

Senate Bill 698

Sponsored by COMMITTEE ON HEALTH POLICY

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**.

Authorizes licensed physician assistant to establish written authorization and standing orders for emergency medical technician. Requires Board of Medical Examiners to adopt standards for qualifications and responsibilities of physician assistants serving as supervising practitioners of emergency medical technicians.

A BILL FOR AN ACT

1
2 Relating to authority of physician assistant to authorize patient care by emergency medical techni-
3 cians; amending ORS 682.025, 682.220, 682.224 and 682.245.

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

5 **SECTION 1.** ORS 682.025 is amended to read:

6 682.025. As used in this chapter, unless the context requires otherwise:

7 (1) "Ambulance" or "ambulance vehicle" means any privately or publicly owned motor vehicle,
8 aircraft or watercraft that is regularly provided or offered to be provided for the emergency trans-
9 portation of persons suffering from illness, injury or disability.

10 (2) "Ambulance service" means any person, governmental unit, corporation, partnership, sole
11 proprietorship or other entity that operates ambulances and that holds itself out as providing pre-
12 hospital care or medical transportation to sick, injured or disabled persons.

13 (3) "Board" means the Board of Medical Examiners for the State of Oregon.

14 (4) "Department" means the Department of Human Services.

15 (5) "Emergency care" means the performance of acts or procedures under emergency conditions
16 in the observation, care and counsel of the ill, injured or disabled; in the administration of care or
17 medications as prescribed by a licensed physician, insofar as any of these acts is based upon
18 knowledge and application of the principles of biological, physical and social science as required by
19 a completed course utilizing an approved curriculum in prehospital emergency care. However,
20 "emergency care" does not include acts of medical diagnosis or prescription of therapeutic or cor-
21 rective measures.

22 (6) "Emergency medical technician" or "EMT" means a person who has received formal training
23 in prehospital and emergency care, and is state certified to attend any ill, injured or disabled person.
24 Police officers, firefighters, funeral home employees and other personnel serving in a dual capacity
25 one of which meets the definition of "emergency medical technician" are "emergency medical tech-
26 nicians" within the meaning of this chapter.

27 (7) "First responder" means a person who has successfully completed a first responder training
28 course approved by the department and:

29 (a) Has been examined and certified as a first responder by an authorized representative of the
30 department to perform basic emergency and nonemergency care procedures; 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 (b) Has been otherwise designated as a first responder by an authorized representative of the
2 department to perform basic emergency and nonemergency care procedures.

3 (8) "Fraud or deception" means the intentional misrepresentation or misstatement of a material
4 fact, concealment of or failure to make known any material fact, or any other means by which
5 misinformation or false impression knowingly is given.

6 (9) "Governmental unit" means the state or any county, municipality or other political subdivi-
7 sion or any department, board or other agency of any of them.

8 (10) "Highway" means every public way, thoroughfare and place, including bridges, viaducts and
9 other structures within the boundaries of this state, used or intended for the use of the general
10 public for vehicles.

11 (11) "Nonemergency care" means the performance of acts or procedures on a patient who is not
12 expected to die, become permanently disabled or suffer permanent harm within the next 24 hours,
13 including but not limited to observation, care and counsel of a patient and the administration of
14 medications prescribed by a physician licensed under ORS chapter 677, insofar as any of those acts
15 are based upon knowledge and application of the principles of biological, physical and social science
16 and are performed in accordance with scope of practice rules adopted by the Board of Medical Ex-
17 aminers in the course of providing prehospital care as defined by this section.

18 (12) "Owner" means the person having all the incidents of ownership in an ambulance service
19 or an ambulance vehicle or where the incidents of ownership are in different persons, the person,
20 other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle
21 or operation of an ambulance service under a security agreement or a lease for a term of 10 or more
22 successive days.

23 (13) "Patient" means an ill, injured or disabled person transported in an ambulance.

24 (14) "Person" means any individual, corporation, association, firm, partnership, joint stock com-
25 pany, group of individuals acting together for a common purpose or organization of any kind and
26 includes any receiver, trustee, assignee or other similar representative thereof.

27 (15) "Prehospital care" means that care rendered by emergency medical technicians as an inci-
28 dent of the operation of an ambulance as defined by this chapter and that care rendered by emer-
29 gency medical technicians as incidents of other public or private safety duties, and includes, but is
30 not limited to, "emergency care" as defined by this section.

31 (16) "Scope of practice" means the maximum level of emergency or nonemergency care that an
32 emergency medical technician may provide.

33 (17) "Standing orders" means the written protocols that an emergency medical technician fol-
34 lows to treat patients when direct contact with a physician is not maintained.

35 (18) "Supervising physician" means a medical or osteopathic physician licensed under ORS
36 chapter 677, actively registered and in good standing with the board, who provides direction of
37 emergency or nonemergency care provided by emergency medical technicians.

38 (19) **"Supervising practitioner" means a physician assistant licensed as provided by ORS**
39 **677.495 and 677.505 to 677.525.**

40 [(19)] (20) "Unprofessional conduct" means [conduct unbecoming a person certified in emergency
41 care, or detrimental to the best interests of the public and includes:

42 (a) Any conduct or practice contrary to recognized standards of ethics of the medical profession
43 or any conduct or practice which does or might constitute a danger to the health or safety of a
44 patient or the public or any conduct, practice or condition which does or might impair an emergency
45 medical technician's ability safely and skillfully to practice emergency or nonemergency care;

1 (b) Willful performance of any medical treatment which is contrary to acceptable medical stan-
2 dards; and

3 (c) Willful and consistent utilization of medical service for treatment which is or may be con-
4 sidered inappropriate or unnecessary.

5 **SECTION 2.** ORS 682.220 is amended to read:

6 682.220. (1) The Department of Human Services may deny, suspend or revoke licenses for am-
7 bulances and ambulance services in accordance with the provisions of ORS chapter 183 for a failure
8 to comply with any of the requirements of ORS 820.350 to 820.380 and this chapter or the rules
9 adopted thereunder.

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

12 (a) A failure to have completed successfully a department approved course.

13 (b) In the case of provisional certifications, failure to have completed successfully a department
14 approved course.

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

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

18 (e) Practicing skills beyond the scope of practice established by the Board of Medical Examiners
19 for the State of Oregon under ORS 682.245.

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

21 (g) The impersonation of another EMT.

22 (h) Unprofessional conduct.

23 (i) Obtaining a fee by fraud or misrepresentation.

24 (j) Habitual or excessive use of intoxicants or drugs.

25 (k) The presence of a mental disorder that demonstrably affects an EMT's performance, as cer-
26 tified by two psychiatrists retained by the department.

27 (L) Subject to ORS 670.280, conviction of any criminal offense that reasonably raises questions
28 about the ability of the EMT to perform the duties of an EMT in accordance with the standards
29 established by this chapter. A copy of the record of conviction, certified to by the clerk of the court
30 entering the conviction, shall be conclusive evidence of the conviction.

31 (m) Suspension or revocation of an emergency medical technician certificate issued by another
32 state:

33 (A) For a reason that would permit the department to suspend or revoke a certificate issued
34 under this chapter; and

35 (B) Evidenced by a certified copy of the order of suspension or revocation.

36 (n) Gross negligence or repeated negligence in rendering emergency medical assistance.

37 (o) Rendering emergency or nonemergency care without being certified except as provided in
38 ORS 30.800.

39 (p) Rendering emergency or nonemergency care as an EMT without written authorization and
40 standing orders from a supervising physician **or supervising practitioner** who has been approved
41 by the board in accordance with ORS 682.245.

42 (q) Refusing an invitation for an interview with the department as specified in this section.

43 (3) The department may investigate any evidence that appears to show that an EMT certified
44 by the department is or may be medically incompetent, guilty of unprofessional or dishonorable
45 conduct or mentally or physically unable to safely function as an EMT. The department may inves-

1 tigate the off-duty conduct of an EMT to the extent that such conduct may reasonably raise
 2 questions about the ability of the EMT to perform the duties of an EMT in accordance with the
 3 standards established by this chapter. Upon receipt of a complaint about an EMT or applicant, the
 4 department shall conduct an investigation as described under ORS 676.165. An investigation shall
 5 be conducted in accordance with ORS 676.175.

6 (4) Any health care facility licensed under ORS 441.015 to 441.087 and 441.820, any medical or
 7 osteopathic physician licensed under ORS chapter 677, any owner of an ambulance licensed under
 8 this chapter or any EMT certified under this chapter shall report to the department any information
 9 the person may have that appears to show that an EMT is or may be medically incompetent, guilty
 10 of unprofessional or dishonorable conduct or mentally or physically unable to safely function as an
 11 EMT.

12 (5) If, in the opinion of the department, it appears that the information provided to it under
 13 provisions of this section is or may be true, the department may request an interview with the EMT.
 14 At the time the department requests an interview, the EMT shall be provided with a general state-
 15 ment of the issue or issues of concern to the department. The request shall include a statement of
 16 the procedural safeguards available to the EMT, including the right to end the interview on request,
 17 the right to have counsel present and the following statement: "Any action proposed by the De-
 18 partment of Human Services shall provide for a contested case hearing."

19 (6) Information regarding an ambulance service provided to the department pursuant to this
 20 section is confidential and shall not be subject to public disclosure, nor shall it be admissible as
 21 evidence in any judicial proceeding. Information that the department obtains as part of an investi-
 22 gation into emergency medical technician or applicant conduct or as part of a contested case pro-
 23 ceeding, consent order or stipulated agreement involving emergency medical technician or applicant
 24 conduct is confidential as provided under ORS 676.175. Information regarding an ambulance service
 25 does not become confidential due to its use in a disciplinary proceeding against an emergency
 26 medical technician.

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

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

31 (a) Take evidence;

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

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

36 (d) Require answers to interrogatories; and

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

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

43 **SECTION 3.** ORS 682.224 is amended to read:

44 682.224. (1) The Department of Human Services may discipline, as provided in this section, an
 45 ambulance service or any person certified as an emergency medical technician or first responder in

1 this state who has:

2 (a) Admitted the facts of a complaint which alleges facts which establish that such person is
3 guilty of violation of one or more of the grounds for suspension or revocation of a certificate as set
4 forth in ORS 682.220 or that an ambulance service has violated the provisions of this chapter or the
5 rules adopted thereunder.

6 (b) Been found guilty in accordance with ORS chapter 183 of violation of one or more of the
7 grounds for suspension or revocation of certification as set forth in ORS 682.220 or that an ambu-
8 lance service has violated the provisions of this chapter or the rules adopted thereunder.

9 (2) The purpose of disciplining an EMT under this section is to ensure that the EMT will pro-
10 vide services that are consistent with the obligations of this chapter. Prior to taking final discipli-
11 nary action, the department shall determine if the EMT has been disciplined for the questioned
12 conduct by the EMT's employer, [or] supervising physician **or supervising practitioner**. The de-
13 partment shall consider any such discipline or any other corrective action in deciding whether ad-
14 ditional discipline or corrective action by the department is appropriate.

15 (3) In disciplining an EMT or ambulance service as authorized by subsection (1) of this section,
16 the department may use any or all of the following methods:

17 (a) Suspend judgment.

18 (b) Issue a letter of reprimand.

19 (c) Issue a letter of instruction.

20 (d) Place the EMT or ambulance service on probation.

21 (e) Suspend the EMT certificate or ambulance service license.

22 (f) Revoke the EMT certificate or ambulance service license.

23 (g) Place limitations on the certificate of the EMT to practice emergency or nonemergency care
24 in this state or place limitations on the license of the ambulance service.

25 (h) Take such other disciplinary action as the department in its discretion finds proper, includ-
26 ing assessment of the costs of the disciplinary proceedings as a civil penalty or assessment of a civil
27 penalty not to exceed \$5,000, or both.

28 (4) In addition to the action authorized by subsection (3) of this section, the department may
29 temporarily suspend a certificate or license without a hearing, simultaneously with the commence-
30 ment of proceedings under ORS chapter 183 if the department finds that evidence in its possession
31 indicates that a continuation in practice of the EMT or operation of the ambulance service consti-
32 tutes an immediate danger to the public.

33 (5) If the department places any EMT or ambulance service on probation as set forth in sub-
34 section (3)(d) of this section, the department may determine, and may at any time modify, the con-
35 ditions of the probation and may include among them any reasonable condition for the purpose of
36 protection of the public and for the purpose of the rehabilitation of the EMT or ambulance service,
37 or both. Upon expiration of the term of probation, further proceedings shall be abated if the EMT
38 or ambulance service has complied with the terms of the probation.

39 (6) If an EMT certified in this state is suspended, the holder of the certificate may not practice
40 during the term of suspension.

41 (7) If an ambulance service licensed in this state is suspended, the ambulance service may not
42 operate in this state during the term of the suspension, provided that the department shall condition
43 such suspension upon such arrangements as may be necessary to assure the continued availability
44 of ambulance service in the area served by that ambulance service. Upon expiration of the term of
45 suspension, the certificate or license shall be reinstated by the department if the conditions for

1 which the certificate or license was suspended no longer exist.

2 (8) Whenever an EMT certificate or ambulance service license is denied or revoked for any
3 cause, the department may, in its discretion, after the lapse of two years from the date of such re-
4 vocation, upon written application by the person formerly certified or licensed and after a hearing,
5 issue or restore the EMT certificate or ambulance service license.

6 (9) Civil penalties under this section shall be imposed as provided in ORS 183.745.

7 **SECTION 4.** ORS 682.245 is amended to read:

8 682.245. (1) The Board of Medical Examiners for the State of Oregon shall adopt by rule a scope
9 of practice for emergency medical technicians at such levels as may be established by the Depart-
10 ment of Human Services and for first responders.

11 (2) The board shall adopt by rule standards for the qualifications and responsibilities of super-
12 vising physicians **and supervising practitioners**.

13 (3) The standing orders for emergency medical technicians and first responders may not exceed
14 the scope of practice defined by the board.

15 (4) No emergency medical technician shall provide patient care or treatment without written
16 authorization and standing orders from a supervising physician **or supervising practitioner** who
17 has been approved by the board.

18 (5) The policies and procedures for applying and enforcing this section may be delegated in
19 whole or in part to the department.

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