SYNOPSIS:

Existing law does not regulate the use of artificial intelligence in the decision-making process, or utilization review, on requests for coverage of services under a health benefit plan.

This bill would prohibit health insurers from depending exclusively on artificial intelligence to determine such requests and would require the decision to deny or reduce coverage to always be made by a qualified health care professional.

This bill would require health insurers to disclose if artificial intelligence is used in making coverage determinations to a plan sponsor or an individual, depending on whether the health benefit plan is for a group or is purchased by an individual.

This bill would further authorize the Department of Insurance of the State of Alabama to take disciplinary action against insurers for violations.

A BILL

TO BE ENTITLED

AN ACT

Relating to health insurance; to impose limitations on the use of artificial intelligence by insurers in making

determinations of coverage under health benefit plans; and to authorize the Department of Insurance of the State of Alabama to investigate and impose disciplinary action for violations.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) For the purposes of this section, the following terms have the following meanings:

(1) ARTIFICIAL INTELLIGENCE. A machine-based system that may include software or physical hardware that performs tasks, based upon data set inputs, which require human-like perception, cognition, planning, learning, communication, or physical action and which is capable of improving performance based upon learned experience without significant human oversight toward influencing real or virtual environments.

(2) DEPARTMENT. The Department of Insurance of the State of Alabama.

(3) ENROLLEE. An individual to whom an insurer is contractually obligated to pay for or provide medical benefits under a health benefit plan.

(4) GROUP PLAN. A health benefit plan that is sponsored by an employer or other entity on behalf of group members.

(5) HEALTH BENEFIT PLAN. a. Any plan, policy, or contract issued, delivered, or renewed in this state that provides medical benefits that include payment for hospitalization, physician care, treatment, surgery, therapy, drugs, equipment, and any other medical expense, regardless of whether the plan is for a group or individual.

b. The term does not include accident-only, specified disease, individual hospital indemnity, credit, dental-only,

Medicare supplement, long-term care, disability income, or other limited benefit health insurance policies, or coverage issued as supplemental to liability insurance, workers' compensation, or automobile medical payment insurance.

(6) HEALTH CARE SERVICE. Diagnosing, testing, monitoring, or treating a human disease, disorder, syndrome, illness, or injury that may include, but not be limited to, hospitalization, physician care, treatment, surgery, therapy, drugs, or medical equipment.

(7) INDIVIDUAL PLAN. A health benefit plan that is purchased directly by an individual.

(8) INSURER. The term includes all of the following:

a. Any entity that issues, delivers, or renews a health benefit plan, including a person as defined in Section 27-1-2, a health maintenance organization established under Chapter 21A of Title 27, Code of Alabama 1975, a nonprofit health care services plan established under Article 6, Chapter 20 of Title 10A, Code of Alabama 1975, or a nonprofit agricultural organization that offers health care benefits pursuant to Chapter 33 of Title 2, Code of Alabama 1975.

b. Any department or office internal to an entity described in paragraph a. which performs utilization review.

c. Any separate entity that performs utilization review as a contractor or agent of an entity described in paragraph a.

(9) PRIOR AUTHORIZATION. A written or oral determination made by an insurer that a health care service is a benefit covered under the applicable health benefit plan

which, under the enrollee's clinical circumstances, is medically necessary or satisfies another requirement imposed by the insurer or law and thus satisfies the requirements for payment or reimbursement.

(10) UTILIZATION REVIEW. The determination of requests for prior authorization under a health benefit plan according to the rules, health care service policies, and guidelines adopted by an insurer, or requirements imposed by law, and applicable to a health benefit plan.

(b)(1) An insurer that uses artificial intelligence to make determinations on requests for prior authorization under health benefit plans shall base determinations on all of the following:

a. The enrollee's medical history.

b. Any clinical circumstances unique to the enrollee which are presented by the requesting health care provider.

c. Additional clinical information about the enrollee which may be present in the enrollee's medical record.

(2) An insurer shall certify annually to the department that the artificial intelligence used to make determinations on requests for prior authorization complies with all of the following:

a. Does not rely solely on a group dataset to make determinations.

b. Is configured and applied in a fair manner for each subscriber group and enrollee such that resulting determinations are consistent for enrollees who present with similar clinical considerations.

c. Does not discriminate directly or indirectly against any subscriber group or enrollee in violation of state or federal law, including any regulation or guidance issued by the federal Department of Health and Human Services.

(3) In addition to the requirements listed in subdivisions (1) and (2), a determination to deny, reduce, or defer a request for prior authorization shall always be made by a licensed physician or other health care professional who is competent to evaluate any recommendation or conclusion of artificial intelligence in the light of the specific clinical issues involved in the health care service requested which are unique to the enrollee's circumstances or as recommended by the treating health care provider.

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

(1) Make prominent written disclosure if artificial intelligence is used as a tool to contribute information in utilization review to:

a. The sponsor in the case of a group plan; or

b. The enrollee in the case of an individual plan.

(2) Certify annually to the department that: (i) use of artificial intelligence and the outcomes that it generates are reviewed on a periodic basis to maximize accuracy and reliability; and (ii) use of artificial intelligence in utilization review complies with the requirements of subsection (b).

(3) Ensure that patient data used in utilization review functions by artificial intelligence is not used beyond its intended and stated purpose consistent with the federal Health

Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 1320d et seq.

(d)(1) When the department has reasonable grounds to believe that an insurer has or is engaged in conduct that violates subsection (b), including making determinations of prior authorization adverse to an enrollee without taking into consideration the enrollee's medical history and relevant clinical circumstances, the department may notify the insurer of the alleged violation and the insurer shall respond to the notice within 30 days.

(2) If the department finds the response required in subdivision (1) to be unsatisfactory, the department may hold a hearing as provided in Article 1, Chapter 2 of Title 27, Code of Alabama 1975.

(3) If, upon hearing the case, the department determines that the insurer has or is engaged in conduct that violates subsection (b), including making determinations of prior authorization adverse to an enrollee without taking into condideration the enrollee's medical history and relevant clinical circumstances, the department may do any of the following:

a. Impose a plan upon the insurer to correct procedures, policies, and guidelines to bring the insurer's utilization review into compliance with this section.

b. For repeat violations, impose upon the insurer the disciplinary measures provided in Section 27-3A-6(d), Code of Alabama 1975.

(e) The department shall adopt rules to enforce this

section.

Section 2. This act shall become effective on October 1, 2026.