

# D R A F T

## SUMMARY

Limits scope of physician practice with respect to providing treatment for life-threatening emergency conditions.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to emergency medical care; creating new provisions; amending ORS  
3 441.094; and declaring an emergency.

4 Whereas the current health care delivery system is dysfunctional and  
5 needs further reform; and

6 Whereas inflation in the costs of health care continues to consume public  
7 and private resources at an alarming, accelerating rate, impacting individual  
8 Oregonians, businesses, the State of Oregon and its taxpayers; and

9 Whereas an important public policy goal of Oregon is to optimize reliable  
10 consumer access to high quality care while reducing costs to those who  
11 purchase care: individuals, employers and governments; and

12 Whereas nowhere is this more apparent than in the need to address cur-  
13 rent wasteful spending in the treatment of medical emergencies; and

14 Whereas evidence-based national policy research has clearly concluded  
15 that excess utilization of costly hospital emergency department services is a  
16 significant, root cause of the dysfunction of our health care system, high  
17 health care costs and poor health outcomes; and

18 Whereas visits to the hospital emergency department should be limited  
19 to life-threatening medical emergencies; and

20 Whereas legislative leadership is needed to provide a better allocation of

1 scarce resources to eliminate waste and to encourage a modernization of the  
2 delivery of frontline health care services by engaging and treating consumers  
3 at the most accessible, lowest risk and least costly point of care; now,  
4 therefore,

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

6 **SECTION 1. Section 2 of this 2017 Act is added to and made a part**  
7 **of ORS chapter 677.**

8 **SECTION 2. (1) As used in this section:**

9 **(a) “Life-threatening emergency condition” means a medical condi-**  
10 **tion that manifests itself by acute symptoms of sufficient severity,**  
11 **including severe pain, that a prudent layperson possessing an average**  
12 **knowledge of health and medicine would reasonably expect that failure**  
13 **to receive immediate medical attention would:**

14 **(A) Place the health of a person, or an unborn child in the case of**  
15 **a pregnant woman, in serious jeopardy;**

16 **(B) Result in serious impairment to bodily functions; or**

17 **(C) Result in serious dysfunction of any bodily organ or part.**

18 **(b) “Non-life-threatening emergency condition” means a medical**  
19 **condition requiring immediate medical attention, but that is not of**  
20 **such severity that failure to provide treatment in a hospital setting**  
21 **will pose the risks described in paragraph (a) of this subsection.**

22 **(2) A physician may provide treatment for a life-threatening emer-**  
23 **gency condition in a hospital licensed under ORS 441.025 or as specified**  
24 **by the Oregon Medical Board by rule.**

25 **(3) A physician may provide treatment for a non-life-threatening**  
26 **emergency condition, within the physician’s scope of practice and in**  
27 **accordance with the laws of the state, outside of the confines of a**  
28 **hospital licensed under ORS 441.025.**

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

30 **441.094. (1) No officer or employee of a hospital licensed by the Oregon**  
31 **Health Authority that has an emergency department may deny to a person**

1 an appropriate medical screening examination within the capability of the  
2 emergency department, including ancillary services routinely available to the  
3 emergency department, to determine whether a need for emergency medical  
4 services exists.

5 (2) No officer or employee of a hospital licensed by the authority may  
6 deny to a person diagnosed by an admitting physician as being in need of  
7 emergency medical services the emergency medical services customarily pro-  
8 vided at the hospital because the person is unable to establish the ability to  
9 pay for the services.

10 (3) Nothing in this section is intended to relieve a person of the obli-  
11 gation to pay for services provided by a hospital.

12 (4) A hospital that does not have physician services available at the time  
13 of the emergency shall not be in violation of this section if, after a reason-  
14 able good faith effort, a physician is unable to provide or delegate the pro-  
15 vision of emergency medical services.

16 (5) All coordinated care organization contracts executed by the authority  
17 and private health maintenance organizations and managed care organiza-  
18 tions shall include a provision that encourages the organization to establish  
19 agreements with hospitals in the organization's service area for payment of  
20 emergency screening examinations.

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

30 **(7) This section does not limit the scope of practice of a physician**  
31 **licensed under ORS chapter 677 who is providing treatment for a non-**

1 **life-threatening emergency condition, as defined in section 2 of this**  
2 **2017 Act, outside of the confines of a hospital licensed under ORS**  
3 **441.025.**

4 **SECTION 4. This 2017 Act being necessary for the immediate pres-**  
5 **ervation of the public peace, health and safety, an emergency is de-**  
6 **clared to exist, and this 2017 Act takes effect on its passage.**

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