

# House Bill 2637

Sponsored by Representative SANCHEZ; Senator MONNES ANDERSON (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**.

Requires hospital emergency departments to accept and treat individuals who need medical detoxification, including by providing peer mentoring.

Requires health benefit plans to provide coverage for medical detoxification, including peer mentoring, beginning with plans issued, renewed or extended on or after January 1, 2020.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to addiction treatment; creating new provisions; amending ORS 441.094 and 743A.012; and  
3 declaring an emergency.

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

5 **SECTION 1.** ORS 441.094 is amended to read:

6 441.094. (1) No officer or employee of a hospital licensed by the Oregon Health Authority that  
7 has an emergency department may deny to a person an appropriate medical screening examination  
8 within the capability of the emergency department, including ancillary services routinely available  
9 to the emergency department, to determine whether a need for emergency medical services exists.

10 (2) No officer or employee of a hospital licensed by the authority may deny to a person diag-  
11 nosed by an admitting physician as being in need of emergency medical services the emergency  
12 medical services customarily provided at the hospital because the person is unable to establish the  
13 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 coordinated care organization contracts executed by the authority and private health  
20 maintenance organizations and managed care organizations shall include a provision that encour-  
21 ages the organization to establish agreements with hospitals in the organization'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 med-  
24 ical services that are usually and customarily available at the respective hospital and that must be  
25 provided immediately:

26 (a) To sustain a person's life[.];

27 (b) To prevent serious permanent disfigurement or loss or impairment of the function of a bodily  
28 member or organ[.];

29 (c) **To detoxify a patient from drugs or alcohol and provide peer mentoring during**  
30 **detoxification; or**

**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 (d) To provide care of a woman in her labor where delivery is imminent if the hospital is so  
2 equipped and, if the hospital is not equipped, to provide necessary treatment to allow the woman to  
3 travel to a more appropriate facility without undue risk of serious harm.

4 **SECTION 2.** ORS 743A.012 is amended to read:

5 743A.012. (1) As used in this section:

6 (a) "Behavioral health assessment" means an evaluation by a behavioral health clinician, in  
7 person or using telemedicine, to determine a patient's need for immediate crisis stabilization.

8 (b) "Behavioral health clinician" means:

9 (A) A licensed psychiatrist;

10 (B) A licensed psychologist;

11 (C) A certified nurse practitioner with a specialty in psychiatric mental health;

12 (D) A licensed clinical social worker;

13 (E) A licensed professional counselor or licensed marriage and family therapist;

14 (F) A certified clinical social work associate;

15 (G) An intern or resident who is working under a board-approved supervisory contract in a  
16 clinical mental health field; or

17 (H) Any other clinician whose authorized scope of practice includes mental health diagnosis and  
18 treatment.

19 (c) "Behavioral health crisis" means a disruption in an individual's mental or emotional stability  
20 or functioning resulting in an urgent need for immediate outpatient treatment in an emergency de-  
21 partment or admission to a hospital to prevent a serious deterioration in the individual's mental or  
22 physical health.

23 (d) "Emergency medical condition" means a medical condition:

24 (A) That manifests itself by acute symptoms of sufficient severity, including severe pain, that a  
25 prudent layperson possessing an average knowledge of health and medicine would reasonably expect  
26 that failure to receive immediate medical attention would:

27 (i) Place the health of a person, or an unborn child in the case of a pregnant woman, in serious  
28 jeopardy;

29 (ii) Result in serious impairment to bodily functions; or

30 (iii) Result in serious dysfunction of any bodily organ or part;

31 (B) With respect to a pregnant woman who is having contractions, for which there is inadequate  
32 time to effect a safe transfer to another hospital before delivery or for which a transfer may pose  
33 a threat to the health or safety of the woman or the unborn child; or

34 (C) That is a behavioral health crisis.

35 (e) "Emergency medical screening exam" means the medical history, examination, ancillary tests  
36 and medical determinations required to ascertain the nature and extent of an emergency medical  
37 condition.

38 (f) "Emergency services" means, with respect to an emergency medical condition:

39 (A) An emergency medical screening exam or behavioral health assessment that is within the  
40 capability of the emergency department of a hospital, including ancillary services routinely available  
41 to the emergency department to evaluate such emergency medical condition;

42 **(B) Medical detoxification and peer mentoring during detoxification;** and

43 ~~[(B)]~~ (C) Such further medical examination and treatment as are required under 42 U.S.C. 1395dd  
44 to stabilize a patient, to the extent the examination and treatment are within the capability of the  
45 staff and facilities available at a hospital.

1 (g) “Grandfathered health plan” has the meaning given that term in ORS 743B.005.

2 (h) “Health benefit plan” has the meaning given that term in ORS 743B.005.

3 (i) “Prior authorization” has the meaning given that term in ORS 743B.001.

4 (j) “Stabilize” means to provide medical treatment as necessary to:

5 (A) Ensure that, within reasonable medical probability, no material deterioration of an emer-  
6 gency medical condition is likely to occur during or to result from the transfer of the patient from  
7 a facility; and

8 (B) With respect to a pregnant woman who is in active labor, to perform the delivery, including  
9 the delivery of the placenta.

10 (2) All insurers offering a health benefit plan shall provide coverage without prior authorization  
11 for emergency services.

12 (3) A health benefit plan, other than a grandfathered health plan, must provide coverage re-  
13 quired by subsection (2) of this section:

14 (a) For the services of participating providers, without regard to any term or condition of cov-  
15 erage other than:

16 (A) The coordination of benefits;

17 (B) An affiliation period or waiting period permitted under part 7 of the Employee Retirement  
18 Income Security Act, part A of Title XXVII of the Public Health Service Act or chapter 100 of the  
19 Internal Revenue Code;

20 (C) An exclusion other than an exclusion of emergency services; or

21 (D) Applicable cost-sharing; and

22 (b) For the services of a nonparticipating provider:

23 (A) Without imposing any administrative requirement or limitation on coverage that is more  
24 restrictive than requirements or limitations that apply to participating providers;

25 (B) Without imposing a copayment amount or coinsurance rate that exceeds the amount or rate  
26 for participating providers;

27 (C) Without imposing a deductible, unless the deductible applies generally to nonparticipating  
28 providers; and

29 (D) Subject only to an out-of-pocket maximum that applies to all services from nonparticipating  
30 providers.

31 (4) All insurers offering a health benefit plan shall provide information to enrollees in plain  
32 language regarding:

33 (a) What constitutes an emergency medical condition;

34 (b) The coverage provided for emergency services;

35 (c) How and where to obtain emergency services; and

36 (d) The appropriate use of 9-1-1.

37 (5) An insurer offering a health benefit plan may not discourage appropriate use of 9-1-1 and  
38 may not deny coverage for emergency services solely because 9-1-1 was used.

39 (6) This section is exempt from ORS 743A.001.

40 **SECTION 3. The amendments to ORS 743B.012 by section 2 of this 2019 Act apply to**  
41 **health benefit plans issued, renewed or extended on or after January 1, 2020.**

42 **SECTION 4. This 2019 Act being necessary for the immediate preservation of the public**  
43 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
44 **on its passage.**