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Bill # / Title: Senate Bill 987 - Artificial Intelligence - Health Software and Health Insurance Decision Making

Committee: Senate Finance Committee

Position: Support

The Maryland Insurance Administration (MIA) appreciates the opportunity to share its support for Senate Bill 987.

Senate Bill 987 requires the Maryland Health Care Commission (MHCC) to maintain a registry of artificial intelligence (AI) health software that may be distributed or operated in the State and prohibits a person from distributing or operating AI health software unless the software is registered with MHCC. Additionally, Senate Bill 987 prohibits health insurance carriers from using AI to decide or directly influence a health care decision or a decision directly related to health care; however, it clarifies that the legislative intent is not to prevent carriers from using AI for tasks or decisions unrelated to health care.

As outlined in a recent Bulletin¹ published by the MIA regarding the use of AI systems in insurance, “AI techniques are deployed across all stages of the insurance life cycle, including product development, marketing, sales and distribution, underwriting and pricing, policy servicing, claim management, and fraud detection.” AI is transforming the insurance industry, but it also presents unique risks to consumers, including potential inaccuracies, data vulnerabilities, and a lack of transparency in how these tools are being used.

As AI continues to be rapidly developed and relied upon by carriers, it is essential to establish a strong foundation of transparency and information collection for regulatory agencies. Furthermore, the National Association of Insurance Commissioners’ (NAIC) consumer representatives recently shared a report on Artificial Intelligence and Health Insurance, specifically regarding the use of AI in utilization management, making recommendations for

¹<https://insurance.maryland.gov/Insurer/Documents/bulletins/24-11-The-Use-of-Artificial-Intelligence-Systems-in-Insurance.pdf>

policymakers on enforcement.² The MIA believes that Senate Bill 987's registry is an important step in moving forward the recommendations made in this report in Maryland.

The legislation also prohibits the use of AI in deciding or directly influencing a health care decision or a decision related to health care. It is the MIA's view that current Maryland law prohibits health insurers from making determinations of medical necessity via AI. Importantly, this legislation also prohibits direct influencing of a health care decision by AI - a strong consumer protection.

For these reasons, the MIA urges a favorable committee report for Senate Bill 987.

² Report available at https://content.naic.org/sites/default/files/national_meeting/Final-CR-Report-AI-and-Health-Insurance-11.14.24.pdf