Good afternoon Legislative Council attorneys,

I am currently serving as a public member on the Committee for the Use of AI in Healthcare. It has already been a great learning experience, and I found the committee's first meeting on August 13 extremely informative. In preparing for next week's meetings, I have been reviewing the materials for September 9 and 10, as well as revisiting materials from our first meeting. I wanted to reach out regarding the August 5 Staff Brief Memo. The memo was very helpful in preparing for the committee, and I appreciate the research and work that went into it.

I wanted to flag one point regarding the memo's reference to the 2025 NAIC report and the statement that 12% of health insurers use AI for denying prior authorizations. Given how frequently this issue arises in my line of work—and how easily the terminology can be misunderstood—I thought it would be helpful to clarify this point ahead of next week's meetings, particularly with both insurers and providers on the speaking lists.

In the NAIC report, the relevant question is phrased: "Does your company currently use, plan to use, or is exploring the use of AI/ML to review prior authorization for denial?" That wording appears important because it encompasses not only current use, but also planned or exploratory use, and refers to AI/ML being used to *review* prior authorization for denial rather than necessarily making or automating the denial decision itself.

Similar questions appear throughout the report with differing percentages. In addition to answering NAIC's survey questions, participating companies provided written responses to open-ended questions that offer additional context regarding how AI is used in connection with potential denials. I have attached a Word document compiling each reference to "denial" in the report for ease of review.

For example, the report includes the following statements from respondents:

- "Workforce members retain ultimate decision-making authority in all clinical matters that would result in denial, reduction, or modification of services to a member."
- "There is human involvement in all stages of this process. Any potential denials determinations are made by a human."
- "Vendors may only automate prior authorization approvals. We do not allow vendors to use AI to automate prior authorization denials."

- “All denial decisions are made by a human, ensuring that AI is not used to automate these determinations.”
- “Company prohibits providers from using AI for any functions that result in a denial, delay reduction, or modification of covered services to company members including, but not limited to: utilization management, prior authorizations, complaints, appeals and grievances, and quality of care services, without review of the denial, delay, reduction or modification by a qualified clinician.”

Taken together, this additional context is important when characterizing the NAIC findings. The report demonstrates that AI may be used within processes involving prior authorization and potential denials, while the company comments distinguish that use from AI always includes humans making the ultimate denial determination.

I wanted to share this clarification because the distinction may be particularly relevant to the committee’s discussions next week. Thank you for your time and consideration in reviewing this information. I appreciate your expertise and the work you are doing for the study committee, and I look forward to next week’s meetings.

Thank you,
Madeline Nevermann

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Page 22:

Question 7.33
Does your company currently use, plan to use, or is exploring the use of AI/ML to review prior authorizations for denial?
Yes: 9 (12%), No: 67 (88%).

Reference 1 (Page 19):

Question 7.4
Does your company currently use, plan to use, or is exploring the use of AI/ML to design or develop plans for specific cohorts, member populations, conditions etc.?
Yes: 13 (17%), No: 63 (83%).

Question 7.5
If so, please explain. For example, do you use AI/ML to design products that consider changes to copay, deductibles, benefits, wellness features, services, or programs for a specific population of consumers?

- We utilize ML techniques as an additional tool to identify member cohorts that help clinical staff efficiently design care management interventions. Workforce members retain ultimate decision-making authority in all clinical matters that would result in the denial, reduction, or modification of services to a member.

Reference 2 (Page 22):

Table 11: Company Use, Plan, or Exploring of AI/ML to Review Prior Authorizations for Denial

Coding Area	Yes	No
Rx inpatient	6	3
Rx outpatient	6	3
Behavioral Health inpatient	6	3
Behavioral Health outpatient	6	3
Medical Health inpatient	7	2
Medical Health outpatient	6	3

References 3 and 4 (Page 23):

Question 7.37
If yes to Question 7.36, please explain.

- We are exploring the use of AI tools to identify completeness of medical records for PA. Our PBM vendor uses prior authorization process involves the use of AI where Machine Learning models are utilized to assesses all requests. There is human involvement in all stages of this process. Any potential denials determinations are made by a human.

- We do not use AI to make utilization management decisions. Workforce members oversee the use and output of AI and remain responsible and accountable for its use and output. Workforce members retain ultimate decision-making authority in all clinical matters that would result in the denial, reduction, or modification of services to a member. We utilize AI-enabled solutions for Prior Authorization Case Intake to enhance process consistency and efficiency. Additionally, we are exploring the application of AI models to summarize clinical notes, aiming to increase operational efficiency.

References 5 and 6(Page 27):

Question 7.59
Does your company directly contract, plan to directly contract, or is exploring directly contracting with utilization management vendors (prior authorization, diagnostic tools, prescription assessments, etc.) that use AI/ML?
Yes: 34 (45%), No: 42 (55%).

Question 7.60
For those companies answering yes, what automated decisions are made by the vendors?

- Vendors may only automate prior authorization approvals. We do not allow vendors to use AI to automate prior authorization denials.
- Vendor may only automate prior authorization approval decisions.
- While some vendors may approve certain service requests, all denial decisions are made by a human, ensuring that AI is not used to automate these determinations.

Reference 7 (Page 28):

Question 7.62
Does your company currently use, plan to use, or is exploring use AI/ML for other utilization/severity/ quality management related functions?
Yes: 31 (41%), No: 45 (59%).

Question 7.63
If yes to Question 7.62, please elaborate.

- We do not use AI to make utilization management decisions. Workforce members oversee the use and output of AI and remain responsible and accountable for its use and output. Workforce members retain ultimate decision-making authority in all clinical matters that would result in the denial, reduction, or modification of services to a member. We use AI-enabled solutions and third-party AI products in utilization/quality management, including identifying clinical risks, pharmacy services and improving member experience.

References 8 and 9 and 10 (Page 55):

Question 8.33

Does your company currently use, plan to use, or is exploring the use of AI/ML to review prior authorizations for denial?

Yes: 7 (11%), No: 59 (89%).

Question 8.34

For those companies answering 'Y' to Q8.33: What is the current level of AI/ML Deployment?

Research: 1 (14%), Proof of Concept: 0 (0%), Prototype: 1 (14%), Implemented in Production: 5 (71%).**Question 8.35**

For those companies answering 'Y' to Q8.33, please check all that apply.

Table 22: Company Use, Plan, or Exploring of AI/ML to Review Prior Authorizations for Denial

Coding Area	Yes	No
Rx inpatient	7	0
Rx outpatient	7	0
Behavioral Health inpatient	7	0
Behavioral Health outpatient	7	0
Medical Health inpatient	7	0
Medical Health outpatient	7	0

Question 8.36

Does your company currently use, plan to use, or is exploring the use of AI/ML for any other prior authorization functions?

Yes: 15 (23%), No: 51 (77%).

Question 8.37

If answered yes to Question 8.36, please elaborate.

- We are exploring the use of AI tools to identify completeness of medical records for PA. Our PBM vendor uses prior authorization process involves the use of AI where Machine Learning models are utilized to assesses all requests. There is human involvement in all stages of this process. Any potential denials determinations are made by a human.

Reference 11 (Page 59):

Question 8.59

Does your company directly contract, plan to directly contract, or is exploring directly contracting with utilization management vendors (prior authorization, diagnostic tools, prescription assessments, etc.) that use AI/ML?

Yes: 30 (45%), No: 36 (55%).

- While some vendors may approve certain service requests, all denial decisions are made by a human, ensuring that AI is not used to automate these determinations.

Reference 12 and 13 and 14 (Page 97):

Question 9.34

Does your company currently use, plan to use, or is exploring the use of AI/ML to review prior authorizations for denial?

Yes: 5 (8%), No: 59 (92%).

Question 9.35

For those companies answering 'Y' to Q9.34: What is the current level of AI/ML Deployment?

Research: 1 (20%), Proof of Concept: 0 (0%), Prototype: 1 (20%), Implemented in Production: 3 (60%).

Question 9.36

For those companies answering 'Y' to Q9.34, please check all that apply.

Table 33: Company Use, Plan, or Exploring of AI/ML to Review Prior Authorizations for Denial

Coding Area	Yes	No
Rx Inpatient	5	0
Rx Outpatient	5	0
Behavioral Health Inpatient	5	0
Behavioral Health Outpatient	5	0
Medical Inpatient	5	0
Medical Outpatient	5	0

Question 9.37
Does your company currently use, plan to use, or is exploring the use of AI/ML for any other prior authorization functions?
Yes: 15 (23%), No: 49 (77%).

Question 9.38
For those companies answering 'Y' to Q9.37, please elaborate.

- We are exploring the use of AI tools to identify completeness of medical records for PA. Our PBM vendor uses prior authorization process involves the use of AI where Machine Learning models are utilized to assesses all requests. There is human involvement in all stages of this process. Any potential denials determinations are made by a human.

Reference 15 (page 102):

Question 9.60
Does your company directly contract, plan to directly contract, or is exploring directly contracting with utilization management vendors (prior authorization, diagnostic tools, prescription assessments, etc.) that use AI/ML?
Yes: 29 (45%), No: 35 (55%).

Question 9.61
If answered yes to Question 9.60, what automated decisions are made by the vendors?

- While some vendors may approve certain service requests, all denial decisions are made by a human, ensuring that AI is not used to automate these determinations.

References 16 and 17 (Page 136):

Question 10.34

Does your company currently use, plan to use, or is exploring the use of AI/ML to review prior authorizations for denial?

Yes: 2 (12%), No: 15 (88%).

Question 10.35

For those companies answering 'Y' to Q10.34: What is the current level of AI/ML Deployment?

Research: 1 (50%), Proof of Concept: 0 (0%), Prototype: 0 (0%), Implemented in Production: 1 (50%).

Question 10.36

If answered yes to Question 10.34, please check all that apply.

Table 44: Company Use, Plan, or Exploring Of AI/ML to Review Prior Authorizations for Denial

Coding Area	Yes	No
Rx Inpatient	2	0
Rx Outpatient	2	0
Behavioral Health Inpatient	2	0
Behavioral Health Outpatient	2	0
Medical Inpatient	2	0

Question 12.30

If you are contracting with third-party vendors, third-party administrators, medical coders, billing vendors, external reviewers, or providers please explain the governance in place for these vendors to ensure that they are meeting at least the same standards as outlined in the NAIC AI Principles.

Third-Party Vendors

References 18 and 19 (Page 211):

- Company vendors and providers are required contractually to comply with all applicable laws, including those applicable to artificial intelligence (AI) and the use of AI tools. Company reviews and evaluates any artificial intelligence tools that are proposed to be used by vendors to provide services to company. Company prohibits providers from using AI for any functions that result in a denial, delay reduction, or modification of covered services to company members including, but not limited to: utilization management, prior authorizations, complaints, appeals and grievances, and quality of care services, without review of the denial, delay, reduction or modification by a qualified clinician. Further, company requires providers to give advance written notice to company (for any AI used by a provider that may impact the provision of covered services to company members) that describes (i) providers' use of the AI Tool(s) and (ii) how the provider oversees, monitors and evaluates the performance and legal compliance of such AI tool(s).

Third-Party Administrators

Reference 20 and 21 (Page 212 and 213):

- Company's vendors and providers are required contractually to comply with all applicable laws, including those applicable to artificial intelligence (AI) and the use of AI tools. Company reviews and evaluates any artificial intelligence tools that are proposed to be used by vendors to provide services to company. Company prohibits providers from using AI for any functions that result in a denial, delay, reduction, or modification of covered services to company members including, but not limited to:

utilization management, prior authorizations, complaints, appeals and grievances, and quality of care services, without review of the denial, delay, reduction or modification by a qualified clinician. Further, company requires providers to give advance written notice to company (for any AI used by a provider that may impact the provision of covered services to company members) that describes (i) providers' use of the AI Tool(s) and (ii) how the provider oversees, monitors and evaluates the performance and legal compliance of such AI tool(s).

Medical Coders

References 22 and 23 (Page 214):

- Company's vendors and providers are required contractually to comply with all applicable laws, including those applicable to artificial intelligence (AI) and the use of AI tools. Company reviews and evaluates any artificial intelligence tools that are proposed to be used by vendors to provide services to company. Company prohibits providers from using AI for any functions that result in a denial, delay, reduction, or modification of covered services to company members including, but not limited to: utilization management, prior authorizations, complaints, appeals and grievances, and quality of care services, without review of the denial, delay, reduction or modification by a qualified clinician. Further, company requires providers to give advance written notice to company (for any AI used by a provider that may impact the provision of covered services to company members) that describes (i) providers' use of the AI Tool(s) and (ii) how the provider oversees, monitors and evaluates the performance and legal compliance of such AI tool(s).

External Reviewers

References 24 and 25 (Page 215):

- Company's vendors and providers are required contractually to comply with all applicable laws, including those applicable to artificial intelligence (AI) and the use of AI tools. Company reviews and evaluates any artificial intelligence tools that are proposed to be used by vendors to provide services to company. Company prohibits providers from using AI for any functions that result in a denial, delay, reduction, or modification of covered services to company members including, but not limited to: utilization management, prior authorizations, complaints, appeals and grievances, and quality of care services, without review of the denial, delay, reduction or modification by a qualified clinician. Further, company requires providers to give advance written notice to company (for any AI used by a provider that may impact the provision of covered services to company members) that describes (i) providers'

Providers

References 26 and 27 (page 217):

- Company's vendors and providers are required contractually to comply with all applicable laws, including those applicable to artificial intelligence (AI) and the use of AI tools. Company reviews and evaluates any artificial intelligence tools that are proposed to be used by vendors to provide services to company. Company prohibits providers from using AI for any functions that result in a denial, delay, reduction, or modification of covered services to company members including, but not limited to: utilization management, prior authorizations, complaints, appeals and grievances, and quality of care services, without review of the denial, delay, reduction or modification by a qualified clinician. Further, company requires providers to give advance written notice to company (for any AI used by a provider that may impact the provision of covered services to company members) that describes (i) providers' use of the AI Tool(s) and (ii) how the provider oversees, monitors and evaluates the performance and legal compliance of such AI tool(s).