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February 23, 2026

Thomas Keane, MD, MBA
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U.S. Department of Health and Human Services
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Sent electronically via regulations.gov

RE: Public Comment on Request for Information (RFI) HHS Health Sector AI RFI: Accelerating the Adoption and Use of Artificial Intelligence as Part of Clinical Care

RIN: 0955-AA13

Dear Assistant Secretary Keane,

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and the AFL-CIO Technology Institute (Tech Institute) appreciate the opportunity to submit comments in response to the Request for Information (RFI) from the United States Department of Health and Human Services Office of the Deputy Secretary in collaboration with the Assistant Secretary for Technology Policy (ASTP) and Office of the National Coordinator for Health Information Technology (ONC) to seek broad public comment on what HHS can do to "accelerate the adoption and use of AI as part of clinical care."[1]

The AFL-CIO is a democratic, voluntary federation of 64 national and international labor unions that represent nearly 15 million working people. The

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[1] Department of Health and Human Services, Office of the Secretary. " Request for Information: Accelerating the Adoption and Use of Artificial Intelligence as Part of Clinical Care," Federal Register, December 23, 2025,
https://www.federalregister.gov/documents/2025/12/23/2025-23641/request-for-information-accelerating-the-adoption-and-use-of-artificial-intelligence-as-part-of

organization strives to ensure all working people are treated fairly, with decent paychecks and benefits, safe jobs, dignity, and equal opportunities. The AFL-CIO also helps people acquire valuable skills and job-readiness for the 21st century economy. The Tech Institute works at the intersection of technological innovation in the workplace, centering worker knowledge, expertise, and interests in our modern innovation-based economy and in public services with the goal of ensuring that technological change creates widespread prosperity for all working people.

The Use of AI in Health Care Has Not Been Proven Safe Nor Effective
The healthcare industry has preemptively embraced the use of AI across many elements of clinical care. AI technology is being used with the stated purpose to enhance diagnostic accuracy, personalize treatment plans and accelerate drug discovery.[2] While these goals are admirable, accelerating the adoption of AI should not come at the cost of safety. A robust regulatory framework is needed to ensure AI has been tested and proven safe and effective for patient care before implementation, the same way we regulate medical devices, treatments, and medications. Additionally, the regulatory framework must ensure workers have the right to be consulted and engaged on all policies, procedures, and best practices surrounding the implementation of AI. Union workers must have the opportunity to bargain over whether and how technology should be implemented in the workplace before it is selected or deployed in a health care setting to ensure the technology is not accelerating job displacement or deskilling the workforce.

When employers prioritize profit over patients and the frontline employees, care quality suffers. This is why we share the broad concerns that healthcare providers are adopting untested and unregulated AI in clinical settings. This includes, for example, prescription renewal tools released by Utah's state government, which partnered with Doctronic,[2] as well as AI systems used to deny patient claims without human oversight.[3] These practices expose patients and healthcare workers to unnecessary risk. AI systems must be tested before and during use to reduce dangers and dangerous directives that harm workers and patients. As the agency evaluates how to oversee responsible AI adoption in clinical care, it must actively solicit input from healthcare practitioners, clinical care workers, patients and their advocates, and unions, who are the end-users most affected by these technologies. Healthcare workers' knowledge and experience should inform healthcare regulations and AI best practices. Their voices are critical to holding the AI developers and healthcare employers accountable before these unproven technologies are unleashed on patients and healthcare workers.

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[2] Madeline North, "7 ways AI is transforming healthcare," World Economic Forum, August 13, 2025, https://www.weforum.org/stories/2025/08/ai-transforming-global-health/

Centering Workers and Patients Prior to the Adoption of AI in Healthcare
The public interest will be best served by a healthcare system that supports the working conditions of healthcare professionals and equips them with the tools, including AI technologies, that are designed to assist, rather than replace, their clinical expertise in delivering widely accessible, affordable, and high-quality patient care. It is critical as the Department evaluates the adoption of AI into healthcare services that workers voices' are front-and-center in the AI development and implementation process from the onset of R&D through its delivery to patients. Department policy should support collective bargaining and worker consultation in the adoption of AI and other emerging technologies. Workers are the experts on their jobs and workplaces, and are best positioned to identify risks and guardrails needed. Union workers must have the opportunity to bargain over whether and how technology should be implemented in the workplace before it is selected or deployed in a health care setting to ensure the technology is not accelerating job displacement or deskilling the workforce. Where workers have agreed to participate in a labor-management committee to address delivery of care issues, such entities can be a vehicle for ensuring meaningful input into implementation issues on an ongoing basis.

We urge HHS to use its authority to help ensure that any adoption and use of AI in clinical care follows a worker and patient-centered approach. First and foremost, healthcare workers must retain their autonomy while providing care.[3,][4] A robust regulatory framework would include implementing strong and enforceable rules that protect clinicians and nurses' right to exercise professional judgment and override decisions made by AI or other novel technologies when clinically appropriate, without fear of retaliation. Further, to support high-quality clinical care, healthcare workers must have access to training and education informing them of how AI tools in their workplace function as well as their limitations and potential biases. Additionally, patients and health care workers must retain the right to transparency and privacy in the health care data that is being collected about them, what purpose it serves, where it is stored, and whether it is being sold or shared.

Institutions must provide ongoing training and informed consent by way of opt-in process of patients and healthcare staff to ensure everyone understands the benefits and risks of technologies being deployed.[5] The Department should

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[3] Yasmin Khorram and Ruth Reader, "Artificial intelligence begins prescribing medication in Utah," PoliticoPro, January 6, 2026, https://subscriber.politicopro.com/article/2026/01/artificial-intelligence-begins-prescribing-medications-in-utah-00709122.
[4] Paige Nong, Julia Adler-Milstein, Nate C. Apathy, A. Jay Holmgren, and Jordan Everson, "Current Use And Evaluation Of Artificial Intelligence And Predictive Models In US Hospitals," Health Affairs (January, 2025). https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2024.00842?journalCode=hlthaff.
[5] American Federation of Teachers, AFL-CIO, "Workers' Rights And Ethical Use of Artificial Intelligence In Healthcare," American Federation of Teachers, AFL-CIO, accessed February 4, 2026. https://www.aft.org/resolution/workers-rights-and-ethical-use-artificial-intelligence-healthcare.

consult all affected stakeholders, including unions, and patient advocates, to develop education and training programs that integrate AI in ways that enhance working conditions rather than disrupt or displace care delivery.

Unregulated AI Uses Could Deliver Worse Clinical Outcomes
Without robust AI guardrails, the healthcare system risks worsening access to care, and harming patient outcomes by deploying untested and unregulated AI in clinical settings. Unlike licensed healthcare professionals, AI systems are often not subject to medical certification, professional discipline, or are required to operate under ethical obligations equivalent to a human care provider. As a result, AI systems cannot be assumed to self-regulate or reliably communicate risk, particularly to individuals without medical training. These limitations explain why AI, when used independently of professional oversight, cannot consistently meet baseline expectations of clinical care; it cannot synthesize interactive patient data, exercise contextual judgement, or adapt treatment decisions through meaningful follow-up.[6] HHS must establish a robust regulatory framework that requires rigorous testing of deployed algorithms for bias and fairness, holding AI systems to standards comparable to certified clinicians, and enforcing oversight mechanisms that hold developers and deployers accountable for unintended consequences of their implementation.[7]

As new AI tools are increasingly introduced into clinical settings, stakeholders warn that poorly designed or weakly enforced applications can reduce care quality and increase strain on healthcare workers. For example, a Virginia Tech study found AI models used for in-hospital mortality prediction failed to recognize 66 percent of injuries.[7] In such cases, AI systems missed signs of patient deterioration that clinicians would have likely identified. AI also causes harm when it generates automated care plans that fail to reflect individual patient needs. In another instance, a healthcare worker at Dignity Health in Henderson, Nevada, reported that an AI system incorrectly flagged a newly admitted patient for sepsis treatment when the patient actually required dialysis care.[8] Only timely

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[6] Geoffrey A. Fowler, "We found what you're asking ChatGPT about health. A doctor scored its answers," The Washington Post, November 18, 2025, https://www.washingtonpost.com/technology/2025/11/18/chatgpt-health-advice-accuracy-rated/.
[7] National Nurses United, "Nurses and Patients' Bill of Rights: Guiding Principles for A.I. Justice in Nursing and Health Care," National Nurses United, accessed February, 4, 2025, https://www.nationalnursesunited.org/sites/default/files/nnu/documents/0424_NursesPatients-BillOfRights_Principles-AI-Justice_flye r.pdf.
[8] Barbara L. Micale, "Machine learning models fail to detect key health deteriorations, Virginia Tech research shows," Virginia Polytechnic Institute and State University, March 11, 2025, https://news.vt.edu/articles/2025/02/virginia-tech-study-published-in-communications-medicine-.html#:~:text=University%20Photo%20Library-,Machine%20learning%20models%20fail%20to%20detect%20key%20health%20deteriorations%2C%20.

human intervention prevented a catastrophic misdiagnosis and serious patient harm.

These failures underscore AI's limitations in clinical judgement, assessing urgency, recognizing emotional distress, and adapting care through follow-up questioning; capabilities that are central to high-quality caregiving. The prevailing response to these limitations among AI developers and deployers is to over-rely on "human-in-the-loop" approaches to AI safety that place the burden–and the liability–of verifying the accuracy and efficacy of AI, rather than rigorous testing, monitoring, and regulation of the technology. The additional work required to review and correct the outputs of AI tools used in applications like scribing, charting, and patient communications can negate any promised efficiencies or even take more time away from direct patient care and potentially undermine patient outcomes. A study at the University of California, San Diego showed that clinicians spent almost 22% more time reviewing and drafting responses to patient messages after the introduction of a generative AI patient communication tool.[9]

Deploying AI systems that have not been sufficiently tested or validated raises questions about whether these tools can reliably support the level of care patients receive from healthcare workers. Although healthcare workers have used AI for decades, primarily as a clinical decision-support tool; clinical care is increasingly shifting AI's role towards substituting for human judgement.[10] As National Nurses United has highlighted, "the entire ecosystem is designed to automate, de-skill, and ultimately replace caregivers."[11] This is a concern, because existing regulatory frameworks do not adequately distinguish between assistive technologies and systems that operate with limited or no human oversight. Dr. John Whyte, CEO and Executive Vice President of the American Medical Association, voiced this concern when discussing Utah's pilot program allowing AI-enabled prescription renewal services, warning that "while AI has limitless opportunity to transform medicine for the better, without physician input it also poses serious risks to patients and physicians alike."[12] These risks include failures to recognize nuanced clinical factors, such as signs of substance use disorder or emotional distress, that clinicians routinely assess.

[9] Tai-Seale M, Baxter SL, Vaida F, et al. AI-Generated Draft Replies Integrated Into Health Records and Physicians' Electronic Communication. JAMA Netw Open. 2024;7(4):e246565. doi:10.1001/jamanetworkopen.2024.6565

[10] Hirani, Rahim, et al. "Artificial Intelligence and Healthcare: A Journey through History, Present Innovations, and Future Possibilities." Life, vol. 14, no. 5, 2024, p. 557. https://doi.org/10.3390/life14050557.

[11] Matthew Perrone, "As Ai nurses reshape hospital care, human nurses are pushing back," The Associated Press, March 16, 2025, https://apnews.com/article/artificial-intelligence-ai-nurses-hospitals-health-care-3e41c0a2768a3b4c5e002270cc2abe23.

[12] Geoffrey A. Fowler, "We found what you're asking ChatGPT about health. A doctor scored its answers," The Washington Post, November 18, 2025, https://www.washingtonpost.com/technology/2025/11/18/chatgpt-health-advice-accuracy-rated/.

Beyond clinical settings, the growing visibility of AI-generated health information online further threatens patient trust and public health literacy.[13] AI-generated content often appears to carry medical endorsement despite lacking professional review, promoting everything from untested weight-loss supplements to unsafe medical advice. In one reported case, a man was hospitalized for poisoning after asking ChatGPT for advice on reducing salt from his diet.[14] These incidents demonstrate that users increasingly place their trust in AI-generated health information, highlighting the need for clear standards, transparency, and accountability, particularly when such information may promote unproven or unsafe treatments.

AI Is Being Used to Reduce Access and Affordability, and Perpetuate Disparities

The use of AI to determine access to healthcare services raises significant policy concerns. As AI systems are becoming more prevalent in assessing healthcare coverage and insurance utilization, it is vital that AI is not used to make health care coverage decisions. These decisions require clinical expertise and an understanding of individual circumstances, context that automated systems alone cannot adequately capture. American patients are highly aware of how these tools can be misused to deny claims and reduce healthcare coverage: a Quinnipiac survey conducted in 2025 on AI shows that 71 percent of Americans feel uncomfortable with the use of AI tools in claims screening and decision-making.[15] And yet, despite this skepticism, commercial insurers continue to integrate AI into utilization management and claims processing.[16]

Although AI technologies are often promoted as tools to ensure fairness and consistency, their design frequently relies on insurers' historical data. A Stanford Health study found that provider-facing tools predict the likelihood that a denied claim can be successfully appealed by relying on past outcomes of appeals for that service type.[17] Rather than evaluating the clinical merits of an individual case, these tools often reproduce prior approval and denial patterns. This approach raises concerns in the context of the recently implemented Wasteful and Inappropriate Service Reduction (WISeR) model, which uses AI to refine the

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[13] Ibid.

[14] Audrey Eichenberger, MD, Stephen Thielke, MD, Adam Van Buskirk, MD,. "A Case of Bromism Influenced by Use of Artificial Intelligence," Annals of Internal Medicine Clinical Cases, August 5, 2025, https://www.acpjournals.org/doi/10.7326/aimcc.2024.1260.

[15] Quinnipiac University, "The Age Of Artificial Intelligence: Americans Wary Of Impact On Daily Life, See Harm To Education, Benefits To Medical Advances, Quinnipiac University National Poll Finds; Americans Expect AI Will Cause Job Losses But Workers Don't Think Their Own Jobs Will Disappear," Quinnipiac University, April 16, 2025, https://poll.qu.edu/poll-release?releaseid=3923.

[16] Michelle M. Mello, Artem A. Tortsyuk, Abdoul Jalil Djiberou Mahamadou, and Danton Char, "The AI Arms Race In Health Insurance Utilization Review: Promises Of Efficiency And Risks Of Supercharged Flaws," Health Affairs, January, 2026, https://www.healthaffairs.org/doi/10.1377/hlthaff.2025.00897.

[17] Ibid.

prior authorization process for traditional fee-for-service Medicare. The WISeR model is designed to "reduc[e] fraud, waste (including low-value care), and abuse in Medicare fee-for-service" by flagging claims for services that may not meet existing coverage requirements.[18] The concern is that this model may foster perverse incentives. Tech companies that voluntarily participate may receive financial compensation linked to their share of "averted expenditures," reducing incentives to closely evaluate model accuracy, test for bias, or monitor changes in performance over time, as long as the model is generating profit.[19] These systems rely on fixed standards and historical datasets that can potentially be inaccurate in accounting for social determinants of health, recognizing evolving clinical guidelines, and acknowledging recent policy changes.[20] Used as intended, AI use cases in eligibility and coverage may be generating incorrect outputs with real world consequences.[21]

Recent studies have also pointed to a connection between AI utilization and exacerbation of the racial disparities that already plague the health system. This raises fundamental questions about whether AI deployment can meaningfully improve affordability and access to care, or whether it risks reinforcing existing barriers within the healthcare system, worsening existing healthcare access gaps.

AI Innovation Should Not Be Used to Worsen Healthcare Workplace Conditions

Employers often deploy AI-enabled tools without providing adequate support or protections, leaving workers to absorb the harms. AI systems increasingly quantify nursing workloads and patient acuity (complexity of care required), and healthcare organizations use these metrics to drive staffing decisions and nurse-to-patient assignments. This approach can lead to chronic understaffing and worker burnout, because acuity measurements rely on real-time RN charting–a process shaped more by institutional norms, patterns of convenience, and subjective judgment than by actual clinical needs.[22] To automate this process without solving for the significance of these independent variables creates staffing imbalances and declines in full care coverage.

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[18] "Medicare Program; Implementation of Prior Authorization for Select Services for the Wasteful and Inappropriate Services Reduction (WISeR) Model," 90 F.R. 28749 (proposed July 1, 2025). https://www.govinfo.gov/content/pkg/FR-2025-07-01/pdf/2025-12195.pdf.

[19] "Medicare Program; Implementation of Prior Authorization for Select Services for the Wasteful and Inappropriate Services Reduction (WISeR) Model," 90 F.R. 28749 (proposed July 1, 2025). https://www.govinfo.gov/content/pkg/FR-2025-07-01/pdf/2025-12195.pdf.

[20] Lorenzo Belenguer, "AI bias: exploring discriminatory algorithmic decision-making models and the application of possible machine-centric solutions adapted from the pharmaceutical industry," National Library of Medicine, February, 10, 2022, https://pmc.ncbi.nlm.nih.gov/articles/PMC8830968/#CR71.

[21] Michelle M. Mello, Artem A. Tortsyuk, Abdoul Jalil Djiberou Mahamadou, and Danton Char, "The AI Arms Race In Health Insurance Utilization Review: Promises Of Efficiency And Risks Of Supercharged Flaws," Health Affairs, January, 2026, https://www.healthaffairs.org/doi/10.1377/hlthaff.2025.00897.

[22] Heather Cathro, "A practical guide to making patient assignments in acute care," J Nurs Adm, January, 2013. https://pubmed.ncbi.nlm.nih.gov/23232175/.

Rather than producing a fully scheduled workforce, this automation has helped create a gig-work model in healthcare. App-based platforms are changing the working conditions in clinical settings by pressuring healthcare professionals to bid against one another to fill hospital shifts, often at the lowest possible rate.[23] Rather than optimizing access to care, these models are being used to reduce labor costs and undercut healthcare workers' rights, leading to chronic understaffing, decreased job security, erosion of patient care, and reduced benefits. In this emerging model for care, patients pay the ultimate price, with longer wait times at hospitals and reduced access to high-quality care.[24] Technology is no substitute for appropriate staffing levels for all health care workers that are necessary to ensure the highest standards of safety and care for both workers and patients. A policy framework that centers on quality, workers' right to safety, and workforce sustainability is critical to ensure AI contributes positively to patient care rather than undermining it.

AI Guardrails Protect Patients and Workers
We are concerned that, on net, untested and unregulated AI can diminish the reputation of high-quality and safe US healthcare. The integration of AI into healthcare affects both the sustainability and integrity of the healthcare profession. When thoughtfully designed and implemented, AI technologies can support clinicians and improve care quality. However, when organizations prioritize speed, cost savings or perverse, economically-motivated objectives over clinical validation and workforce engagement, they create real risks to patient safety and outcomes. Deploying technologies without proper validation can lead to diagnostic errors, missed conditions, or delayed care often because health care providers spend time correcting the misrepresentation or misdiagnosis by AI, pulling providers away from direct patient care, worsening quality care and threatening the reputation of the American healthcare system.

Given the high-stakes nature of clinical care, patient trust depends on professional judgement and accountability. If AI systems are perceived as unreliable or insufficiently tested, patients may delay seeking medical attention or lose faith in our healthcare system. Strong guardrails are absolutely essential to holding the healthcare industry accountable for the quality and affordability of its services. To promote responsible innovation, we urge the Department to recognize that acceleration of AI in healthcare without strong guardrails is dangerous to patients and workers. At minimum, the Department must implement policies and regulations requiring mandatory, pre-market testing and approval of any AI system to ensure that it is safe, effective, therapeutic, and equitable, and

[23] Katie J. Wells, and Funda Ustek Spilda, "Uber for Nursing: How an AI-Powered Gig Model Is Threatening Health Care," Roosevelt Institute, December 17, 2024, https://rooseveltinstitute.org/publications/uber-for-nursing/.
[24] Katie J. Wells, and Funda Ustek Spilda, "Uber for Nursing: How an AI-Powered Gig Model Is Threatening Health Care," Roosevelt Institute, December 17, 2024, https://rooseveltinstitute.org/publications/uber-for-nursing/.

holding AI developers and healthcare service providers accountable for misuses or harms to patients and workers. Likewise, the Department must put in place supervisory and enforcement standards that maintain comparable safety standards between AI systems and human healthcare providers. Responsible innovation that is safe and reliable must be implemented through a worker- and patient-centered approach. Accordingly, through the lifecycle of AI systems, healthcare workers' voice should be incorporated into AI governance, including pre-decisional worker consultation and consent, worker-centered audits and assessments, transparency, human-in-the-loop processes, the right to human review, opt-out/override options, whistleblower protections, and liability shields for workers.

Thank you for this opportunity to comment on policy strategies for AI adoption in healthcare.

Sincerely,

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