Submitted Via Email: ai-bias@list.nist.gov

September 10, 2021

National Institute of Standards and Technology
Attn: Information Technology Laboratory
100 Bureau Drive
Gaithersburg, Maryland 20899-2000

RE: Public Comments in Response to Draft Special Publication 1270

Dear NIST Representative:

AHIP is responding to the call for public comments in response to Draft Special Publication 1270, "A Proposal for Identifying and Managing Bias in Artificial Intelligence" (AI).[1]

We support the intent of the proposal, and applaud the well-researched, comprehensive description of the challenges of addressing bias in AI. Many of the steps outlined in the document are in use by some entities and can be helpful for understanding AI and its benefits and challenges.

The intended use of the model is critical for understanding, identifying, and avoiding unintended bias in AI. Depending on the application, understanding and being transparent about bias in AI may be more important than trying to eliminate it. For example, some AI initiatives are designed to benefit specific groups or populations and might be considered "good bias." In other words, bias should not be construed as "bad" when the intent of an application may, in fact, be to identify and benefit an underserved class or individual.

Engaging a diverse set of stakeholders, including payers specifically, in the design of AI use cases is a good way to understand when historical or underlying data patterns may be perpetuating bias, and to address or eliminate unintended outcomes as much as possible. Likewise, diverse individuals that can be impacted by the AI should be engaged as well.

Usefulness and industry acceptance will be critical for adoption and effective use of AI. The NIST proposal is intended to be appropriately agnostic to sector, but accommodation

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[1] AHIP is the national association whose members provide health care coverage, services, and solutions to hundreds of millions of Americans every day. We are committed to market-based solutions and public-private partnerships that make health care better and coverage more affordable and accessible for everyone. Visit www.ahip.org to learn how working together, we are Guiding Greater Health. *See*, https://www.nist.gov/artificial-intelligence/proposal-identifying-and-managing-bias-artificial-intelligence-sp-1270.

between different sectors should be clarified, particularly for consumers (e.g., how consumers will interact with and utilize AI-powered tools in different or intersecting sectors). Higher trust will be evident if an AI powered service offers transparency and high utility to the individual.

Understanding of AI outside of the analytic community will be important to establish sound policy around AI. While systemic error introduced through bias is a significant concern because of the inequity it creates or exacerbates, we recommend NIST also consider the implication of random error in the use of AI. While it is rare to achieve 100% accuracy, the level of deviation must be assessed as part of the purpose for which AI is used, along with a risk analysis and potential error threshold. For example, AI techniques may require transparency for data quality, "decision outputs," and other "behind-the-scenes" programming that enables the AI functionality. Other examples depend on the level of risk involved, such as whether the AI is being used to accomplish a direct outcome for a patient. The draft proposal could also benefit from more discussion and analysis of the differing levels of risk involved with AI for automation and for decision support, and the implications of being either insufficiently critical or overly optimistic of the various AI system program components and outputs.

We are eager to engage in public dialog with vendors/developers about how to mitigate bias as much as possible but understand that "glitches" might still occur. Consensus should be achieved for handling such events. Time and education are also needed for policymakers and regulators to become better equipped to understand AI and to ensure transparent communication to end users and other appropriate stakeholders.

We also believe more public input into understanding "use cases" would help inform NIST's work. For example, additional public forums could be scheduled by NIST to further explore use cases, applications, outcomes, and potential unintended results, along with the impact on individuals and/or groups. As discussed above, we recommend that NIST engage a diverse set of stakeholders and discuss how to include supported decision-making leveraging AI.

The simplicity, robustness and transparency of these frameworks will be the foundation for building public trust in AI and the organizations that use it. Governance is essential for engaging public trust, consistency across applications, and appropriate and ethical use of the technologies. Likewise, program design will be a key element for AI. We suggest that the document discuss governance structures more fully, as well as how automated and supported decision-making by AI directly relate to the key governance rules.

In addition, the lifecycle stages in the proposal correspond with existing processes, as do the actions suggested to mitigate bias at each stage. We would suggest adding an additional stage which describes the ongoing monitoring of AI for bias and including feedback from users as a "trigger" for re-examination and testing. Some of these elements could be incorporated into the framework, which can be updated as adoption and use of AI evolves.

We recommend that the final document be revised to discuss the many positive impacts of AI more fully. While there is potential for negative impacts of unchecked or potentially unmonitored bias and unintended discriminatory practices or outcomes, this bourgeoning area holds significant promise for exponential advancements in healthcare. Policy makers and the public should be made aware of the AI functions in current systems, and the measures to ensure fairness and effectiveness throughout use and application. We must balance the risks associated with AI against the benefits and seek to mitigate risk in a way that does not stifle innovation.

Sincerely,

Danielle A. Lloyd, MPH
Senior Vice President, Private Market Innovations & Quality Initiatives