



**Public Comments on House Bill 1663 / Artificial Intelligence in Health Care  
Submitted to:  
Pennsylvania House Insurance Committee  
October 1, 2024**

The following testimony has been developed by a cross-functional team of individuals across Highmark Health (primarily Highmark Inc. and the Allegheny Health Network) to demonstrate Highmark's commitment to responsible use of artificial intelligence (AI) in healthcare. Our comments focus on three primary areas:

- What is AI and what is its transformative potential in healthcare
- Highmark Health's approach to AI Governance and Policies
- Examples of how Highmark Health is using responsible AI

Prior to beginning the discussion, Highmark Health would like to acknowledge the thoughtful work conducted by the Pennsylvania Insurance Department (PID) and its commitment to responsible AI. In the April 6, 2024 Pennsylvania Bulletin, the PID published a notice outlining its authority, regulatory guidance, and expectations regarding AI and the insurance market. The PID clearly outlines such in Section 3 of the notice:

*Decisions or determinations subject to regulatory oversight that are made by insurers using AI systems must comply with the legal and regulatory standards that apply to those decisions or determinations, including those laws and requirements as outlined in Section 1. These standards require, at a minimum, that decisions made by insurers are not inaccurate, arbitrary, capricious or unfairly discriminatory. Compliance with these standards is required regardless of the tools and methods insurers use to make such decisions. However, because, in the absence of proper controls, AI has the potential to increase the risk of inaccurate, arbitrary, capricious or unfairly discriminatory outcomes for consumers, it is important that insurers adopt and implement controls specifically related to their use of AI that are designed to mitigate the risk of adverse consumer outcomes.*

*Consistent therewith, all insurers authorized to do business in this Commonwealth that use AI systems are expected to develop, implement and maintain a written program (an "AIS program") for the responsible use of AI systems that make or support decisions related to regulated insurance practices. The AIS program should be designed to mitigate the risk of adverse consumer outcomes, including, at a minimum, to maintain compliance with the statutory and regulatory provisions set forth in Section 1 of this notice.*

The PID's commitment to responsible AI extends to the national level as Commissioner Michael Humphreys chairs the National Association of

Insurance Commissioners (NAIC) Big Data and AI Working Group focused on the use of AI in the insurance market.

### **What is AI and its transformative potential in healthcare?**

AI is a broad term encompassing engineered systems that learn from experience, adapt to new information, and potentially perform tasks previously done by humans, including automated decision-making. Prior to any legislative or regulatory framework overseeing the use of AI, policymakers should agree to and consistently apply a definition of AI. Any state based legislative or regulatory efforts should defer to a nationally accepted definition of AI to set a consistent framework.

Consistency is critical to avoid disruptive policy that could inadvertently inhibit the use of and hamper the efficiencies of AI. AI is particularly transformative in healthcare due to the vast amounts of data and expertise needed for informed decision-making. AI excels at analyzing unstructured data, synthesizing large datasets, and identifying connections and correlations between them.

### **Highmark's Approach to AI Governance and Policies**

Highmark Health recognizes the potential of AI to improve health outcomes and patient care. We are committed to ethical AI use and have established a comprehensive Responsible AI program. Our framework, anchored on principles of transparency, stewardship, and accountability, is composed of three pillars: Policy, Governance and Culture.

- Policy—setting the guiderails for acceptable practices in adherence with laws and regulations
- Governance—processes and documentation to monitor risk and ensure compliance
- Culture—creating distributed ownership and accountability

This framework is applied across all Highmark Health entities, including our health plan, health system, and diversified companies. Our Enterprise AI Policy oversees all AI applications, requiring human oversight from start to finish for

all generative AI applications. It prohibits AI use to deny access to services, restricts employees from inputting confidential information into actively learning models, and mandates risk assessments for all AI use cases.

Our Governance framework employs a repeatable risk assessment for all AI use cases, aligning with established frameworks like the National Institute of Standards and Technology (NIST) AI Risk Management Framework. This assessment, conducted by a cross-functional team of experts, evaluates six key dimensions: performance, controls, accountability, privacy, enterprise risk, and social and human rights.

Use cases are assigned a risk level: low, medium, high, or unacceptable. Unacceptable risk cases (e.g. if there is not a human at the helm for clinical decision making or denial of care, there is a risk of increasing inequity, there is a risk of any form of discrimination) are halted, while medium and high-risk cases require approved risk mitigation actions.

### **AI Implementation at Highmark**

The capabilities of AI advance on a daily basis, offering opportunities to adopt the use of AI to improve efficiencies, enhance positive outcomes, and advance the manner in which the collective we accomplish goals. By way of comparison, the advent, adoption and advancement of the internet fundamentally transformed the way in which health care, and the world functions. AI holds the potential to have a much greater transformative impact.

In a relatively short period of time, AI's capabilities have grown exponentially. As recently as 2015, we were using AI to help analyze claims-based monthly risk scores. In 2016, we were able to leverage first proprietary predictive models using machine learning to enhance our assistance to members churning from Medicare Advantage business. A mere three years later, 2019 saw the first application of natural language processing enhance our ability to help manage risk adjustable conditions. We are now seeing GenAI capabilities improving our abilities.

We have deployed safe and secure access to generative AI tools for all employees, ensuring adherence to our Enterprise AI policy. These tools assist with day-to-day work, and employees receive training on the ethical and safe use of these tools.

We are also responsibly deploying AI in areas like ambient listening capabilities to assist with documentation, allowing clinicians to focus on patient interactions. We are implementing numerous use cases that improve speed, reduce costs, and increase access for our members.

## **Conclusion**

We believe that effective public policy regarding AI requires active engagement from diverse stakeholders. Clear and consistent definitions are crucial, focusing on Artificial Intelligence Systems (AIS) rather than algorithms. We support the definitions outlined in the NAIC Model Bulletin and the NIST AI Risk Management Framework.

Future public policy should align with existing requirements to achieve regulatory harmony. For example, any new requirements for HIPAA-covered entities must not conflict with existing privacy and security protections.

Public policies should address the potential for AI to reinforce health care inequalities. Requirements should focus on regulating potential discrimination within the context of AIS to reduce bias and improve health equity.

Industry standards based on a flexible, risk-based approach are foundational to responsible AIS. A workable framework would allow companies to tailor risk mitigation to the unique considerations of each AIS and use case.

Highmark Health is committed to responsible AI in healthcare. We believe that a collaborative approach involving diverse stakeholders is essential for developing effective public policy that fosters innovation while ensuring ethical and equitable use of AI. The responsible and ethical use of AI will support what we call our Living Health model focused on proactively simplifying and personalizing the health care customer/patient experience. We are confident that with careful consideration and collaboration, we can

harness the transformative power of AI to improve the health and well-being of all.

We look forward to continued dialogue with the committee as well as other state and federal policymakers to develop responsible AI public policy. Thank you for your time and consideration.