HYPOTHETICAL #2 SECTION 1557 OF THE ACA & ALGORITHMIC BIAS

Scenario

A large health system adopts an AI tool to identify patients eligible for care-management services. The model relies heavily on historical healthcare spending data.

An internal audit reveals that Black patients with the same medical conditions as White patients are consistently assigned lower risk scores and are less likely to receive enhanced care services.

Questions

1. Which federal civil-rights law may apply?
2. Why might the algorithm create legal risk?
3. What should the organization do?

Model Answer

Section 1557 of the Affordable Care Act may apply because it prohibits discrimination in federally funded healthcare programs.

The algorithm creates legal risk because historical spending data may not accurately reflect actual medical need. Lower healthcare spending among certain populations may result from barriers to care rather than lower health risks.

Even if there is no intent to discriminate, a facially neutral algorithm may create disparate impacts affecting protected groups.

The health system should:

• Conduct a formal bias assessment. • Suspend use of the model if significant inequities are identified. • Validate alternative variables and methodologies. • Implement ongoing monitoring and auditing procedures. • Document corrective actions and governance decisions.

Key Federal Authority: Section 1557 of the Affordable Care Act; Title VI of the Civil Rights Act of 1964.