

By: Campbell

S.B. No. 1411

A BILL TO BE ENTITLED

AN ACT

relating to the use of artificial intelligence-based algorithms by health benefit plan issuers, utilization review agents, health care providers, and physicians.

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

SECTION 1. Chapter 544, Insurance Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. ARTIFICIAL INTELLIGENCE USE

Sec. 544.701. DEFINITIONS. In this subchapter:

(1) "Adverse determination" has the meaning assigned by Section 4201.002.

(2) "Artificial intelligence-based algorithm" means any artificial system that:

(A) performs tasks under varying and unpredictable circumstances without significant human oversight;

or

(B) is able to learn from experience and improve performance when exposed to data sets.

(3) "Enrollee" means an individual entitled to coverage under a health benefit plan.

(4) "Health benefit plan" means a plan that provides benefits for medical, surgical, or other treatment expenses incurred as a result of a health condition, a mental health condition, an accident, sickness, or substance abuse, including an

1 individual, group, blanket, or franchise insurance policy or
2 insurance agreement, a group hospital service contract, or an
3 individual or group evidence of coverage or similar coverage
4 document.

5 (5) "Health benefit plan issuer" means an insurance
6 company, association, organization, group hospital service
7 corporation, or health maintenance organization that delivers or
8 issues for delivery a health benefit plan. The term includes:

9 (A) a life, health, and accident insurance
10 company operating under Chapter 841 or 982;

11 (B) a general casualty insurance company
12 operating under Chapter 861;

13 (C) a statewide mutual assessment company
14 operating under Chapter 881;

15 (D) a mutual life insurance company operating
16 under Chapter 882;

17 (E) a mutual insurance company operating under
18 Chapter 883 that writes coverage other than life insurance;

19 (F) a stipulated premium company operating under
20 Chapter 884;

21 (G) a fraternal benefit society operating under
22 Chapter 885;

23 (H) a local mutual aid association operating
24 under Chapter 886;

25 (I) a mutual assessment company or mutual
26 assessment life, health, and accident association operating under
27 Chapter 887;

1 (J) a Lloyd's plan operating under Chapter 941;
2 and
3 (K) a reciprocal exchange operating under
4 Chapter 942.

5 (6) "Health care," "health care provider," "medical
6 care," and "physician" have the meanings assigned by Section
7 74.001, Civil Practice and Remedies Code.

8 (7) "Specialist" means a physician or health care
9 provider whose practice is not limited to primary medical or health
10 care services and who has additional postgraduate or specialized
11 training, has board certification, or practices in a licensed
12 specialized area of medicine or health care.

13 (8) "Utilization review" and "utilization review
14 agent" have the meanings assigned by Section 4201.002.

15 Sec. 544.702. PROHIBITED DISCRIMINATION. (a) A health
16 benefit plan issuer may not discriminate on the basis of race,
17 color, national origin, gender, age, vaccination status, or
18 disability through the use of clinical artificial
19 intelligence-based algorithms in the issuer's decision making.

20 (b) This section does not prohibit the use of clinical
21 artificial intelligence-based algorithms that rely on variables to
22 appropriately make decisions, including to identify, evaluate, and
23 address medical or health care.

24 Sec. 544.703. DISCLOSURE OF UTILIZATION REVIEW USE. A
25 health benefit plan issuer shall publish on a publicly accessible
26 part of the issuer's Internet website and provide in writing to each
27 enrollee, and any physician or health care provider contracting

1 with the issuer or providing services to an enrollee, a disclosure
2 regarding whether the issuer uses or may use artificial
3 intelligence-based algorithms in the issuer's utilization review
4 process.

5 Sec. 544.704. SUBMISSION OF ALGORITHM AND TRAINING DATA TO
6 DEPARTMENT. (a) A health benefit plan issuer shall submit an
7 artificial intelligence-based algorithm and training data sets
8 that are used or may be used in the issuer's utilization review
9 process to the department in the form and manner prescribed by the
10 commissioner.

11 (b) The commissioner shall develop and implement a process
12 for the department to certify that an artificial intelligence-based
13 algorithm and related data sets submitted to the department under
14 Subsection (a) have minimized the risk of discrimination prohibited
15 by Section 544.702 and adhere to evidence-based clinical
16 guidelines.

17 Sec. 544.705. UTILIZATION REVIEW BY SPECIALIST REQUIRED. A
18 utilization review agent that uses artificial intelligence-based
19 algorithms to perform an initial review shall require that a
20 specialist open and document the utilization review of an
21 individual's clinical records or data before making an adverse
22 determination against that individual.

23 Sec. 544.706. ANNUAL CONSUMER REPORT CARDS. (a) The office
24 of public insurance counsel shall include in the office's annual
25 consumer report cards developed and issued under Section 501.252
26 information identifying and comparing, on an objective basis, the
27 use of artificial intelligence-based algorithms by health benefit

1 plan issuers and utilization review agents in this state.

2 (b) The department and the Health and Human Services
3 Commission shall collaborate with and provide assistance to the
4 office of public insurance counsel in developing the information
5 required by this section to be included in the annual consumer
6 report cards.

7 SECTION 2. Subtitle A, Title 3, Occupations Code, is
8 amended by adding Chapter 117 to read as follows:

9 CHAPTER 117. USE OF ARTIFICIAL INTELLIGENCE

10 Sec. 117.001. DEFINITIONS. In this chapter:

11 (1) "Artificial intelligence-based algorithm" has the
12 meaning assigned by Section 544.701, Insurance Code.

13 (2) "Commission" means the Health and Human Services
14 Commission.

15 (3) "Health care," "health care provider," "medical
16 care," and "physician" have the meanings assigned by Section
17 74.001, Civil Practice and Remedies Code.

18 Sec. 117.002. PROHIBITED DISCRIMINATION. (a) A physician
19 or health care provider may not discriminate on the basis of race,
20 color, national origin, gender, age, vaccination status, or
21 disability through the use of clinical artificial
22 intelligence-based algorithms when providing a medical or health
23 care service.

24 (b) This section does not prohibit the use of clinical
25 artificial intelligence-based algorithms that rely on variables to
26 appropriately make decisions, including to identify, evaluate, and
27 address medical or health care.

1 Sec. 117.003. OVERSIGHT. The office of inspector general
2 for the commission shall conduct investigations into fraud and
3 abuse related to use of artificial intelligence-based algorithms in
4 medical or health care and violations of this chapter.

5 Sec. 117.004. NOTICE OF VIOLATION OR UNSUBSTANTIATED
6 COMPLAINT. (a) Not later than the 15th day after the date the
7 inspector general determines that a violation of this chapter has
8 occurred, the inspector general shall provide written notice by
9 certified mail to the affected physician or health care provider
10 that:

11 (1) includes:

12 (A) a brief summary of the alleged violation; and

13 (B) a statement of the recommended penalty and
14 administrative action; and

15 (2) informs the physician or provider of the
16 physician's or provider's right to a hearing.

17 (b) A physician or health care provider must submit a
18 written request for a hearing not later than the 30th business day
19 after the date the physician or provider receives the notice
20 described by Subsection (a).

21 (c) Not later than the 10th day after the date the inspector
22 general determines that a violation of this chapter has not
23 occurred after receiving a complaint, the inspector general shall
24 provide written notice to the affected physician or health care
25 provider of findings that the allegations in the complaint are not
26 substantiated.

27 Sec. 117.005. ENFORCEMENT. (a) Subject to this section, a

1 physician or health care provider who violates this chapter is
2 subject to:

3 (1) suspension or revocation of the physician's or
4 provider's license, certificate, or other authority to provide
5 medical or health care services in this state;

6 (2) refusal, for a period not to exceed one year, to
7 issue a new license, certificate, or other authority to provide
8 medical or health care services in this state to the physician or
9 provider;

10 (3) a fine of not more than \$5,000 for each violation;

11 (4) a fine of not more than \$10,000 for each
12 intentional violation; or

13 (5) a combination of the penalties described by
14 Subdivisions (1), (2), (3), and (4).

15 (b) A fine imposed under Subsection (a) may not exceed
16 \$50,000 in the aggregate during a single calendar year.

17 (c) Sanctions provided by this section are in addition to
18 any other sanction provided by this code or other applicable laws,
19 including:

20 (1) Chapter 106, Civil Practice and Remedies Code;

21 (2) Chapter 81D, Health and Safety Code; or

22 (3) a civil rights law.

23 Sec. 117.006. PUBLIC AWARENESS AND EDUCATION CAMPAIGN. (a)
24 The commission, in consultation with the Texas Department of
25 Insurance, shall develop and implement a public awareness and
26 education campaign designed to educate the public on:

27 (1) a person's rights with respect to the use of, and

1 the limits on the use of, artificial intelligence-based algorithms
2 in connection with medical and health care and health benefits;

3 (2) the value and availability of artificial
4 intelligence-based algorithms, and their limitations, in
5 connection with medical and health care and health benefits; and

6 (3) the method for reporting allegations of wrongdoing
7 related to the use of artificial intelligence-based algorithms in
8 connection with medical and health care and health benefits.

9 (b) The commission may coordinate the implementation of the
10 campaign with any other state outreach campaign or activity
11 relating to artificial intelligence-based algorithms.

12 SECTION 3. The provisions of this Act are severable, and if
13 any provision of this Act or the application of the provision to any
14 person or circumstance is declared invalid for any reason, the
15 declaration does not affect the validity of the remaining portions
16 of this Act.

17 SECTION 4. (a) Subchapter O, Chapter 544, Insurance Code,
18 as added by this Act, applies only to a health benefit plan
19 delivered, issued for delivery, or renewed on or after January 1,
20 2026.

21 (b) Chapter 117, Occupations Code, as added by this Act,
22 applies only to a medical or health care service provided on or
23 after January 1, 2026.

24 SECTION 5. This Act takes effect September 1, 2025.