

Senate Bill 213

Sponsored by Senator BATES (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Makes legislative findings regarding emergency medical services. Establishes duty of emergency medical personnel to refer patients who do not have emergency medical conditions to appropriate treatment settings.

A BILL FOR AN ACT

1
2 Relating to health care; creating new provisions; and amending ORS 441.094 and 682.220.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in this section and ORS 441.094 and section 2 of this 2011 Act:**

5 (1) **"Emergency medical condition" means a medical condition that manifests itself by**
6 **acute symptoms of sufficient severity, including severe pain, that a prudent layperson pos-**
7 **sessing an average knowledge of health and medicine would reasonably expect that failure**
8 **to receive immediate medical attention would place the health of a person, or a fetus in the**
9 **case of a pregnant woman, in serious jeopardy.**

10 (2) **"Emergency medical services" means medical services that are usually and custom-**
11 **arily available at a hospital and that must be provided immediately to sustain a person's life,**
12 **to prevent serious permanent disfigurement or loss or impairment of the function of a bodily**
13 **member or organ, or to provide care of a woman in her labor where delivery is imminent if**
14 **the hospital is so equipped and, if the hospital is not equipped, to provide necessary treat-**
15 **ment to allow the woman to travel to a more appropriate facility without undue risk of se-**
16 **rious harm.**

17 (3) **"Medical screening examination" means an appropriate examination and ancillary**
18 **testing, within the capability of the emergency department, that is necessary for medical or**
19 **nursing personnel who are qualified in emergency care to determine the nature and extent**
20 **of an emergency medical condition.**

21 **SECTION 2. (1) The Legislative Assembly finds that:**

22 (a) **It is in the best interest of an individual to receive routine health care in the most**
23 **appropriate setting; and**

24 (b) **Inappropriate use of emergency medical services is harmful to individuals and to the**
25 **health care system, and emergency medical providers should provide leadership in discour-**
26 **aging the inappropriate use of emergency medical services.**

27 (2) **Each medical staff member and employee of a hospital that has an emergency de-**
28 **partment has an affirmative duty to refer to a medically appropriate treatment setting any**
29 **patient who is determined after a medical screening examination not to have an emergency**
30 **medical condition.**

31 (3) **An emergency medical technician has a duty to refuse to provide the inappropriate**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **use of emergency transportation and to refer an alternative means of transportation to an**
 2 **individual who the emergency medical technician determines does not have an emergency**
 3 **medical condition.**

4 **SECTION 3.** ORS 441.094 is amended to read:

5 441.094. (1) [No] **An officer, [or] employee or member of the medical staff** of a hospital li-
 6 censed by the Oregon Health Authority that has an emergency department may **not** deny to a per-
 7 son an appropriate medical screening examination [*within the capability of the emergency department,*
 8 *including ancillary services routinely available to the emergency department, to determine whether a*
 9 *need for emergency medical services exists*].

10 (2) [No] **An officer, [or] employee or member of the medical staff** of a hospital licensed by the
 11 authority may **not** deny to a person diagnosed by an admitting physician as being in need of emer-
 12 gency medical services the emergency medical services customarily provided at the hospital because
 13 the person is unable to establish the ability to pay for the services.

14 (3) Nothing in this section is intended to relieve a person of the obligation to pay for services
 15 provided by a hospital.

16 (4) A hospital that does not have physician services available at the time of the emergency shall
 17 not be in violation of this section if, after a reasonable good faith effort, a physician is unable to
 18 provide or delegate the provision of emergency medical services.

19 (5) All prepaid capitated health service contracts executed by the authority and private health
 20 maintenance organizations and managed care organizations shall include a provision that encour-
 21 ages a managed care plan to establish agreements with hospitals in the plan's service area for
 22 payment of emergency screening examinations.

23 *[(6) As used in subsections (1) and (2) of this section, "emergency medical services" means medical*
 24 *services that are usually and customarily available at the respective hospital and that must be provided*
 25 *immediately to sustain a person's life, to prevent serious permanent disfigurement or loss or impairment*
 26 *of the function of a bodily member or organ, or to provide care of a woman in her labor where delivery*
 27 *is imminent if the hospital is so equipped and, if the hospital is not equipped, to provide necessary*
 28 *treatment to allow the woman to travel to a more appropriate facility without undue risk of serious*
 29 *harm.]*

30 **SECTION 4.** ORS 682.220 is amended to read:

31 682.220. (1) The Oregon Health Authority may deny, suspend or revoke licenses for ambulances
 32 and ambulance services in accordance with the provisions of ORS chapter 183 for a failure to com-
 33 ply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules adopted
 34 thereunder.

35 (2) The certification of an emergency medical technician may be denied, suspended or revoked
 36 in accordance with the provisions of ORS chapter 183 for any of the following reasons:

37 (a) A failure to have completed successfully an authority approved course.

38 (b) In the case of provisional certifications, failure to have completed successfully an authority
 39 approved course.

40 (c) Failure to meet or continue to meet the physical and mental qualifications required to be
 41 certified under ORS 682.208.

42 (d) The use of fraud or deception in receiving a certificate.

43 (e) Practicing skills beyond the scope of practice established by the Oregon Medical Board un-
 44 der ORS 682.245.

45 (f) Rendering emergency or nonemergency care under an assumed name.

- 1 (g) The impersonation of another EMT.
- 2 (h) Unprofessional conduct.
- 3 (i) Obtaining a fee by fraud or misrepresentation.
- 4 (j) Habitual or excessive use of intoxicants or drugs.
- 5 (k) The presence of a mental disorder that demonstrably affects an EMT's performance, as cer-
- 6 tified by two psychiatrists retained by the authority.
- 7 (L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions
- 8 about the ability of the EMT to perform the duties of an EMT in accordance with the standards
- 9 established by this chapter. A copy of the record of conviction, certified to by the clerk of the court
- 10 entering the conviction, shall be conclusive evidence of the conviction.
- 11 (m) Suspension or revocation of an emergency medical technician certificate issued by another
- 12 state:
 - 13 (A) For a reason that would permit the authority to suspend or revoke a certificate issued under
 - 14 this chapter; and
 - 15 (B) Evidenced by a certified copy of the order of suspension or revocation.
- 16 (n) Gross negligence or repeated negligence in rendering emergency medical assistance.
- 17 (o) Rendering emergency or nonemergency care without being certified except as provided in
- 18 ORS 30.800.
- 19 (p) Rendering emergency or nonemergency care as an EMT without written authorization and
- 20 standing orders from a supervising physician who has been approved by the board in accordance
- 21 with ORS 682.245.
- 22 (q) Refusing an invitation for an interview with the authority as specified in this section.
- 23 (3) The authority may investigate any evidence that appears to show that an EMT certified by
- 24 the authority is or may be medically incompetent, guilty of unprofessional or dishonorable conduct
- 25 or mentally or physically unable to safely function as an EMT. The authority may investigate the
- 26 off-duty conduct of an EMT to the extent that such conduct may reasonably raise questions about
- 27 the ability of the EMT to perform the duties of an EMT in accordance with the standards estab-
- 28 lished by this chapter. Upon receipt of a complaint about an EMT or applicant, the authority shall
- 29 conduct an investigation as described under ORS 676.165. An investigation shall be conducted in
- 30 accordance with ORS 676.175.
- 31 (4)(a) Unless state or federal laws relating to confidentiality or the protection of health infor-
- 32 mation prohibit disclosure, any health care facility licensed under ORS 441.015 to 441.087 and
- 33 441.820, any medical or osteopathic physician licensed under ORS chapter 677, any owner of an
- 34 ambulance licensed under this chapter or any EMT certified under this chapter shall report to the
- 35 authority any information the person may have that appears to show that an EMT is or may be
- 36 medically incompetent, guilty of unprofessional or dishonorable conduct or mentally or physically
- 37 unable to safely function as an EMT.
- 38 (b) Unless state or federal laws relating to confidentiality or the protection of health information
- 39 prohibit disclosure, an EMT certified under this chapter who has reasonable cause to believe that
- 40 a licensee of another board has engaged in prohibited conduct as defined in ORS 676.150 shall report
- 41 the prohibited conduct in the manner provided in ORS 676.150.
- 42 (5) If, in the opinion of the authority, it appears that the information provided to it under pro-
- 43 visions of this section is or may be true, the authority may request an interview with the EMT.
- 44 At the time the authority requests an interview, the EMT shall be provided with a general statement
- 45 of the issue or issues of concern to the authority. The request shall include a statement of the pro-

1 cedural safeguards available to the EMT, including the right to end the interview on request, the
 2 right to have counsel present and the following statement: “Any action proposed by the Oregon
 3 Health Authority shall provide for a contested case hearing.”

4 (6) Information regarding an ambulance service provided to the authority pursuant to this sec-
 5 tion is confidential and shall not be subject to public disclosure, nor shall it be admissible as evi-
 6 dence in any judicial proceeding. Information that the authority obtains as part of an investigation
 7 into emergency medical technician or applicant conduct or as part of a contested case proceeding,
 8 consent order or stipulated agreement involving emergency medical technician or applicant conduct
 9 is confidential as provided under ORS 676.175. Information regarding an ambulance service does not
 10 become confidential due to its use in a disciplinary proceeding against an emergency medical tech-
 11 nician.

12 (7) Any person who reports or provides information to the authority under this section and who
 13 provides information in good faith shall not be subject to an action for civil damage as a result
 14 thereof.

15 (8) In conducting an investigation under subsection (3) of this section, the authority may:

16 (a) Take evidence;

17 (b) Take depositions of witnesses, including the person under investigation, in the manner pro-
 18 vided by law in civil cases;

19 (c) Compel the appearance of witnesses, including the person under investigation, in the manner
 20 provided by law in civil cases;

21 (d) Require answers to interrogatories; and

22 (e) Compel the production of books, papers, accounts, documents and testimony pertaining to the
 23 matter under investigation.

24 (9) The authority may issue subpoenas to compel compliance with the provisions of subsection
 25 (8) of this section. If any person fails to comply with a subpoena issued under this subsection, or
 26 refuses to testify on matters on which the person may lawfully be interrogated, a court may compel
 27 obedience as provided in ORS 183.440.

28 **(10) The authority may not deny, suspend or revoke a certification of an EMT or first**
 29 **responder who in good faith refuses the use of emergency transportation for a person who**
 30 **does not have an emergency medical condition, as defined in section 1 of this 2011 Act, so**
 31 **long as the EMT or first responder ensures that the person has a reasonable alternative**
 32 **means of transportation.**

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