1-1 By: Schwertner, Cook   S.B. No. 815
1-2   (In the Senate - Filed January 16, 2025; February 7, 2025,
1-3 read first time and referred to Committee on Business & Commerce;
1-4 March 13, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 2; March 13, 2025,
1-6 sent to printer.)

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 815   By: Schwertner

1-21   A BILL TO BE ENTITLED
1-22   AN ACT

1-23 relating to the use of certain automated systems or personnel in,
1-24 and certain adverse determinations made in connection with, the
1-25 health benefit claims process.
1-26   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-27   SECTION 1. Subchapter D, Chapter 843, Insurance Code, is
1-28 amended by adding Section 843.114 to read as follows:
1-29   Sec. 843.114. CERTAIN DISCLOSURES REQUIRED IN EXPLANATION
1-30 OF BENEFITS. A health maintenance organization shall include in a
1-31 written explanation of benefits provided to an enrollee and a
1-32 physician or health care provider:
1-33   (1) a disclosure stating whether artificial
1-34 intelligence was used in any part of the claims process, including
1-35 coverage determinations and utilization review; and
1-36   (2) if applicable, a plain language description of the
1-37 method by which the health maintenance organization or utilization
1-38 review agent used artificial intelligence.
1-39   SECTION 2. Subchapter A, Chapter 1301, Insurance Code, is
1-40 amended by adding Section 1301.011 to read as follows:
1-41   Sec. 1301.011. CERTAIN DISCLOSURES REQUIRED IN EXPLANATION
1-42 OF BENEFITS. An insurer shall include in a written explanation of
1-43 benefits provided to an insured and a physician or health care
1-44 provider:
1-45   (1) a disclosure stating whether artificial
1-46 intelligence was used in any part of the claims process, including
1-47 coverage determinations and utilization review; and
1-48   (2) if applicable, a plain language description of the
1-49 method by which the insurer or utilization review agent used
1-50 artificial intelligence.
1-51   SECTION 3. Section 4201.002, Insurance Code, is amended by
1-52 amending Subdivision (1) and adding Subdivisions (1-a), (1-b), and
1-53 (1-c) to read as follows:
1-54   (1) "Adverse determination" means a determination by a
1-55 utilization review agent that health care services provided or
1-56 proposed to be provided to a patient are not medically necessary or
1-57 appropriate or are experimental or investigational.
1-58   (1-a) "Algorithm" means a computerized procedure
1-59 consisting of a set of steps used to accomplish a determined task.
1-60   (1-b) "Artificial intelligence system" means any

2-1 machine learning-based system that, for any explicit or implicit
2-2 objective, infers from the inputs the system receives how to
2-3 generate outputs, including content, decisions, predictions, and
2-4 recommendations, that can influence physical or virtual
2-5 environments.
2-6 (1-c) "Automated decision system" means an algorithm,
2-7 including an algorithm incorporating an artificial intelligence
2-8 system, that uses data-based analytics to make, support, suggest,
2-9 or recommend certain determinations, decisions, judgments, or
2-10 conclusions.
2-11 SECTION 4. Subchapter D, Chapter 4201, Insurance Code, is
2-12 amended by adding Section 4201.156 to read as follows:
2-13 Sec. 4201.156. USE OF AUTOMATED DECISION SYSTEM FOR ADVERSE
2-14 DETERMINATIONS. (a) A utilization review agent may not use an
2-15 automated decision system in any way to suggest, recommend,
2-16 generate, provide, make, or assist in making, wholly or partly, an
2-17 adverse determination. As provided by and subject to Section
2-18 4201.254, only an appropriate physician, dentist, or other licensed
2-19 health care provider may make an adverse determination in
2-20 accordance with Section 4201.254.
2-21 (b) The commissioner may audit and inspect at any time a
2-22 utilization review agent's use of an automated decision system for
2-23 utilization review.
2-24 (c) This section does not prohibit the use of an automated
2-25 decision system for administrative or fraud-detection functions in
2-26 connection with utilization review.
2-27 SECTION 5. Subchapter F, Chapter 4201, Insurance Code, is
2-28 amended by adding Section 4201.254 to read as follows:
2-29 Sec. 4201.254. PERSONNEL REQUIRED FOR ADVERSE
2-30 DETERMINATION. (a) An adverse determination must be made by an
2-31 appropriate physician, dentist, or other health care provider who
2-32 is:
2-33 (1) an individual licensed in this state under Title
2-34 3, Occupations Code; and
2-35 (2) acting in accordance with the laws of this state
2-36 including requirements under Section 4201.252 and within the scope
2-37 of the individual's applicable license issued under Title 3,
2-38 Occupations Code.
2-39 (b) Notwithstanding any other law, for a health care service
2-40 ordered, requested, provided, or to be provided by a physician, an
2-41 adverse determination must be made by a physician with a permanent
2-42 unrestricted license to practice medicine in this state who is of
2-43 the same or similar specialty as the physician who ordered,
2-44 requested, provided, or proposes to provide the service.
2-45 (c) Nothing in this section authorizes an individual to act
2-46 outside of the scope of the individual's applicable license issued
2-47 under Title 3, Occupations Code.
2-48 SECTION 6. Section 4201.303(a), Insurance Code, is amended
2-49 to read as follows:
2-50 (a) Notice of an adverse determination must include:
2-51 (1) the principal reasons for the adverse
2-52 determination;
2-53 (2) the clinical basis for the adverse determination;
2-54 (3) a description of and [or] the source of the
2-55 screening criteria and review procedures used as guidelines in
2-56 making the adverse determination; and
2-57 (4) a description of the procedure for the complaint
2-58 and appeal process, including notice to the enrollee of the
2-59 enrollee's right to appeal an adverse determination to an
2-60 independent review organization and of the procedures to obtain
2-61 that review.
2-62 SECTION 7. (a) Sections 843.114 and 1301.011, Insurance
2-63 Code, as added by this Act, apply only to the provision of a health
2-64 care service under a health benefit plan delivered, issued for
2-65 delivery, or renewed on or after January 1, 2026.
2-66 (b) Chapter 4201, Insurance Code, as amended by this Act,
2-67 applies only to utilization review conducted for a health benefit
2-68 plan delivered, issued for delivery, or renewed on or after January
2-69 1, 2026. Utilization review conducted for a health benefit plan

3-1 delivered, issued for delivery, or renewed before January 1, 2026,
3-2 is governed by the law as it existed immediately before the
3-3 effective date of this Act, and that law is continued in effect for
3-4 that purpose.
3-5   SECTION 8. This Act takes effect September 1, 2025.

3-6   * * * * *