NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

Model Act Regarding Insurers' Use of Artificial Intelligence

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Section 1.   Title

This Act shall be known as the [State] Act Regarding Insurers' Use of Artificial Intelligence.

Section 2.   Purpose

The purpose of this Act is to set forth requirements and guidelines as to how insurers may utilize artificial intelligence in certain situations.

Section 3.   Definitions

As used in this Act, the following terms shall have the following meaning:

(A) "Algorithm" means a clearly specified mathematical process for computation which uses rules designed to give prescribed results.

(B) "Artificial intelligence system" means a machine-based system that may have varying levels of autonomy and that can, for a given set of objectives, generate outputs, such as predictions, recommendations, or content, influencing decisions made in real or virtual environments.

(C) "Machine learning system" means an artificial intelligence system that has the ability to learn from provided data without being explicitly programmed.

(D) "Qualified human professional" means an individual who, under the [State] Insurance Code, has the authority to adjust or deny a claim or a portion of a claim and may exercise such authority over a particular claim.

Section 4.   Insurers' Use of Artificial Intelligence

(A) An insurer's decision to deny a claim or any portion of a claim must be made by a qualified human professional.

(B) A qualified human professional shall, before determining whether to adjust or deny a claim or a portion of a claim, do all of the following:

    (1) Analyze the facts of the claim and the terms of the insurance policy independently of any system or algorithm.

    (2) Review the accuracy of any output generated by such a system or algorithm.

    (3) Conduct any review of a claim adjustment or claim decision that was made by another qualified human professional.

(C) An insurer shall maintain detailed records of the actions of qualified human professionals who are required to perform the actions under subsection (B), including:

    (1) The name and title of the qualified human professional who made the decision to deny a claim or a portion of a claim and of any qualified human professional who reviewed a claim adjustment or claim decision.

    (2) The date and time of the claim decision and of any review of the claim adjustment.

    (3) Documentation of the basis for the denial of the claim or a portion of the claim, including any information provided by an algorithm, an artificial intelligence system, or a machine learning system.

(D) An algorithm, an artificial intelligence system, or a machine learning system may not serve as the sole basis for determining whether to adjust or deny a claim.

(E) In all denial communications to a claimant, an insurer shall:

    (1) Establish a point of contact and process for the claimant to use to obtain information on the decision to deny the claim or a portion of the claim; and

    (2) Include a statement affirming that an algorithm, an artificial intelligence system, or a machine learning system did not serve as the sole basis for determining whether to deny the claim or a portion of the claim.

(F) An insurer that uses an algorithm, an artificial intelligence system, or a machine learning system as part of its claims handling process shall detail in its claims handling manual the manner in which such systems are to be used and the manner in which the insurer complies with this section.

(G) The Commissioner may conduct market conduct examinations and investigations or use any method it deems necessary to verify compliance with this section.

Section 5.   Rules

The Commissioner shall adopt rules to effectuate the provisions of this Act.

Section 6.   Effective Date

This Act shall take effect xxxxxx.