



Texas Association of Health Plans

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Dear Chairman Capriglione and Members of the AI & Emerging Technology Select Committee,

As the statewide association representing health insurers, HMOs, Medicaid managed care, and other health plans that provide coverage for over 20 million Texans, the Texas Association of Health Plans (TAHP) appreciates the opportunity to share our perspective on how to thoughtfully approach artificial intelligence (AI) regulation in health insurance.

As policymakers explore how to regulate AI, we urge caution to avoid overregulation of an already highly regulated industry. The Texas Department of Insurance (TDI) already possesses the authority needed to oversee AI as one of many tools that insurers use to enhance affordability, improve care coordination, and ensure timely access to benefits. By introducing new AI-specific regulations that duplicate existing authorities, the state risks creating unnecessary complexity, conflicting regulatory requirements, and potentially stifling innovation. Other states, such as Connecticut and Colorado, have addressed this by allowing their Departments of Insurance to regulate AI through their existing frameworks, ensuring consistency without imposing unnecessary additional regulations.

TAHP strongly encourages state policymakers to rely on nationally vetted frameworks and standards when considering new legislation. Doing so will help prevent regulatory duplication, maintain a streamlined oversight structure, and foster continued innovation. Additionally, non-generative AI systems—such as algorithms designed to perform specific tasks based on predefined rules and logic—have been in use for many years. Recently, newer applications, including generative AI, have begun to emerge. Any regulation of AI should recognize these distinctions, focusing oversight on higher-risk AI applications while allowing room for innovation that benefits consumers.

Insurance Regulators are Prepared to Account for AI Regulations

State insurance regulators, who have deep expertise in the industry, are better positioned to develop rules governing AI in insurance. They understand the intricacies of risk modeling, underwriting, and claims management, and they can develop industry-specific guidelines for the responsible use of AI. The insurance industry is leveraging AI for numerous innovations, including improving fraud detection, streamlining claims processing, and enhancing customer service. Overly restrictive or broad AI laws, not tailored for this unique and already highly



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regulated industry, could stifle innovation by making it harder for insurers to develop and implement new AI-driven technologies with benefits for consumers.

Recent state approaches to regulating AI have carved out insurance, giving state regulators the flexibility to design rules that are more informed by industry needs. This can lead to more practical, balanced regulations that allow for AI's benefits while managing its risks in the insurance context. Carving out insurance would also allow for more tailored, industry-specific regulations that can foster innovation while ensuring consumer protection. This ensures health plans can still explore and implement cutting-edge AI technologies without unnecessary regulatory burdens.

For example, Connecticut, included the following language in their AI bill:

*Any insurer, as defined in section 38a-1 of the general statutes, or fraternal benefit society, within the meaning of section 38a-595 of the general statutes, shall be deemed to be in full compliance with the provisions of sections 1 to 8, inclusive, of this act **if such insurer or fraternal benefit society has implemented and maintains a written artificial intelligence systems program in accordance with all requirements established by the Insurance Commissioner.**¹*

This language ensures that health plans are regulated, yet it removes the risk of having duplicative and potentially contradictory requirements. It also allows their state Insurance Commissioner to regulate the industry. Similarly, Colorado also carved out insurers, instead deferring to their state laws.²

Industry Trends for Utilizing AI

Health insurers are cautiously adopting artificial intelligence (AI) to enhance operational efficiency and improve services for Texans. Recognizing that much of today's AI is language-based and not specifically tailored to health care claims processing, insurers are focusing on applications that streamline administrative tasks. This includes automating forms, accelerating and simplifying data collection for prior authorizations, and speeding up real-time approvals of PAs. Additionally, AI is being used to analyze trends in consumer concerns and complaints to better address customer needs. Separately, AI helps detect patterns indicative of fraud, waste, and abuse, safeguarding resources and protecting consumers. In the meantime, we

¹ [Connecticut General Assembly, SB 2 \(February Session, 2024\).](#)

² [Colorado General Assembly, SB 24-205 \(2024 Regular Session\).](#)



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are collaborating with AI developers to better understand our systems and claims processes, aiming to further enhance efficiency and accuracy in the future.

Streamlining Prior Authorizations with AI

Prior authorizations (PAs) are essential for ensuring patients receive appropriate and necessary medical care. However, the PA process can be time-consuming and administratively burdensome for both health plans and health care providers. Many PA requests are still submitted via fax, requiring health plan staff to extract and process the information manually, increasing workload and slowing down the approval process.

- **Automating Faxed Requests:** Health insurers are adopting AI technology to automate the intake of faxed PA requests. AI can extract the required information from faxed documents in real time, reducing the need for manual data entry. For example, one health plan implemented AI to handle faxed PAs and reduced processing time by an entire business day. Given that PAs typically take between one to three days to process, saving a full day is a significant improvement that benefits both providers and patients.
- **Integrating Electronic Medical Records:** For providers connected through electronic medical record (EMR) systems, AI acts as a “digital assistant.” Instead of manually compiling and submitting clinical information, AI tools automatically pull relevant patient records from the EMR system to complete PA requests. This automation saves doctors valuable time and reduces administrative burden. Health plans have reported that using AI in this way reduces response times for PA requests by 25%, helping patients receive approvals more quickly.
- **Real-Time Authorization Checks:** New AI technologies can instantly cross-check PA requirements. They inform providers in real time if a PA is not required for a specific service or medication, eliminating unnecessary paperwork. This immediate feedback allows providers to proceed with patient care without delay.
- **Expedited Approvals for Trusted Providers:** AI helps health plans analyze data to identify providers who consistently deliver appropriate and high-quality care. By examining patterns in treatment outcomes and adherence to best practices, AI can recognize these trusted providers. For such providers, health plans may streamline the prior authorization process by granting automatic approvals for certain services. This



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reduces the administrative workload for both the providers and the health plans. By minimizing paperwork and speeding up approvals, patients receive timely access to care, and providers can focus more on patient treatment rather than administrative tasks.

- **Maintaining Human Oversight:** It's important to note that health insurers are using AI primarily to reduce time spent on administrative tasks or to provide automatic approvals to providers who already have high rates of approvals. Texas has specific requirements that mandate a doctor, or "human in the loop," be involved in any decision to deny a prior authorization request.

Enhancing Customer Service with AI

Providing exceptional customer service is a top priority for health insurers, and AI technology is playing a significant role in elevating the member experience. By leveraging AI, health plans can personalize interactions, resolve issues more efficiently, and proactively address member needs.

- **Intelligent Call Routing:** Health plans are using AI to differentiate between callers and route them to the most appropriate customer service representative. For example, a 25-year-old healthy individual with a straightforward inquiry might be connected to a newer customer service agent. In contrast, a member with complex health conditions—such as someone managing chronic illnesses or awaiting a transplant—is immediately directed to a senior representative experienced in handling intricate medical cases. This intelligent call routing ensures that members receive the level of expertise required for their specific situations, reducing wait times and improving satisfaction.
- **Early Detection of Customer Concerns:** AI enables health insurers to quickly analyze incoming calls and customer feedback to identify trends and systemic issues. By monitoring patterns in real time, plans can detect if multiple members are experiencing the same problem or confusion about a particular benefit. This allows the insurer to address the issue promptly—whether it's clarifying information, adjusting processes, or providing additional training to staff—thereby enhancing the overall customer experience.
- **Improved Accessibility and Convenience:** AI-powered chatbots and virtual assistants are also being implemented to offer members immediate answers to common questions at any time of day. These tools provide quick assistance without the need to wait on hold,



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and can seamlessly transfer members to a live representative if more help is needed. This improves accessibility and ensures members can get support when they need it.

- **Commitment to Privacy and Compliance:** While enhancing customer service through AI, health plans remain committed to protecting member privacy and complying with all regulatory requirements. AI tools are designed with robust security measures to safeguard personal health information, ensuring that data is used responsibly and ethically.

Creating Smarter Systems with AI

Artificial intelligence (AI) is instrumental in developing smarter systems within the health insurance industry, enhancing efficiency, accuracy, and adaptability. By integrating AI into their operations, health insurers are automating complex processes, reducing errors, and responding swiftly to new challenges—all of which lead to better service for providers and patients.

- **Real-Time Error Detection and Claims Processing:** Processing health insurance claims is a complex task prone to errors due to the intricacies of medical coding and billing practices. AI technology can identify common errors in claims submissions by analyzing data patterns and detecting anomalies. When a potential error is spotted, the AI system alerts providers in real time, allowing them to correct the information immediately. This proactive approach reduces processing errors, speeds up claim approvals, and ensures that providers receive payments more quickly. By minimizing delays and inaccuracies, AI enhances the overall efficiency of the claims process.
- **Enhanced Fraud, Waste, and Abuse Detection:** Fraud, waste, and abuse represent significant challenges in the health care industry, leading to substantial financial losses each year. AI methods support efforts to detect suspicious activities by analyzing vast amounts of data to identify unusual patterns or behaviors. For example, AI can flag instances where billing exceeds typical amounts for certain procedures, where services are duplicated, or where there are discrepancies in patient information. By scrutinizing these requests before they are processed, AI enables insurers to conduct appropriate investigations, preventing fraudulent payments and protecting valuable resources. This not only reduces costs but also helps maintain the integrity of the health care system.



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Established Patient Protections Already Extend to AI

Texas does not need additional AI protections for prior authorization. The Legislature has already established strong patient protections with strict “human-in-the-loop” requirements. Only a Texas doctor can determine if care is not medically necessary—not a computer, an algorithm, or AI. Also, before denying a prior authorization, an insurer must give a physician a chance to discuss the decision with a doctor in the same or similar specialty. A final appeal determination must be made by a physician, and the ordering doctor can ask for a review by a physician in the same or similar specialty.

Insurers are also required to protect consumers against discriminatory bias. Federal law prohibits insurers from discriminating based on race, color, national origin, sex, age, or disability. State laws have similar protected classes. However, any new legislation aiming to address bias should ensure non-discriminatory biased tools can continue to be used, such as those that identify people at high risk of type 2 diabetes and other population health concerns.

Regulating Third Party AI Providers

Insurers often rely on third parties or contractors to perform certain functions within their delivery models—we expect that AI will be no different. While insurers will maintain their own safeguards to protect enrollees from AI-related discriminatory bias and other potential negative impacts, AI is unique because many of its functions are proprietary or not fully accessible to the insurer. We encourage the legislature to adopt a balanced approach that holds third-party vendors accountable for adhering to insurers’ AI-related policies and standards. This ensures that vendors are responsible for their own compliance, without unfairly penalizing insurers for violations that occur outside of their knowledge or control. This standard would mirror the current requirements for third parties under HIPAA compliance rules. Consistent with the HITECH Act, HIPAA rules apply directly to these third parties, making them directly liable for violations.

Ensuring Appropriate Risk Categorization

In adopting an AI law, the legislature should differentiate between uses of AI that have the potential to be higher risk. In its Model Bulletin on the Use of AI Systems by Insurers, the National Association of Insurance Commissioners (NAIC) requires insurers to base controls and processes on the degree of risk posed to consumers. The NAIC instruct that this risk-based framework should be based on the following factors:



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- (i) the nature of the decisions being made, informed, or supported using the AI System;*
- (ii) the type and Degree of Potential Harm to Consumers resulting from the use of AI Systems;*
- (iii) the extent to which humans are involved in the final decision-making process;*
- (iv) the transparency and explainability of outcomes to the impacted consumer; and*
- (v) the extent and scope of the insurer's use or reliance on data, Predictive Models.*

Similarly, any action taken by the legislature should empower insurers to make these determinations and act accordingly. A one-size-fits all approach to AI, rather than a risk-based framework, would severely stifle innovation and create a tremendous administrative burden for the state. Further, we encourage the legislature to leverage existing frameworks, such as the National Artificial Intelligence Initiative Act of 2020 (NIST) and the Organisation for Economic Co-operation and Development AI Principals (OECD), to promote consistency of interpretation and application, and to avoid patchwork regulations.

Correctly Defining Key Terms & Standardized Frameworks

To the extent possible, definitions of terms such as “Algorithm,” “Artificial Intelligence,” “Machine Learning” and others should follow terminology that has been nationally vetted by diverse stakeholders and based on existing standards. Nationally accepted authorities such as the NIST and others, have studied and evaluated many AI-related terms leveraging stakeholder input. Alignment with established terms will decrease confusion and promote consistency for consumers, providers, and plans from state to state and with federal agencies. This is essential in a rapidly developing field such as AI. For example, here is the NIST definition of Artificial Intelligence:

(1) A branch of computer science devoted to developing data processing systems that perform functions normally associated with human intelligence, such as reasoning, learning, and self-improvement.

(2) The capability of a device to perform functions that are normally associated with human intelligence such as reasoning, learning, and self-improvement.

Existing national frameworks and standards such as the NIST AI Risk Management Framework will ensure that state efforts are streamlined and not duplicative. This vetted NIST AI Framework should be leveraged as lawmakers consider core components of AI legislation, such as



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definitions, to provide consistent direction to regulatory agencies in implementing any federal governance and oversight framework.

We sincerely appreciate the opportunity to provide testimony on this critical issue. We hope that the legislature will take steps towards ensuring that AI is regulated without creating duplicative requirements or stifling innovation. We look forward to continuing to engage in these discussions throughout the legislative session.

Sincerely,

A handwritten signature in black ink that reads "Jamie Dudensing". The signature is written in a cursive, flowing style.

Jamie Dudensing, RN
CEO
Texas Association of Health Plans