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Guiding Greater Health

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April 8, 2025

Senator Donna Bailey, Senate Chair
Representative Kristi Mathieson, House Chair
Of the Joint Standing Committee on Health Coverage, Insurance and Financial Services
c/o Legislative Information Office
100 State House Station
Augusta, ME 04333

>**RE:**   **AHIP Comments on:**
>- **LD 955, An Act to Ensure Human Oversight in Medical Insurance Payment Decisions – OPPOSE**
>- **LD 1301, An Act to Prohibit the Use of Artificial Intelligence in the Denial of Health Insurance Claims – OPPOSE**

To Chairs Sen. Bailey and Rep. Mathieson, and Members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services,

On behalf of AHIP, thank you for the opportunity to comment on LD 955 and LD 1301, legislation that would regulate a health plan's use of artificial intelligence (AI) to review health care coverage and claims.

Health plans are using AI tools today to improve consumer experience, improve care and outcomes, streamline administrative processes and reduce costs. Examples include:

- *Consumers:* Supporting call center interactions and offering consumers convenient, around the clock access to interactive, personal support, and creating apps that provide financial estimates and connect consumers to care.
- *Clinical:* Helping clinicians identifying gaps in care, predicting patient risks, and monitoring for adverse outcomes to improve patient health and affordability.
- *Administration:* Reducing costs, speeding up claims processing, automating prior authorization (PA) *approvals*, and identifying fraud and abuse.

As more health services, wellness, and medical products incorporate AI, it is important to create balanced policies that promote innovation while protecting patients. As state policymakers address AI, it is essential to:

- **Take a Federal Approach:** A consistent national approach to AI oversight would ensure protection for all patients while minimizing additional administrative burdens and costs. Governor Jared Polis' signing statement on Colorado SB 24-205 stated, *"...the important work of protecting consumers...is better considered and applied by the federal government to limit varied compliance burdens on innovators and ensure access to life-saving and money-saving AI technologies for consumers."*[1]

- **Rely on Existing Laws.** New legislation should not duplicate laws and instead only fill gaps in existing health data and consumer protection laws and regulations. Entities regulated under state insurance laws should generally be exempt from additional state AI legislation. Insurers comply

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[1] https://drive.google.com/file/d/1i2cA3IG93VViNbzXu9LPgbTrZGqhyRgM/view.

with extensive federal and state laws already in place, including HIPAA, the Affordable Care Act, anti-discrimination laws, and corporate governance, that address health care privacy, security, bias, and other AI-related areas. States should build on these existing areas of law, rather than enacting overlapping regulatory structures that create complexity, confusion, and unnecessary costs that divert consumer premiums away from care and cause consumer confusion.

While Maine has not adopted the NAIC Model Bulletin on AI, the Bureau of Insurance earlier this year released a draft Bulletin that would have largely adopted the NAIC's model, thereby addressing several of the issues LD 955 and 1301 tackle. AHIP urges the Committee to wait for recommendations from Maine's AI Task Force convened by the Governor which will be delivered by October 2025. Passing any AI legislation prior to these important guidances could create overly complex, if not conflicting, regulatory frameworks.

- **Define AI:** Legislation should define AI and other terms consistent with the National Institute of Standards and Technology (NIST) AI Risk Management Framework[2] to build a national shared language. Alignment in terminology and definitions provides clarity, facilitates consistent implementation, builds consumer trust, reduces compliance burdens, and supports interoperability in a rapidly evolving field.

- **Provide High-Level Oversight.** Guardrails that permit flexibility should be established and technologies or standards that may become outmoded should not be named in law. States may choose to require entities to implement AI governance programs for AI system oversight. If so, these provisions should align with the NAIC AI Bulletin, which addresses:
  - AI governance and risk management controls,
  - Internal audit functions, and
  - Reviews of purchased AI systems.

Overly prescriptive laws will dampen innovation and reduce access to beneficial consumer technologies. The guidelines included in the NAIC AI Bulletin have broad regulatory and industry support following extensive stakeholder review.

- **Promote Risk-Based Approaches:** Policies should point to risk-based standards and confine third-party evaluation requirements or government audits to "high-risk" uses. States should not require insurers to seek third-party external reviews. Health insurers may develop AI solutions for their internal business purposes that present minimal risk. They do not generally develop general-purpose AI, sell such applications to others, or use them for direct patient care. Audits, if required, should be risk-based, and focus only on large-scale general-purpose AI (e.g., foundational models) and high-impact AI (e.g., high-risk clinical decisions). While progress is being made, there is no gold standard against which to assess AI policies, procedures, technologies, and their application. Poorly designed audits will fail to identify issues while imposing significant compliance burdens. Reporting, if any, should also be risk-based and aligned with the HIPAA "material change" standard, requiring updates only after significant AI system changes. Comprehensive reporting would be cost prohibitive given the wide-ranging use of AI solutions, and annual or other time-based reporting would require significant resources for little to no change.

- **Promote Intellectual Property:** Policies should require developers to provide sufficient transparency for deployers and explainability for consumers and should not put American companies at a competitive disadvantage by requiring disclosure of proprietary information.

- **Support AI in Prior Authorization.** Policies should support uses of AI in a manner that is safe, secure, ethical, and transparent, including its use in utilization management, such as prior

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[2] *AI Risk Management Framework.* National Institute of Standards and Technology, U.S. Department of Commerce. July 26, 2024. https://www.nist.gov/itl/ai-risk-management-framework.

authorization (PA), which ensures care is safe, effective, and evidence based. As technology evolves, AI can further streamline PA through:

- *Automated Algorithms* – to **approve** requests (denials based on clinical factors are not made without human review);
- *Machine Learning* – to automatically retrieve necessary documentation in the electronic health record;
- *Natural Language Processing* – to parse clinical notes to identify documentation;
- *Image Recognition* – to identify pictures, radiographic films, etc.;
- *Generative AI* – to pre-populate the PA request for the clinician to review and submit; and
- *Clinical Decision Support* – within the electronic health records to diminish the need for PA by ensuring care is evidenced-based.

AI can shorten decision making, reduce provider burden, increase administrative efficiency, ensure the safety and quality of care, reduce costs and enhance affordability for patients. Legislation should not broadly prohibit the use of AI within the PA process. AI can create efficiencies including near real-time approvals and expedited requests. In the process of PA, only humans make final determinations resulting in denials based on clinical factors.

AHIP Recommendations. For these reasons, *AHIP urges the Committee not to pass LD 955 and LD 1301.* Balanced AI policies can promote innovation, enhance patient care, and protect consumers. Policymakers should prioritize national standards, risk-based approaches, and leverage existing laws while avoiding duplicative regulations, unfeasible mandates, and private rights of action.

AHIP welcomes ongoing collaboration to advance effective, responsible AI legislation that supports patients, providers, purchasers of health care, and insurers.

Sincerely,

Sarah Lynn Geiger, MPA
Regional Director, State Affairs
America's Health Insurance Plans

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