

AB 858 Protecting Patients from Biased or Inaccurate Medical Algorithms

Assemblymember Reginald Byron Jones-Sawyer, Sr.

SUMMARY

AB 858 promotes patient safety by allowing nurses and clinicians to override a hospital's algorithm in the best interest of the patient. Additionally, this bill provides protections for workers from retaliation by their employers if they request an override of this system.

BACKGROUND

Across the United States, hospitals regularly use algorithms to assist with managing the care of over 200 million patients a year. These algorithms utilize past experiences and data sets in an attempt to predict future health outcomes and provide recommendations for the best-prescribed course of care, along with reduced costs.

However, this approach can be inherently flawed when there is a long history of medical racism with patients of color, more specifically Black patients, being misdiagnosed or receiving a lower quality of care because of implicit biases present amongst healthcare professionals, the individuals coding the algorithms, and in medical education. In a 2019 study, researchers found that a widely used commercial algorithm in hospitals exhibited significant racial bias and was less likely to refer Black patients to additional personalized care than white patients.

Along with analyzing the data outputs from this algorithm, researchers also experimented with different formulas to see if changing the metrics impacted who was being referred to extra programs, which it did. When the researchers shifted the focus from predicted costs to measures of actual health such as the number of chronic illnesses, the number of Black patients being referred to extra care increased dramatically from 17.7 percent to 26.7 percent.

To combat implicit bias across multiple industries, the Legislature in recent years has provided specified healing arts licensees with strategies for understanding and reducing the impact of their biases to reduce disparate

outcomes and ensure that all patients receive fair treatment and quality health care.

AB 858 addresses an important public safety issue by protecting professional clinical judgment when providing patient care. Technology should be used to complement, not diminish, the skills, judgment, or decision-making of health care providers and most importantly, not limit their ability to act as patient advocate. While technology is a helpful tool, it is not a replacement for real experience and we should trust the healthcare workers doing their jobs.

THIS BILL

AB 858 allows health care workers providing direct patient care to override health information technology if, in their professional judgment and according to their scope of practice, it is in the best interest of the patient to do so.

Additionally, this bill outlines protections for these workers from retaliation by their employer if they request to override the hospital algorithm.

This bill also requires employers to notify their workers if they are implementing new technology that affects their job or their patients and, provide adequate training on how to use the new technology and understand its limitations.

Finally, this bill allows workers to participate in the design process for new technology impacting the delivery of patient care while adhering to HIPAA and protecting patients' private medical information.

SUPPORT

California Nurses Association (Sponsor)

CONTACT

Taylor Jackson » tjackson@calnurses.org
California Nurses Association

OUR PATIENTS. OUR UNION. OUR VOICE.



California
Nurses
Association