BILL ANALYSIS

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As artificial intelligence (AI) technology rapidly expands, its adoption by health insurers has outpaced the establishment of necessary guardrails, leaving consumers unprotected. While artificial intelligence has significant potential to support the healthcare system, there is limited data on its usage or accuracy, and consumer protections remain absent. AI relies on algorithms to perform tasks, an approach that minimizes the unique needs of patients. Without safeguards, algorithms risk being designed to prioritize the interests of health insurance companies over patients. Reports of AI use by insurers are increasing, with applications ranging from processing documentation to reviewing claims and prior authorization requests.

The use of AI puts patients at risk. A lack of transparency leaves them vulnerable to faulty algorithms or missing critical details. The Texas Department of Insurance (TDI) also lacks clear authority to monitor and enforce compliance, highlighting the need for regulatory guidance and oversight.

S.B. 815 adds a new section to the Insurance Code that prohibits the use of artificial intelligence algorithms as the sole basis to deny, delay, or modify health care services, in whole or in part, for medical necessity reasons. The bill gives TDI the ability to audit and inspect a health benefit plan's use of AI for utilization review in order to ensure compliance with the prohibition.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 815 amends current law relating to the use of certain automated systems or personnel in, and certain adverse determinations made in connection with, the health benefits claims process.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 843, Insurance Code, by adding Section 843.114, as follows:

> Sec. 843.114. CERTAIN DISCLOSURES REQUIRED IN EXPLANATION OF BENEFITS. Requires a health maintenance organization to include in a written explanation of benefits provided to an enrollee and a physician or health care provider:
>
> > (1) a disclosure stating whether artificial intelligence was used in any part of the claims process, including coverage determinations and utilization review; and
> >
> > (2) if applicable, a plain language description of the method by which the health maintenance organization or utilization review agent used artificial intelligence.

SECTION 2. Amends Subchapter A, Chapter 1301, Insurance Code, by adding Section 1301.011, as follows:

Sec. 1301.011. CERTAIN DISCLOSURES REQUIRED IN EXPLANATION OF BENEFITS. Requires an insurer to include in a written explanation of benefits provided to an insured and a physician or health care provider:

(1) a disclosure stating whether artificial intelligence was used in any part of the claims process, including coverage determinations and utilization review; and

(2) if applicable, a plain language description of the method by which the insurer or utilization review agent used artificial intelligence.

SECTION 3. Amends Section 4201.002, Insurance Code, by amending Subdivision (1) and adding Subdivisions (1-a), (1-b), and (1-c), to redefine "adverse determination" and to define "algorithm," "artificial intelligence system," and "automated decision system."

SECTION 4. Amends Subchapter D, Chapter 4201, Insurance Code, by adding Section 4201.156, as follows:

Sec. 4201.156. USE OF AUTOMATED DECISION SYSTEM FOR ADVERSE DETERMINATIONS. (a) Prohibits a utilization review agent from using an automated decision system in any way to suggest, recommend, generate, provide, make, or assist in making, wholly or partly, an adverse determination. Provides that only an appropriate physician, dentist, or other licensed health care provider, as provided by and subject to Section 4201.254, is authorized to make an adverse determination in accordance with Section 4201.254.

(b) Authorizes the commissioner of insurance to audit and inspect at any time a utilization review agent's use of an automated decision system for utilization review.

(c) Provides that this section does not prohibit the use of an automated decision system for administrative or fraud-detection functions in connection with utilization review.

SECTION 5. Amends Subchapter F, Chapter 4201, Insurance Code, by adding Section 4201.254, as follows:

Sec. 4201.254. PERSONNEL REQUIRED FOR ADVERSE DETERMINATION. (a) Requires that an adverse determination be made by an appropriate physician, dentist, or other health care provider who is:

(1) an individual licensed in this state under Title 3 (Health Professions), Occupations Code; and

(2) acting in accordance with the laws of this state including requirements under Section 4201.252 (Personnel) and within the scope of the individual's applicable license issued under Title 3, Occupations Code.

(b) Requires that an adverse determination, for a health care service ordered, requested, provided, or to be provided by a physician, notwithstanding any other law, be made by a physician with a permanent unrestricted license to practice medicine in this state who is of the same or similar specialty as the physician who ordered, requested, provided, or proposes to provide the service.

SECTION 6. Amends Section 4201.303(a), Insurance Code, to require that notice of an adverse determination include a description of and, rather than or, the source of the screening criteria and review procedures used as guidelines in making the adverse determination.

SECTION 7. (a) Makes application of Sections 843.114 and 1301.011, Insurance Code, as added by this Act, prospective to January 1, 2026.

(b) Makes application of Chapter 4201, Insurance Code, as amended by this Act, prospective to January 1, 2026.

SECTION 8. Effective date: September 1, 2025.