

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1113 Session of
2026

INTRODUCED BY PISCIOTTANO, COLLETT, HAYWOOD, FONTANA, HUGHES,
TARTAGLIONE, COSTA, VOGEL, SANTARSIERO AND CAPPELLETTI,
JANUARY 9, 2026

REFERRED TO INSTITUTIONAL SUSTAINABILITY AND INNOVATION,
JANUARY 9, 2026

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) Artificial-intelligence-based algorithms.--A facility

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

4 (1) Provided in all related written communications.

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

7 (b) Communications.--

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

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

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

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

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

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

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

29 § 3503. Responsible use.

30 (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.--A 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 subsection and each year thereafter,
28 the department shall compile the information from the most
29 recent annual compliance statements under section 3504 (relating
30 to 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

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

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

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

7 § 5202. Disclosure.

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

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

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

21 § 5203. Responsible use.

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

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

30 (1) The artificial-intelligence-based algorithms must

1 base a determination on all of the following:

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

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

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

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

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

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

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

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

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

29 (8) The data of the covered person must not be used
30 beyond the intended and stated purpose of the artificial-

intelligence-based algorithms, consistent with Commonwealth law and 42 U.S.C. Ch. 7, Subch. XI Part C (relating to administrative simplification), as applicable.

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

§ 5204. Artificial intelligence compliance statements.

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

(b) Contents.--A compliance statement must:

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

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

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

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

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

§ 5205. Health care provider requirements.

Prior to issuing or upholding a decision to deny, reduce or

1 terminate benefits for a health care service, including a
2 decision to deny a prior authorization request, a health care
3 provider who participates in utilization review on behalf of an
4 insurer shall:

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

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

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

11 § 5206. Reports.

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

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

24 § 5207. Retention of records.

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

29 § 5208. Oversight.

30 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.

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

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

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

9 (b) Unfair Insurance Practices Act.--

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

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

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

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

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

26 (1) The Unfair Insurance Practices Act.

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

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

1 § 5212. Plan of correction.

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

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

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

10 § 5213. Administrative procedures.

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

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

18 § 5214. Regulations and guidance.

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

24 CHAPTER 53

25 ARTIFICIAL INTELLIGENCE USE BY MA OR CHIP

26 MANAGED CARE PLANS

27 Sec.

28 5301. Definitions.

29 5302. Disclosure.

30 5303. Responsible use.

1 5304. Artificial intelligence compliance statements.

2 5305. Health care provider requirements.

3 5306. Reports.

4 5307. Retention of records.

5 5308. Oversight.

6 5309. Third-party vendor.

7 5310. Exemption.

8 5311. Enforcement and penalties.

9 5312. Plan of correction.

10 5313. Administrative procedures.

11 5314. Regulations and guidance.

12 § 5301. Definitions.

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

16 "Agreement with the department." As follows:

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

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

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

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

1 the laws of this Commonwealth.

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

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

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

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

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

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

27 § 5302. Disclosure.

28 (a) Artificial-intelligence-based algorithms.--An MA or CHIP
29 managed care plan shall disclose to a participating network
30 provider and all enrollees if artificial-intelligence-based

algorithms are or will be used in the utilization review process of the MA or CHIP managed care plan.

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

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

§ 5303. 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 MA or CHIP managed care plan uses artificial-intelligence-based algorithms in the utilization review process regarding an enrollee, the MA or CHIP managed care plan shall comply with the following:

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

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

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

(iii) Other relevant clinical or nonclinical information contained in the medical or other clinical

record of the enrollee.

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

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

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

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

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

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

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

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

§ 5304. Artificial intelligence compliance statements.

1 (a) Compliance statement required.--An MA or CHIP managed
2 care plan using artificial-intelligence-based algorithms in the
3 utilization review process shall annually file with the
4 department, in the form and manner prescribed by the department,
5 an artificial intelligence compliance statement.

6 (b) Contents.--A compliance statement must:

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

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

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

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

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

22 § 5305. Health care provider requirements.

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

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

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

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

4 § 5306. Reports.

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

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

17 § 5307. Retention of records.

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

23 § 5308. Oversight.

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

30 § 5309. 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 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.

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

4 (b) Unfair Insurance Practices Act.--

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

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

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

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

17 § 5312. Plan of correction.

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

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

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

27 § 5313. Administrative procedures.

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

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

5 § 5314. Regulations and guidance.

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

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