SENATE COUNSEL, RESEARCH, & FISCAL ANALYSIS

BILL SUMMARY

# S.F. No. 1856 (1st engrossment) – Usage of artificial intelligence in the utilization review process prohibition provision

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*Bill Overview*

Utilization review is a process used by health insurers to evaluate the medical necessity of health care services sought by an enrollee. Existing state law requires a physician or other appropriate specialist to review and make all adverse determinations that are based on clinical reasoning. However, artificial intelligence can currently be used elsewhere in the utilization review process to identify potential clinical concerns and non-clinical administrative deficiencies. **S.F. 1856** would prohibit all uses of artificial intelligence in the utilization review process and authorizes the attorney general to enforce this ban. The bill further requires a physician making an adverse determination in the utilization review process to attest that artificial intelligence was not used in doing so.

*Section Summaries*

**Section 1 (adds Minn. Stat. § 62M.02, subd. 2a; Artificial intelligence)** This section creates a definition for the term "artificial intelligence." The definition utilizes a cross-reference to 15 U.S.C. § 9401, which defines "artificial intelligence" to mean "a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments. Artificial intelligence systems use machine and human-based inputs to (A) perceive real and virtual environments; (B) abstract such perceptions into models through analysis in an automated manner; and (C) use model inference to formulate options for information or action."

**Section 2 (amends Minn. Stat. § 62M.09, subd. 3; Physician reviewer; adverse determinations)** This section requires a physician that makes an adverse determination based on clinical reasons to attest in writing that artificial intelligence was not used in the utilization process.

**Section 3 (adds Minn. Stat. § 62M.20; Prohibition on Artificial Intelligence)** This section prohibits the use of artificial intelligence in utilization review. The prohibition extends to any part of a utilization review organization's "review, evaluation, determination, or appeals processes." This section also authorizes the attorney general to enforce the new ban on the use of artificial intelligence.