

Main Motion to the 2024 House of Delegates



Required for Adoption: Majority Vote

Category: QU-8

Motion Contact: Lisa K. Saladin, PT, PhD, FAPTA, Chief Delegate, APTA South Carolina
E-mail: saladinl@muscc.edu

RC Contact: Lois Ann Stickley, PT, PhD
E-mail: Lois.Stickley@txstate.edu

PROPOSED BY: OHIO, SOUTH CAROLINA, CARDIOVASCULAR AND PULMONARY PHYSICAL THERAPY, STUDENT COUNCIL

RC 12-24 ADOPT: INAPPROPRIATE USE OF ARTIFICIAL INTELLIGENCE BY PAYERS

That the following be adopted:

INAPPROPRIATE USE OF ARTIFICIAL INTELLIGENCE BY PAYERS

The American Physical Therapy Association opposes the inappropriate use of artificial intelligence by payers to deny or restrict access to physical therapist services or reduce payment.

SS:

A. What is the expected outcome of this motion? How does it contribute to achieving the Vision? Does it support APTA priorities (as reflected in the current Strategic Plan), and if so, how?

As the use of AI has accelerated in the past few years, payers have used it inappropriately to review and deny prior authorization claims, reduce payments, or deny care with no human oversight or clinical decision making. For example, ProPublica reported that Cigna denied 300,000 claims using AI with Cigna doctors spending an average of 1.2 seconds on each case.¹ In addition, based on two pending lawsuits alleging AI was used improperly to deny care to Medicare Advantage plan members,²⁻³ CMS recently put out a memo stating that insurer's must "base the decision on the individual patient's circumstances, so an algorithm that determines coverage based on a larger data set instead of the individual patient's medical history, the physician's recommendations, or clinical notes would not be compliant."⁴ CMS further stated that insurers can use AI when evaluating coverage but that an algorithm or software tool should only be used to ensure fidelity with coverage criteria.⁴ It is clear that this is an emerging issue with the potential to have significant negative impact on PTs, PTAs, the companies they work for, and the patients they serve. The intended outcome of this motion is that the APTA government affairs team use this position to elevate the urgency of this issue and work collaboratively with other stakeholders to oppose practices by payers that use AI inappropriately to deny or limit care or reimbursement. We believe that AI systems used by payers should not override clinical judgement or eliminate human oversight and that there must be regulatory oversight and transparency when payers use AI for coverage, claims or benefits.

It is impossible to achieve our Vision **of transforming society by optimizing movement to improve the human experience** if patients are arbitrarily denied access to our care or if we are unable to be appropriately paid for our services. This motion also aligns with two of the goals of the APTA Strategic Plan: 1. "Improve the long-term sustainability of the profession by leading efforts to increase payment...and 2. "Drive demand for and access to physical therapy as a proven pathway to improve the human experience."

1 **B. How is this motion's subject national in scope or importance?**

2
3 The inappropriate use of AI to reduce access to care or payment for physical therapist services has the
4 potential to negatively impact every PT and PTA in the country and the companies they work for as there
5 is a direct relationship between payment, salaries, and financial solvency. It also has the potential to
6 negatively impact millions of patients who might be inappropriately denied access to physical therapist
7 services. Precedence research has reported that AI in the healthcare market size was approx. 15.1 billion
8 dollars in 2022 and is expected to surpass 187.95 billion dollars in 2030.⁵ This predicted exponential
9 growth in AI in health care is just one indication that AI will be a dominant force in shaping the future of
10 health care. It is critical for the APTA to shape how AI impacts the future of the profession by harnessing
11 AI's potential opportunities and by preventing its negative impacts on payment and access to care.
12

13 **C. What previous or current activities of the House, Board, or staff address this topic? Who are the**
14 **interested parties that might be affected by this motion (internal to APTA as well as relevant**
15 **groups external to APTA)? Are there any state or federal laws or regulations which also address**
16 **this topic; if so, what are they?**

17
18 The APTA BOD and Staff have been discussing AI conceptually and they have discussed the potential
19 need for a taskforce or workgroup to address AI challenges and opportunities. However, to our
20 knowledge at this time, no actions have been taken. Internal stakeholders for this motion include all APTA
21 components, individual PTs and PTAs and the companies they work for. External stakeholders include
22 current and future patients and other professional associations with similar concerns. For example, in
23 2023 the AMA issued new principles for AI development, deployment & use¹. Seventeen states have
24 passed laws on AI in the past 5 years. The scope of these laws includes interdisciplinary collaboration,
25 protection from unsafe or ineffective systems, data privacy, transparency, protection from discrimination,
26 and accountability.² The interdisciplinary collaboration law has created task forces to identify the potential
27 impacts of AI systems on consumers, potential public sector uses, and cybersecurity challenges (IL, TX,
28 VT, NY). The protection from unsafe or ineffective systems has directed state agencies to analyze AI
29 systems being used and send a report to their respective governors based on potential unintended or
30 emerging effects and potential risks of these systems (CA, CT, LA, VT). The data privacy laws have been
31 enacted to "protect individuals from abusive data practices (i.e., the inappropriate, irrelevant or
32 unauthorized use or reuse of consumer data) and ensure that they have agency over how an AI system
33 collects and uses data about them (CA, CO, CT, DE, IN, IA, MT, OR, TN, TX, VA)." The transparency law
34 requires employers or businesses to disclose when and how an AI system is being used (CA, IL, MD,
35 NY). For the protection from discrimination, it requires those that develop or use AI systems to assess the
36 potential for bias and discrimination to protect individuals from discrimination and ensure AI systems are
37 designed equitably (CA, CO, IL). For accountability, the goal is "to ensure that those developing and
38 deploying AI systems are complying with the rules and standards governing AI systems and are being
39 held accountable if they do not meet them (CA, CO, CT, DE, IN, IW, MT, OR, TN, TX, VA, WA)."
40

41 **D. Additional Background Information.**

42 None.
43

44 **E. How has this motion concept been disseminated, or how does the motion maker plan to**
45 **disseminate the concept to other delegates prior to the deadline for submission of main motions?**

46 The motion concept form was posted on the HUB initially and we posted potential language on the HUB
47 prior to submission. This was also extensively discussed with our co-makers and the motion concept and
48 potential language was discussed with Justin Elliott, APTA Government Affairs.
49
50

REFERENCES

1. Rucker P, Miller M, and Armstrong D. How Cigna Saves Millions by Having its Doctors Reject Claims Without Reading Them. <https://www.propublica.org/article/cigna-pxdx-medical-health-insurance-rejection-claims>. Posted March 25, Accessed March 17, 2024.
2. Vogel S. Healthcaredive. https://www.healthcaredive.com/news/humana-lawsuit-algorithm-medicare-advantage-deny-claims/702403/?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202023-12-13%20Healthcare%20Dive:%20Payer%20%5Bissue:57359%5D&utm_term=Healthcare%20Dive:%20Payer. Posted December 13, 2023, Accessed March 17.
3. Greenberg DS, and Rettew DA. Health Insurers Sued Over Use of Artificial Intelligence to Deny Medical Claims. <https://www.afslaw.com/perspectives/health-care-counsel-blog/health-insurers-sued-over-use-artificial-intelligence-deny>. Posted December 22, 2023. Access March 17, 2024.
4. Mole B. AI cannot be used to deny health care coverage, feds clarify to insurers. <https://arstechnica.com/science/2024/02/ai-cannot-be-used-to-deny-health-care-coverage-feds-clarify-to-insurers/>. Posted February 8, 2024. Accessed March 17, 2024.
5. Precedence Research. <https://www.precedenceresearch.com/artificial-intelligence-in-healthcare-market> Published February 2023, Accessed March 17, 2024.
6. American Medical Association. <https://www.ama-assn.org/press-center/press-releases/ama-issues-new-principles-ai-development-deployment-use>. Published November 28, 20203. Accessed March 17, 2024.
7. Artificial Intelligence in the states: Emerging legislation - the council of state governments. The Council of State Governments. <https://www.csg.org/2023/12/06/artificial-intelligence-in-the-states-emerging-legislation/>. Published December 12, 2023. Accessed March 17, 2024.
8. Loria K, What's the Impact of AI on Physical Therapy? <https://www.apta.org/apta-magazine/2023/12/01/impact-ai-physical-therapy>. Posted December 1, 2024, Accessed March 17, 2024.