

## 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 3513 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-

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

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

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

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

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

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

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

23 (6) Patient data must not be used beyond the intended  
24 and stated purpose of the artificial-intelligence-based  
25 algorithms, consistent with the laws of this Commonwealth and  
26 42 U.S.C. Ch. 7 Subch. XI Part C (relating to administrative  
27 simplification), as applicable.

28 (7) The artificial-intelligence-based algorithms must  
29 not create foreseeable, material risks of harm to the  
30 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.

(v) A Medicare supplement policy.

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

(vii) A fixed indemnity policy.

(viii) A hospital indemnity policy.

(ix) A workers' compensation policy.

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

(xi) A homeowner's insurance policy.

"Insurer." As follows:

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

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

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

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

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

"Participating network provider." A health care provider that has entered into a contractual or operating relationship with an insurer to participate in one or more designated 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-

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

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

7 § 5204. Artificial intelligence compliance statements.

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

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

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

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

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

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

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

29 § 5205. Health care provider requirements.

30 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

1 evidence from an insurer regarding the items provided under  
2 sections 5202 (relating to disclosure), 5203 (relating to  
3 responsible use) and 5204 (relating to artificial intelligence  
4 compliance statements) that are necessary to ensure compliance  
5 with this chapter.

6 § 5209. Third-party vendor.

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

19 § 5210. Exemption.

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

24 § 5211. Enforcement and penalties.

25 (a) Civil penalties.--

26 (1) Subject to paragraph (2), the department may impose  
27 a civil penalty not exceeding \$5,000 for a violation of this  
28 chapter. For purposes of this paragraph, each instance of  
29 nondisclosure shall constitute a separate violation of this  
30 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 person may not exceed \$100,000 in the aggregate during a single calendar year.

(b) Unfair Insurance Practices Act.--

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

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

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

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

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

(1) The Unfair Insurance Practices Act.

(2) The act of December 18, 1996 (P.L.106-159), known as the Accident and Health Filing Reform Act.

(3) The act of June 25, 1997 (P.L.295, No.29), known as 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.

CHAPTER 53

## ARTIFICIAL INTELLIGENCE USE BY MA OR CHIP

## 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

1 characteristics of input data in order to generate derived  
2 synthetic content which includes information such as images,  
3 videos, audio clips and text that has been significantly  
4 modified or generated by algorithms, including by artificial  
5 intelligence.

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

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

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

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

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

16 (2) An ambulatory surgical facility.

17 (3) A cancer treatment center.

18 (4) A birth center.

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

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

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

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

28 "Health care provider." As follows:

29 (1) A facility or individual who is licensed, certified  
30 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

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

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

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

13 § 5303. Responsible use.

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

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

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

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

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

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

1                   record of the enrollee.

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

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

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

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

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

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

21                   (8) The data of the covered person or enrollees must not  
22                   be used beyond the intended and stated purpose of the  
23                   artificial-intelligence-based algorithms, consistent with the  
24                   laws of this Commonwealth and the Health Insurance  
25                   Portability and Accountability Act of 1996 (Public Law 104-  
26                   191, 110 Stat. 1936), as applicable.

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

30                   § 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.

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

14       § 5310. Exemption.

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

19       § 5311. Enforcement and penalties.

20       (a) Civil penalties.--

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

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

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

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

(b) Unfair Insurance Practices Act.--

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

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

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

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

§ 5312. Plan of correction.

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

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

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

### § 5313. Administrative procedures.

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