1   HB515

2   NR3MY8T-1

3   By Representative Shirey

4   RFD: Insurance

5   First Read: 03-Apr-25

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4 SYNOPSIS:

5   Existing law regulates "utilization review," the

6   process by which health care insurers determine whether

7   a medical treatment requested by a health care

8   professional is covered under the health benefit plan.

9   This bill would impose limitations on how health

10   insurers employ artificial intelligence in utilization

11   review. The decision to cover or deny a treatment would

12   always be made by a competent health care professional,

13   who may consult with or consider a recommendation by

14   artificial intelligence, but must also consider the

15   particular circumstances of the insured as assessed by

16   the attending health care provider.

17   Health insurers would also be required by this

18   bill to disclose to individuals enrolled in the health

19   benefit plan, and to network health care providers,

20   that artificial intelligence is used in making coverage

21   determinations.

22   This bill would further provide that persons who

23   claim to be injured as a result of a health insurer's

24   use of artificial intelligence may have a civil action

25   for damages.

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28   A BILL

TO BE ENTITLED

AN ACT

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32   Relating to health insurance; to regulate the use by

33   insurers of artificial intelligence in making coverage

34   determinations; to require that a health care professional

35   make an insurer's determination of medical necessity for

36   treatments; and to provide a civil action for persons who

37   claim injury due to use of artificial intelligence by an

38   insurer.

39   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

40   Section 1. (a) For the purposes of this section, the

41   following terms have the following meanings:

42   (1) ARTIFICIAL INTELLIGENCE. A machine-based system

43   that may include software or physical hardware that performs

44   tasks, based upon data set inputs, which require human-like

45   perception, cognition, planning, learning, communication, or

46   physical action and which is capable of improving performance

47   based upon learned experience without significant human

48   oversight toward influencing real or virtual environments.

49   (2) HEALTH BENEFIT PLAN. a. Any plan, policy, or

50   contract issued, delivered, or renewed in this state that

51   provides health coverage that includes payment for

52   hospitalization, physician care, treatment, surgery, therapy,

53   drugs, equipment, and any other medical expense, regardless of

54   whether the plan is for a group or individual.

55   b. The term does not include accident-only, specified

56   disease, individual hospital indemnity, credit, dental-only,

57 Medicare supplement, long-term care, disability income, or

58 other limited benefit health insurance policies, or coverage

59 issued as supplemental to liability insurance, workers'

60 compensation, or automobile medical payment insurance.

61   (3) INSURER. Any entity that issues, delivers, or

62 renews a health benefit plan, or performs utilization

63 management or utilization review for a health benefit plan,

64 including an insurer regulated pursuant to Title 27, Code of

65 Alabama 1975, a health maintenance organization established

66 under Chapter 21A of Title 27, Code of Alabama 1975, a health

67 care service corporation established under Article 6, Chapter

68 20, Title 10A, Code of Alabama 1975, or a pharmacy benefits

69 manager regulated under Chapter 45A, Title 27, Code of Alabama

70 1975.

71   (4) PATIENT. An insured individual enrolled in a health

72 benefit plan.

73   (5) PERSON. The term includes, but is not limited to,

74 an individual, corporation, limited liability company,

75 partnership, unincorporated association, trust, or any other

76 legal entity.

77   (6) UTILIZATION MANAGEMENT or UTILIZATION REVIEW. A

78 protocol for the prospective or concurrent determination of

79 the appropriateness of a health care service or treatment for

80 coverage under a health benefit plan.

81   (b)(1) An insurer that uses artificial intelligence, an

82 algorithm, or other software tool to perform utilization

83 management or utilization review functions, or which contracts

84 with another person to use artificial intelligence, an

85 algorithm, or other software tool to perform utilization

86 management or utilization review functions, that purport to be

87 based in whole or in part on medical necessity, shall adhere

88 to all of the following requirements when making a coverage

89 determination:

90   a. Uses the relevant clinical information in the

91 patient's medical history.

92   b. Uses the patient's unique clinical circumstances as

93 presented by the requesting provider or concurrent with the

94 request for determination.

95   c. Does not base the determination solely on a group

96 dataset.

97   d. Does not ignore health care provider decision

98 making.

99   e. Does not discriminate directly or indirectly against

100 a patient in violation of state or federal law, including any

101 regulations or guidance issued by the federal Department of

102 Health and Human Services.

103   f. Follows criteria and protocols that comply with this

104 section, Chapter 3A of Title 27, Code of Alabama 1975, and

105 other applicable state and federal law.

106   (2) Notwithstanding the requirements listed in

107 subdivision (1), the determination of medical necessity shall

108 always be made by a licensed physician or other health care

109 professional who is competent to evaluate any recommendation

110 or conclusion of artificial intelligence, an algorithm, or

111 other software tool in the light of the specific clinical

112 issues involved in the health care treatment requested or

113 recommended by the health care provider who is treating the

114 patient.

115   (c) An insurer shall do all of the following:

116   (1) Make prominent written disclosure to enrollees in a

117 health benefit plan, and to health care providers who contract

118 with the insurer, that artificial intelligence, an algorithm,

119 or other software tool is used in utilization management or

120 utilization review to contribute information to determinations

121 of medical necessity.

122   (2) Periodically review use of artificial intelligence,

123 an algorithm, or other software tool, and the outcomes that

124 they generate, including the percentage of denials or

125 modifications of treatment in relation to the total number of

126 requests for the same or similar health care treatment.

127   (3) Ensure that patient data used in utilization review

128 or utilization management functions by artificial

129 intelligence, an algorithm, or other software tool is not used

130 beyond its intended and stated purpose consistent with the

131 federal Health Insurance Portability and Accountability Act

132 (HIPAA), 42 U.S.C. § 1320d et seq.

133   (d) A person who is injured by a violation of this

134 section may bring a civil action in a court of competent

135 jurisdiction in the county in which the injury occurred

136 against an insurer or contractor for compensatory or punitive

137 damages, injunctive relief, and reasonable costs and attorney

138 fees.

139   (e) The Alabama Department of Insurance may adopt rules

140 to enforce this section.

141   Section 2. This act shall become effective on October
142   1, 2025.