



Good morning. My name is Jonathan Greer and I am the President and CEO of the Insurance Federation of Pennsylvania, a multi-line state trade association that includes commercial health insurers as its members. On behalf of our members, thank you for the opportunity to speak before you today on House Bill 1663 which seeks to regulate the use of Artificial Intelligence (AI) in health insurance.

Before we speak to the issue of AI in the health insurance space and House Bill 1663 itself, it is important to address the impetus behind this legislation as outlined in Rep. Venkat's co-sponsorship memo dated August 14, 2023. That memo specifically cites Cigna – an IFP member company – as denying more than 300,000 claims based on a review process that relied upon computer algorithms.

To clear the record, that review program – PXDX – was put into place to verify the procedure codes submitted by providers. The application of PXDX to these codes applied after care was rendered and was intended to expedite reimbursement. There was no use of AI or algorithms in this process and, since it was applied to post-claim codes, patient care was never impeded because of PXDX.

Having said that, AI is rapidly becoming a cornerstone of innovation across numerous industries, and the insurance sector is no exception. On balance, we think that's a good thing since – if used responsibly – AI has the potential to solve complex problems more efficiently and improve the healthcare system for everyone. Specifically, AI has the current capability to reduce administrative burdens, facilitate disease prediction, personalize care, and reduce fraud.

Recognizing the concerns this bill attempts to address, it's equally important to focus on how health insurers are NOT using AI.

- AI does not make coverage decisions. Coverage is based on the criteria and terms of member plans as well as clinical guidelines.
- AI does not issue clinical determinations and never replaces a health care provider's decision, including in the prior authorization process. Rather, it provides insights and information based on the latest medical knowledge, patient history, and historical outcomes.

With respect to prior authorization, House Bill 1663 requires health insurers to notify veritably everyone (providers, policyholders, and the general public) on the use, non-use, or future use of AI-based algorithms in the UR or prior authorization process. The bill further requires insurers to submit their respective AI algorithms to the Insurance Department for it to determine these algorithms have minimized the risk of “bias” based on an individual’s personal characteristics. This concern has already been addressed by the Insurance Department through its adoption of the NAIC’s model AI bulletin in April of this year.

The bulletin, which is partly based on the NAIC’s Principles of Artificial Intelligence which were adopted in 2020, sets forth the Department’s expectations as to how AI is to be used by insurers. This includes the development of policies and controls for the responsible use of AI systems that, among other things, are intended to mitigate the risk of adverse consumer outcomes. Most, if not all, of these internal governance controls were well established in the health insurance arena prior to publication of the notice and are regularly revisited to guard against unintended developments as this technology advances.

The NAIC’s continuing work in this area (which includes Commissioner Humphreys) also speaks to its national scope. To that end, we think any legislation in this area should be part of a national, uniform, risk-based framework that adopts nationally accepted terminology as developed by the National Institute for Science and Technology as well as the National Artificial Intelligence Initiative of 2020. Doing so will avoid the messy patchwork effect of state regulation that will undermine the cost savings and efficiencies achieved through AI.

We also think any discussion on the future use of AI warrants a broader discussion beyond health insurers. While AI remains in an embryonic state, media reports – including one in the July 10th edition of the New York Times – note it is already being used by providers as part of the appeals process. Separate media reports also indicate trial lawyers are now using it to streamline the time-consuming stages of litigation, particularly in the area of class action suits. We raise this not to deflect attention, but to rather point out the breadth of industries that have been or will be affected by the application of this technology and why this topic is best suited for a holistic conversation at the national level.

Thank you again for the opportunity to speak before you on this fascinating topic. I am happy to answer any questions.