Practices Act.

26 (2) The act of December 18, 1996 (P.L.1066, No.159),
27 known as the Accident and Health Filing Reform Act.

28 (3) The act of June 25, 1997 (P.L.295, No.29), known as
29 the Pennsylvania Health Care Insurance Portability Act.

30 § 5212. Plan of correction.

1 (a) Authorization.--The department may require an insurer to
2 develop and adhere to a plan of correction approved by the
3 department. The department may impose a plan of correction in
4 lieu of fines.

5 (b) Compliance.--The department shall monitor compliance
6 with the plan of correction under this section.

7 (c) Availability.--The plan of correction shall, upon
8 request, be made available to covered persons of the insurer.

9 § 5213. Administrative procedures.

10 (a) Applicable procedures.--This chapter shall be subject to
11 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
12 Commonwealth agencies).

13 (b) Appeal.--A party against whom penalties are assessed in
14 an administrative action may appeal to Commonwealth Court as
15 provided in 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial
16 review of Commonwealth agency action).

17 § 5214. Regulations and guidance.

18 The department shall promulgate regulations or guidance
19 necessary to implement, administer and enforce this chapter. The
20 department shall review regulations or guidance every three
21 years to ensure compliance with Federal law or Federal agency
22 guidance.

23 CHAPTER 53

24 ARTIFICIAL INTELLIGENCE USE BY MA OR CHIP

25 MANAGED CARE PLANS

26 Sec.

27 5301. Definitions.

28 5302. Disclosure.

29 5303. Responsible use.

30 5304. Artificial intelligence compliance statements.

1 5305. Health care provider requirements.

2 5306. Reports.

3 5307. Retention of records.

4 5308. Oversight.

5 5309. Third-party vendor.

6 5310. Exemption.

7 5311. Enforcement and penalties.

8 5312. Plan of correction.

9 5313. Administrative procedures.

10 5314. Regulations and guidance.

11 § 5301. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Agreement with the department." As follows:

16 (1) An agreement between an MA or CHIP managed care plan
17 and the department to manage the purchase and provision of
18 services.

19 (2) The term includes a county or multicounty agreement
20 with the department for behavioral health services.

21 "Artificial intelligence" or "AI." A machine-based system
22 that can, for a given set of human-defined objectives, make
23 predictions, recommendations or decisions influencing real or
24 virtual environments that use machine-based and human-based
25 inputs to perceive real and virtual environments, abstract the
26 perceptions into models through analysis in an automated manner
27 and use model inference to formulate options for information or
28 action. The term includes generative artificial intelligence
29 which is the class of models that emulate the structure and
30 characteristics of input data in order to generate derived

synthetic content which includes information such as images, videos, audio clips and text that has been significantly modified or generated by algorithms, including by artificial intelligence.

"Artificial intelligence-based algorithms." The programming and data sets that inform an artificial intelligence system.

"Department." The Department of Human Services of the Commonwealth.

"Enrollee." An individual who is entitled to receive health care services under an agreement with the department.

"Facility." A health care setting or institution providing health care services, including:

(1) A general, special, psychiatric or rehabilitation hospital.

(2) An ambulatory surgical facility.

(3) A cancer treatment center.

(4) A birth center.

(5) An inpatient, outpatient or residential drug and alcohol treatment facility.

(6) A facility licensed by the department's Office of Mental Health and Substance Abuse Services.

(7) A laboratory, imaging, diagnostic or other outpatient medical service or testing facility.

(8) A health care provider office or clinic that is owned by or employs a Commonwealth-licensed physician, physician assistant or nurse practitioner.

"Health care provider." As follows:

(1) A facility or individual who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth.

1 (2) The term does not include an individual providing
2 emergency services under a licensed emergency medical
3 services agency as defined in 35 Pa.C.S. § 8103 (relating to
4 definitions).

5 "Health care service." Any covered treatment, admission,
6 procedure or other services, including behavioral health,
7 prescribed or otherwise provided or proposed to be provided by a
8 health care provider to a covered person for the diagnosis,
9 prevention, treatment, cure or relief of a health condition,
10 illness, injury or disease under the terms of a health insurance
11 policy or agreement with the department.

12 "Medical Assistance or Children's Health Insurance Program
13 managed care plan" or "MA or CHIP managed care plan." As
14 defined under section 2102 of the act of May 17, 1921 (P.L.682,
15 No.284), known as The Insurance Company Law of 1921.

16 "Participating network provider." A health care provider
17 that has entered into a contractual or operating relationship
18 with an MA or CHIP managed care plan to participate in one or
19 more designated networks of the MA or CHIP managed care plan and
20 to provide health care services to enrollees under the terms of
21 the or an agreement with the department.

22 "Prior authorization request." As defined under section 2102
23 of The Insurance Company Law of 1921.

24 "Utilization review." As defined under section 2102 of The
25 Insurance Company Law of 1921.

26 § 5302. Disclosure.

27 (a) Duty to disclose.--An MA or CHIP managed care plan shall
28 disclose to a participating network provider and all enrollees
29 if artificial intelligence-based algorithms are or will be used
30 in the utilization review process of the MA or CHIP managed care

1 plan.

2 (b) Posting.--An MA or CHIP managed care plan shall post the
3 information about the use of artificial intelligence-based
4 algorithms in the utilization review process of the MA or CHIP
5 managed care plan on the publicly accessible Internet website of
6 the MA or CHIP managed care plan.

7 (c) Nature and frequency.--The department shall determine
8 the nature and frequency of disclosure requirements to
9 enrollees. The department may request input from MA or CHIP
10 managed care plans or their representatives in making this
11 determination.

12 § 5303. Responsible use.

13 (a) Compliance generally.--The criteria for the artificial
14 intelligence-based algorithms must comply with this chapter and
15 applicable Federal and State law.

16 (b) Requirements for artificial intelligence-based
17 algorithms.--For each instance in which a MA or CHIP managed
18 care plan uses artificial intelligence-based algorithms in the
19 utilization review process regarding an enrollee, the MA or CHIP
20 managed care plan shall comply with the following:

21 (1) The artificial intelligence-based algorithms must
22 base a determination on all of the following:

23 (i) The medical or other clinical history of the
24 enrollee.

25 (ii) Individual clinical or nonclinical
26 circumstances as presented by the requesting health care
27 provider.

28 (iii) Other relevant clinical or nonclinical
29 information contained in the medical or other clinical
30 record of the enrollee.

1 (2) The artificial intelligence-based algorithms must
2 not base a determination solely on a group data set.

3 (3) The artificial intelligence-based algorithms must
4 not supersede decision making of the health care provider
5 conducting the utilization review.

6 (4) The artificial intelligence-based algorithms and
7 training data sets must not directly or indirectly
8 discriminate against the enrollees in violation of Federal or
9 State law.

10 (5) The artificial intelligence-based algorithms must be
11 fairly and equitably applied, including in accordance with
12 any applicable regulations and guidance issued by the United
13 States Department of Health and Human Services.

14 (6) The use of the artificial intelligence-based
15 algorithms must be disclosed in accordance with section 5302
16 (relating to disclosure).

17 (7) The performance, use and outcomes of the artificial
18 intelligence-based algorithms must be periodically reviewed
19 and revised to maximize accuracy and reliability.

20 (8) The data of the covered person or enrollees must not
21 be used beyond the intended and stated purpose of the
22 artificial intelligence-based algorithms, consistent with the
23 laws of this Commonwealth and the Health Insurance
24 Portability and Accountability Act of 1996 (Public Law 104-
25 191, 110 Stat. 1936), as applicable.

26 (9) The artificial intelligence-based algorithms must
27 not create foreseeable, material risks of harm to the
28 enrollee.

29 § 5304. Artificial intelligence compliance statements.

30 (a) Compliance statement required.--An MA or CHIP managed

1 care plan using artificial intelligence-based algorithms in the
2 utilization review process shall annually file with the
3 department, in the form and manner prescribed by the department,
4 an artificial intelligence compliance statement.

5 (b) Contents.--Each compliance statement must:

6 (1) Summarize the function and scope of the artificial
7 intelligence-based algorithms used for utilization review.

8 (2) Provide a logic or decision tree of artificial
9 intelligence-based algorithms used for utilization review.

10 (3) Provide a description of each training data set used
11 by artificial intelligence-based algorithms for utilization
12 review, including the source of the data.

13 (4) Attest that the artificial intelligence-based
14 algorithms and the training data sets comply with section
15 5303 (relating to responsible use) and provide evidence of
16 the compliance.

17 (5) Describe the process of the MA or CHIP managed care
18 plan for overseeing and validating the performance and
19 compliance of the artificial intelligence-based algorithms in
20 accordance with section 5303.

21 § 5305. Health care provider requirements.

22 Prior to issuing or upholding a decision to deny, reduce or
23 terminate benefits for a health care service, including a
24 decision to deny a prior authorization request, a health care
25 provider who participates in utilization review on behalf of an
26 MA or CHIP managed care plan shall:

27 (1) Review individual clinical records and other
28 relevant information.

29 (2) Document the review under paragraph (1).

30 (3) Based on the review under paragraph (1), exercise

1 judgment independent of any recommendations by the artificial
2 intelligence-based algorithms.

3 § 5306. Reports.

4 (a) Annual report required.--No later than one year after
5 the effective date of this chapter, and annually thereafter, the
6 department shall compile the information from the most recent
7 annual compliance statements under section 5304 (relating to
8 artificial intelligence compliance statements) and issue a
9 report to the General Assembly containing the compiled
10 information, along with any other applicable findings and
11 recommendations. The information in the report shall be
12 aggregated and deidentified.

13 (b) Posting.--The department shall post each report under
14 this section on the publicly accessible Internet website of the
15 department.

16 § 5307. Retention of records.

17 The department shall establish a record retention policy and
18 determine the amount of time an MA or CHIP managed care plan
19 shall retain records. The department may request input from an
20 MA or CHIP managed care plan or their representative to make
21 this determination.

22 § 5308. Oversight.

23 The department may request additional information and
24 evidence from an MA or CHIP managed care plan regarding the
25 items provided under section 5302 (relating to disclosure), 5303
26 (relating to responsible use) and 5304 (relating to artificial
27 intelligence compliance statements) that are necessary to ensure
28 compliance with this chapter.

29 § 5309. Third-party vendor.

30 A contractor, subcontractor or other third-party vendor that

sells, leases, subscribes or otherwise supplies artificial intelligence-based algorithms or services based on artificial intelligence-based algorithms to the MA or CHIP managed care plan shall be subject to this chapter. The department shall develop regulations or guidelines regarding the responsibility of a contractor, subcontractor or other third-party vendor that sells, leases, subscribes or otherwise supplies artificial intelligence-based algorithms or services based on artificial intelligence-based algorithms to the insurer or MA or CHIP managed care plan. The department may request input from insurers, third-party vendors and health care providers or their representatives in making this determination.

§ 5310. Exemption.

This chapter shall not apply to artificial intelligence-based algorithms used for administrative, scheduling or other purposes not pertaining to the decision to deny, reduce or terminate benefits.

§ 5311. Enforcement and penalties.

(a) Civil penalties.--

(1) Subject to paragraph (2), the department may impose a civil penalty not exceeding \$5,000 for a violation of this chapter. For purposes of this paragraph, each instance of nondisclosure shall constitute a separate violation of this chapter.

(2) The following apply to limitations on civil penalties under this subsection:

(i) A civil penalty imposed against an insurer may not exceed \$500,000 in the aggregate during a single calendar year.

(ii) A civil penalty imposed against any other

1 person may not exceed \$100,000 in the aggregate during a
2 single calendar year.

3 (b) Unfair Insurance Practices Act.--

4 (1) An MA or CHIP managed care plan shall be subject to
5 the act of July 22, 1974 (P.L.589, No.205), known as the
6 Unfair Insurance Practices Act.

7 (2) A violation of any provision of this chapter shall
8 be deemed to be a violation of the Unfair Insurance Practices
9 Act.

10 (c) Injunction.--The department may maintain an action in
11 the name of the Commonwealth for an injunction to prohibit any
12 activity that violates the provisions of this chapter.

13 (d) Effect on enrollment.--The department may issue an order
14 temporarily prohibiting an MA or CHIP managed care plan that
15 violates this chapter from enrolling new enrollees.

16 § 5312. Plan of correction.

17 (a) Authorization.--The department may require an MA or CHIP
18 managed care plan to develop and adhere to a plan of correction
19 approved by the department. The department may impose a plan of
20 correction in lieu of fines.

21 (b) Compliance.--The department shall monitor compliance
22 with the plan of correction under this section.

23 (c) Availability.--The plan of correction shall, upon
24 request, be made available to enrollees of the insurer or MA or
25 CHIP managed care plan.

26 § 5313. Administrative procedures.

27 (a) Applicable procedures.--This chapter shall be subject to
28 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
29 Commonwealth agencies).

30 (b) Appeal.--A party against whom penalties are assessed in

1 an administrative action may appeal to Commonwealth Court as
2 provided in 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial
3 review of Commonwealth agency action).
4 § 5314. Regulations and guidance.

5 The department shall promulgate regulations or guidance
6 necessary to implement, administer and enforce this chapter. The
7 department shall review regulations or guidance every three
8 years to ensure compliance with Federal law or Federal agency
9 guidance.

10 Section 3. This act shall take effect in one year.