SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 503 (Weber Pierson)
Version: April 10, 2025
Hearing Date: April 29, 2025
Fiscal: Yes
Urgency: No
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SUBJECT

Health care services: artificial intelligence

DIGEST

This bill imposes certain obligations with respect to preventing discrimination through use of patient care decision support tools, as defined, in healthcare settings.

EXECUTIVE SUMMARY

Section 1557 of the Affordable Care Act (ACA) prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs and activities receiving federal funds. The Secretary of Health and Human Services was authorized thereby to promulgate regulations to effectuate that edict. In May 2024, regulations were issued.

One of those regulations governed nondiscrimination in the use of patient care decision support tools. "Patient care decision support tool" means any automated or non-automated tool, mechanism, method, technology, or combination thereof used by a covered entity to support clinical decision-making in its health programs or activities. The regulation prohibits discrimination through the use of these tools. It further requires covered entities to make reasonable efforts to identify where the tools use inputs that measure certain characteristics, including race, color, national origin, sex, age, or disability, and to mitigate the risk of discrimination resulting from their use in health programs or activities.

This bill seeks to codify a version of this regulation in California law. It places a similar duty on developers of these tools, along with health facilities, clinics, physician's offices, or offices of a group practice, to make reasonable efforts to identify input factors or variables that measure a protected category, and to mitigate the risk of discrimination on the basis of a protected characteristic by the tool. Developers are further required to test their tools for biased impacts every three years. The bill is author-sponsored. No

timely support or opposition has been received. This bill passed out of the Senate Health Committee on a 10 to 0 vote.

PROPOSED CHANGES TO THE LAW

Existing federal law:

1) Prohibits, pursuant to the ACA, an individual, on the ground prohibited under title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or other entity, as provided. (42 U.S.C. § 18116 ("Section 1557").)

2) Provides that the enforcement mechanisms provided for and available under such title VI, title IX, section 504, and Age Discrimination Act shall apply for purposes of violations of the above. Authorizes the Secretary to promulgate regulations relevant thereto. (42 U.S.C. § 18116.)

3) Provides the following regulatory guidelines with regards to the above:
    a) A covered entity must not discriminate on the basis of race, color, national origin, sex, age, or disability in its health programs or activities through the use of patient care decision support tools.
    b) A covered entity has an ongoing duty to make reasonable efforts to identify uses of patient care decision support tools in its health programs or activities that employ input variables or factors that measure race, color, national origin, sex, age, or disability.
    c) For each patient care decision support tool identified in (b), a covered entity must make reasonable efforts to mitigate the risk of discrimination resulting from the tool's use in its health programs or activities. (45 C.F.R. § 92.210.)

Existing state law:

4) Establishes the Unruh Civil Rights Act ("Unruh"), which provides that all persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, citizenship, primary language, or immigration status, are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever. (Civ. Code § 51.)

5) Requires the California Department of Technology (CDT) to conduct a comprehensive inventory of all high-risk automated decision systems (ADS) that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, any state agency. It defines the relevant terms:
    a) "Automated decision system" means a computational process derived from machine learning, statistical modeling, data analytics, or artificial intelligence that issues simplified output, including a score, classification, or recommendation, that is used to assist or replace human discretionary decisionmaking and materially impacts natural persons. "Automated decision system" does not include a spam email filter, firewall, antivirus software, identity and access management tools, calculator, database, dataset, or other compilation of data.
    b) "High-risk automated decision system" means an ADS that is used to assist or replace human discretionary decisions that have a legal or similarly significant effect, including decisions that materially impact access to, or approval for, housing or accommodations, education, employment, credit, health care, and criminal justice. (Gov. Code § 11546.45.5.)

This bill:

1) Defines "patient care decision support tool" to mean any automated or nonautomated tool, mechanism, method, technology, or combination thereof used by health facilities, clinics, physician's offices, or offices of a group practice to support clinical decisionmaking in its health programs or activities.

2) Provides that developers of patient care decision support tools, and health facilities, clinics, physician's offices, or offices of a group practice, have an ongoing duty to make reasonable efforts to identify uses of patient care decision support tools in health programs or activities that employ input variables or factors that measure a protected characteristic.

3) Requires developers and deployers, for each patient care decision support tool, to make reasonable efforts to mitigate the risk of discrimination on the basis of a protected characteristic resulting from the tool's use in its health programs or activities.

4) Requires developers to ensure that patient care decision support tools are tested for biased impacts in the outputs produced by the tool at least once every three years.

5) Provides a person, partnership, state or local governmental agency, or corporation may be both a developer and a deployer.

6) Defines the relevant terms, including:
    a) "Biased impact" means an unintended impact on an individual based on their protected characteristics.
    b) "Protected characteristic" means a characteristic listed in subdivision (b) of Section 51 of the Civil Code.

COMMENTS

1. ACA anti-discrimination regulations

Section 1557 is the civil rights provision of the ACA. Section 1557 prohibits discrimination on the grounds of race, color, national origin, sex, age, or disability in certain health programs and activities. Section 1557(c) of the ACA authorizes the Secretary of the Department of Health and Human Services to promulgate regulations to implement the nondiscrimination requirements of Section 1557.

Relevant here, such regulatory direction was issued last year with regard to "patient care decision support tools," defined as any automated or non-automated tool, mechanism, method, technology, or combination thereof used by a covered entity to support clinical decision-making in its health programs or activities. (45 C.F.R. § 92.4.) The regulation provides:

- A covered entity must not discriminate on the basis of race, color, national origin, sex, age, or disability in its health programs or activities through the use of patient care decision support tools.
- A covered entity has an ongoing duty to make reasonable efforts to identify uses of patient care decision support tools in its health programs or activities that employ input variables or factors that measure race, color, national origin, sex, age, or disability.
- For each patient care decision support tool identified [above], a covered entity must make reasonable efforts to mitigate the risk of discrimination resulting from the tool's use in its health programs or activities. (45 C.F.R. § 92.210.)

2. Codifying federal regulations

This bill largely codifies this federal regulation. It imposes a duty on developers of patient care decision support tools, and health facilities, clinics, physician's offices, or offices of a group practice, to make reasonable efforts to identify uses of patient care decision support tools in health programs or activities that employ input variables or factors that measure a protected characteristic. Developers and those deploying these tools are required to make "reasonable efforts to mitigate the risk of discrimination on the basis of a protected characteristic resulting from the tool's use in its health programs or activities."

In addition, and distinct from the federal regulation, the bill requires developers of these tools to ensure that the tools are tested for biased impacts in the outputs produced by the tool at least once every three years.

The bill defines "protected characteristic" as those laid out in Unruh and uses the definition of "patient care decision support tool" in the ACA regulations, but applying it to those tools used by health facilities, clinics, physician's offices, or offices of a group practice, rather than "covered entities."

The Federal Register discusses what is intended to be included in the term "patient care decision support tools," including the following: ADS; AI; flowcharts; formulas; equations; calculators; algorithms; utilization management applications; software as medical devices (SaMDs); software in medical devices (SiMDs); screening, risk assessment, and eligibility tools; and diagnostic and treatment guidance tools. (89 F.R. § 37522.) Although such elaboration is not provided in this bill, the definition certainly encompasses a broad range of tools.

According to the author:

> SB 503 is a crucial step towards ensuring fairness in healthcare by addressing the racial biases embedded in AI models and systems. This technology is becoming more prevalent in healthcare, yet research has shown that these systems can produce biased outputs that disproportionately affect communities of color. Without proper oversight, these biases can go unchecked, deepening existing disparities in our healthcare system. This bill will require collaboration between developers and healthcare facilities to identify AI tools used in the delivery of patient care and proactively work towards meaningfully reducing bias. By requiring routine testing and ongoing oversight, SB 503 will help promote safety, equity, and exceptional performance while protecting patients against avoidable harm.

SUPPORT

None received

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

SB 7 (McNerney, 2025) also regulates the use of ADS in the employment context, providing a minimum of 30 days' notice to workers before deployment as well as post-deployment rights to notice, to correct information, and to appeal. It also restricts

certain uses of ADS in the employment context. SB 7 is currently pending before this Committee and is set to be heard the same day as this bill.

SB 420 (Padilla, 2025) regulates the use of "high-risk ADS," defined the same as high-risk AI systems in this bill. SB 420 includes requirements on developers and deployers to perform impact assessments on their systems. SB 420 establishes the right of individuals to know when an ADS is being used, details about the systems, and an opportunity to appeal ADS decisions, where technically feasible. SB 420 is currently in the Senate Appropriations Committee.

SB 468 (Becker, 2025) imposes a duty on a business that deploys a high-risk artificial intelligence system, or high-risk ADS, that processes personal information to protect that information and requires such a deployer to maintain a comprehensive information security program that meets specified requirements. SB 468 is currently in the Senate Appropriations Committee.

AB 1018 (Bauer-Kahan, 2025) regulates the development and deployment of ADS used to make consequential decisions, as defined. It requires a developer of a covered ADS to take certain actions, including conduct performance evaluations of the ADS, submit to third-party audits, and provide deployers to whom the developer transfers the covered ADS with certain information, including the results of those performance evaluations. AB 1018 is currently in the Assembly Judiciary Committee.

Prior Legislation:

SB 892 (Padilla, 2024) would have required CDT to develop and adopt regulations to create an ADS procurement standard, as specified, and prohibited a state agency from procuring ADS, entering into a contract for ADS, or any service that utilizes ADS, until CDT has adopted regulations creating an ADS procurement standard, as specified. SB 892 was vetoed by Governor Newsom, who stated in his veto message that aspects of the bill would disrupt ongoing work, "including existing information technology modernization efforts, which would lead to implementation delays and higher expenses for critical projects."

AB 2885 (Bauer-Kahan, 2024) established a uniform definition for "artificial intelligence" in California's code, which is used in this bill.

AB 302 (Ward, Ch. 800, Stats. 2023) required CDT, on or before September 1, 2024, to conduct a comprehensive inventory of all high-risk ADS that have been proposed for use, development, or procurement by, or are being used, developed, or procured by, any state agency.

PRIOR VOTES:

Senate Health Committee (Ayes 10, Noes 0)
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