HB5918

103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5918

by Rep. Bob Morgan

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 100/5-45.65 new

Creates the Artificial Intelligence Systems Use in Health Insurance Act. Provides that the Department of Insurance's regulatory oversight of insurers includes oversight of an insurer's use of AI systems to make or support adverse determinations that affect consumers. Provides that any insurer authorized to operate in the State is subject to review by the Department in an investigation or market conduct action regarding the development, implementation, and use of AI systems or predictive models and the outcomes from the use of those AI systems or predictive models. Provides that an insurer authorized to do business in Illinois shall not issue an adverse consumer outcome with regard to the denial, reduction, or termination of insurance plans or benefits that result solely from the use or application of any AI system or predictive model. Provides that any decision-making process for the denial, reduction, or termination of insurance plans or benefits that results from the use of AI systems or predictive models shall be meaningfully reviewed, in accordance with review procedures determined by Department rules, by an individual with authority to override the AI systems and determinations. Authorizes the Department to adopt emergency rules to implement the Act and to adopt rules concerning standards for full and fair disclosure of an insurer's use of AI systems. Makes a conforming change in the Illinois Administrative Procedure Act.

A BILL FOR

1   AN ACT concerning regulation.

2   **Be it enacted by the People of the State of Illinois,**

3   **represented in the General Assembly:**

4   Section 1. Short title. This Act may be cited as the

5   Artificial Intelligence Systems Use in Health Insurance Act.

6   Section 5. Definitions. In this Act:

7   "Adverse consumer outcome" means a decision by an insurer

8   that is subject to insurance regulatory standards enforced by

9   the Department that adversely impacts the consumer in a manner

10 that violates those standards or any claim denial as

11 determined by the use of an AI System.

12   "AI system" means a machine-based system that can, with

13 varying levels of autonomy, for a given set of objectives,

14 generate outputs such as predictions, recommendations, content

15 (such as text, images, videos, or sounds), or other outputs

16 influencing decisions made in real or virtual environments.

17   "AI systems program" means a written program for the

18 responsible use of AI systems that makes or supports decisions

19 related to regulated insurance practices to be developed,

20 implemented, and maintained by all insurers authorized to do

21 business in the State.

22   "Algorithm" means a clearly specified mathematical process

23 for computation and a set of rules that, if followed, will give

1   a prescribed result.

2   "Artificial   intelligence" or "AI" means a branch of

3   computer   science   that   uses   data   processing   systems   that

4   perform functions normally associated with human intelligence,

5   such as reasoning, learning, and self-improvement, or the

6   capability of a device to perform functions that are normally

7   associated   with   human   intelligence,   such   as   reasoning,

8   learning, and self-improvement. "Artificial intelligence" or

9   "AI" includes machine learning.

10   "Department" means the Department of Insurance.

11   "Machine   learning"   means   a   field   within   artificial

12   intelligence that focuses on the ability of computers to learn

13   from provided data without being explicitly programmed.

14   "Predictive model" means the processing of historic data

15   using algorithms or machine learning to identify patterns and

16   predict outcomes that can be used to make decisions or support

17   decision-making.

18   "Third party" means an organization other than the insurer

19   that provides services, data, or other resources related to

20   AI.

21   Section 10. Regulatory oversight of the use of AI systems.

22   (a) The Department's regulatory oversight of insurers

23   includes oversight of an insurer's use of AI systems to make or

24   support adverse determinations that affect consumers. Any

25   insurer authorized to operate in the State is subject to

1   review by the Department in an investigation or market conduct

2   action regarding the development, implementation, and use of

3   AI systems or predictive models and the outcomes from the use

4   of those AI systems or predictive models. The Department may

5   also request other information or documentation relevant to an

6   investigation or market conduct action, and an insurer must

7   comply with that request. The Department's inquiries may

8   include, but are not limited to, questions regarding any

9   specific model, AI system, or application of a model or AI

10   system. The Department may also make requests for information

11   and documentation relating to AI systems governance, risk

12   management, and use protocols; information and documentation

13   relating to the insurer's preacquisition and preutilization

14   diligence, monitoring, and auditing of data or AI systems

15   developed by a third party; and information and documentation

16   relating to implementation and compliance with the insurer's

17   AI systems program.

18   (b) An insurer authorized to do business in this State

19   shall not issue an adverse consumer outcome with regard to the

20   denial, reduction, or termination of insurance plans or

21   benefits that result solely from the use or application of any

22   AI system or predictive model. Any decision-making process

23   concerning the denial, reduction, or termination of insurance

24   plans or benefits that results from the use of AI systems or

25   predictive models shall be meaningfully reviewed, in

26   accordance with review procedures established by Department

1   rules, by an individual with authority to override the AI
2   systems and their determinations.

3   Section 15. Disclosure of AI System utilization. The
4   Department of Insurance may adopt rules that include standards
5   for the full and fair disclosure of an insurer's use of AI
6   systems that set forth the manner, content, and required
7   disclosures.

8   Section 20. Compliance with Act. All insurers authorized
9   to do business in Illinois shall comply with this Act
10   regarding any decisions impacting consumers that are made or
11   supported by advanced analytical and computational
12   technologies, including AI systems and machine learning, and
13   must comply with all applicable insurance laws and
14   regulations, including laws addressing unfair trade practices
15   and unfair discrimination. All decisions made and actions
16   taken by authorized insurers using AI systems must comply with
17   applicable federal and State laws, regulations, and rules.

18   Section 25. Rulemaking. The Department may adopt rules,
19   including emergency rules, to implement and administer this
20   Act.

21   Section 90. The Illinois Administrative Procedure Act is
22   amended by adding Section 5-45.65 as follows:

1   (5 ILCS 100/5-45.65 new)

2   Sec. 5-45.65. Emergency rulemaking; Artificial

3 Intelligence Systems Use in Health Insurance Act. To provide

4 for the expeditious and timely implementation of the

5 Artificial Intelligence Systems Use in Health Insurance Act,

6 emergency rules implementing the Artificial Intelligence

7 Systems Use in Health Insurance Act may be adopted in

8 accordance with Section 5-45 by the Department of Insurance.

9 The adoption of emergency rules authorized by Section 5-45 and

10 this Section is deemed to be necessary for the public

11 interest, safety, and welfare.

12   This Section is repealed one year after the effective date

13 of this amendatory Act of the 103rd General Assembly.