**TESTIMONY OF JOANNE RAWLINGS-SEKUNDA**
**DIRECTOR, CONSUMER HEALTH CARE DIVISION**
**BUREAU OF INSURANCE**
**DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**In opposition to L.D. 955 and L.D. 1301**

**L.D. 955, An Act to Ensure Human Oversight in Medical Insurance Payment Decisions**

**L.D. 1301, An Act to Prohibit the Use of Artificial Intelligence in the Denial of Health Insurance Claims**

**Presented by Senator Martin (L.D. 955) and Senator Tipping (L.D. 1301)**

**Before the Joint Standing Committee on Health Coverage, Insurance & Financial Services**

**April 8, 2025 at 1:00pm**

Senator Bailey, Representative Mathieson, and members of the Committee, I am Joanne Rawlings-Sekunda, Director of the Consumer Health Care Division at the Bureau of Insurance. I am here today to testify in opposition to LDs 955 and 1301.

These bills regulate a carrier's use of artificial intelligence (AI) in evaluating prior authorization of medical claims. Although we do not oppose the concept of regulating health carriers' use of AI in making claims decisions, we have strong technical concerns with both bills. Moreover, we believe that current utilization

review requirements in the Bureau's Rule Chapter 850 address the consumer protection concerns these bills seek to address.

***LD 955***

First, LD 955 prohibits not only denials or adjustments in utilization reviews from being based solely on AI, but also approvals. If a service is approved by the carrier's AI system, requiring a second source to approve it seems unnecessary and could lead to delays in treatment.

Second, LD 955 requires that before a carrier denies benefits or reduces payments based on utilization reviews using AI, a State-licensed physician must conduct a review, including evaluations of medical necessity, the professional judgement of the enrollee's provider, and the impact of the denial or payment reduction on the enrollee's health.

Rule chapter 850(8)(D)(2), covering adverse health care treatment decisions and operational requirements, requires that "qualified health care professionals" evaluate the clinical appropriateness of adverse health care treatment decisions.[1] A qualified health care professional does not have to be a physician in situations where a different type of health care professional would be appropriate. The rule already provides consumer protection in this area.

Third, the bill establishes a separate right to appeal such a utilization determination under 24-A M.R.S. § 4303(4).[2] The Bureau questions whether the

[1] An "adverse health care treatment decision" is defined by Rule ch. 850(5)(A-1) as "a health care treatment decision made by or on behalf of a carrier offering a health plan denying in whole or in part payment for or provision of otherwise covered services requested on behalf of an enrollee."

[2] This subsection requires a carrier to establish and maintain grievance procedures for the resolution of claims denials, prior authorization denials or other matters by which enrollees are aggrieved.

establishment of a separate right to appeal claims denials is necessary when the denial was made by AI. The right to appeal both medical and non-medical claims denials already exists in Rule 850. A right to independent external review of medical necessity also exists in 24-A M.R.S. § 4312. We believe these existing consumer protections address this issue.

Fourth, the bill contains unnecessary reporting requirements. The information required in the bill is already collected from carriers under 24-A M.R.S §§ 2749 and 4302(2). This information, along with prior authorization data required by section 4302(2-A), must be posted annually on the Bureau's website beginning April 1, 2025.[3]

The Bureau does not believe quarterly reports from carriers would provide substantially more relevant information than an annual reporting requirement. It would, however, require substantially more data collection and more resources. In addition, the February 1 deadline for the Bureau to submit the additional annual report is unrealistic, as complete information from the carriers would not be available from the prior year to produce this report by February 1.

Finally, the bill requires the Bureau to adopt routine technical rules by November 1, 2025, to implement the portion of the bill related to carriers' use of artificial intelligence. The bill's language is unclear whether these rules would solely regulate the use of AI within utilization review and adverse determinations as described in the bill's Section 2, or a potentially larger use of AI within a carrier organization. The Bureau strongly objects to the deadline of November 1, 2025, to

[3] 24-A M.R.S. § 4302(2-B).

adopt rules. The multistep process of rulemaking, governed by the Maine Administrative Procedure Act,[4] prevents a new rule from being adopted in such a tight timeframe.

*LD 1301*

First, LD 1301 requires that a determination derived from the use of artificial intelligence may not "supplant the provider decision making." As with LD 955, this includes approvals, which limits the effectiveness of AI even as a screening tool that can help expedite approvals.

Second, the bill prohibits data from the use of AI to be used "beyond its intended and stated purpose." It is not clear what the "intended and stated purpose" of an item of data is – intended by whom and stated where? This prohibition could interfere with pharmaceutical step therapy, case management, quality programs and other important health programs.

Third, the bill's language contradicts itself by allowing medical determinations, including claim denials, to be made by AI as long as the bill's four elements are included, but then requires that a clinical peer make the determination for a medical necessity claim denial, delay, or modification.

Fourth, certain bill requirements duplicate existing statutes and regulations. Rule chapter 850 (8)(D)(2) already requires that a "clinical peer" evaluate the appropriateness of an adverse health care treatment decision. The Insurance Code

[4] 5 M.R.S. §§ 8051-8064.

already contains provisions that prohibit discrimination[5] and address data protection.[6]

Also of note, the Governor established in December 2024 an AI Task Force with the charge of studying and offering recommendations on topics in the scope of protecting Mainers from potentially harmful uses of AI. The Task Force launched its work in January 2025 and will offer recommendations in October 2025.

Thank you. I would be happy to answer any questions now or at the work session.

[5] 24-A M.R.S. § 4320-L.
[6] 24-A M.R.S. §§ 2261-2272.