

A-Engrossed
Senate Bill 1529

Ordered by the Senate February 14
Including Senate Amendments dated February 14

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Health Care)

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.

[Authorizes pharmacy or pharmacy technician to swipe identification card or driver license of purchaser of pseudoephedrine or ephedrine.]

Allows volunteer qualified health care providers to administer health care services in this state during health care emergency. Allows Public Health Director to direct and deploy volunteer health care providers during health care emergency. Requires Oregon Health Authority to provide workers' compensation coverage for volunteer health care providers. Defines "health care emergency."

Clarifies that certain contracts between pharmacies or pharmacists and pharmacy benefits managers are subject to specified requirements.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to health care; creating new provisions; amending ORS 401.651, 401.654, 401.655, 401.661,
3 401.667 and 431A.015 and section 5, chapter 526, Oregon Laws 2019; and declaring an emer-
4 gency.

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

6
7 **HEALTH CARE EMERGENCIES**

8
9 **SECTION 1.** ORS 401.651 is amended to read:

10 401.651. As used in ORS 401.651 to 401.670:

11 **(1) "Health care emergency" means:**

12 **(a) A state of emergency declared under ORS 401.165;**

13 **(b) A state of public health emergency declared under ORS 433.441; or**

14 **(c) A determination by the Public Health Director that there exists a disease outbreak,**
15 **epidemic or other condition of public health importance statewide or in a specified geographic**
16 **area of this state.**

17 *[(1)]* **(2) "Health care facility" means a health care facility as defined in ORS 442.015 that has**
18 **been licensed under ORS chapter 441.**

19 *[(2)]* **(3) "Health care provider" means:**

20 **(a) An individual licensed, certified or otherwise authorized or permitted by the laws of this**
21 **state or another state to administer health care services in the ordinary course of business or**
22 **practice of a profession; and**

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) A person entered in the emergency health care provider registry under ORS 401.658.

2 [(3)] (4) “Health professional regulatory board” means a health professional regulatory board,
3 as defined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed
4 Dietitians and the Behavior Analysis Regulatory Board.

5 **SECTION 2.** ORS 401.654, as operative until July 1, 2022, is amended to read:

6 401.654. (1) The Oregon Health Authority may establish an emergency health care provider
7 registry that includes emergency health care providers who are available to provide health care
8 services during [*an emergency or crisis*] **a health care emergency**. As a condition of inclusion in
9 the registry, the authority may require:

10 (a) Training related to the provision of health care services in [*an emergency or crisis*] **a health**
11 **care emergency** as a condition of registration; and

12 (b) Criminal background checks for applicants and persons who have been registered.

13 (2) The authority shall issue identification cards to health care providers entered in the emer-
14 gency health care provider registry established under this section that:

15 (a) Identify the health care provider;

16 (b) Indicate that the health care provider is registered as an Oregon emergency health care
17 provider;

18 (c) Identify the license or certification held by the health care provider, or previously held by
19 the health care provider if the health care provider is entered in the emergency health care provider
20 registry under ORS 401.658; and

21 (d) Identify the health care provider’s usual area of practice, and the types of health care that
22 the health care provider is authorized to provide, if that information is available and the authority
23 determines that it is appropriate to provide that information.

24 (3) The authority by rule shall establish a form for identification cards issued under subsection
25 (2) of this section.

26 (4) The authority shall support and provide assistance to the Office of Emergency Management
27 in emergencies or crises involving the public health or requiring emergency medical response.

28 (5) The authority may enter into agreements with other states to facilitate the registry of out-
29 of-state health care providers in the emergency health care provider registry established under this
30 section.

31 **SECTION 3.** ORS 401.654 is amended to read:

32 401.654. (1) The Oregon Health Authority may establish an emergency health care provider
33 registry that includes emergency health care providers who are available to provide health care
34 services during [*an*] **a health care** emergency [*or crisis*]. As a condition of inclusion in the registry,
35 the authority may require:

36 (a) Training related to the provision of health care services in [*an emergency or crisis*] **a health**
37 **care emergency** as a condition of registration; and

38 (b) Criminal background checks for applicants and persons who have been registered.

39 (2) The authority shall issue identification cards to health care providers entered in the emer-
40 gency health care provider registry established under this section that:

41 (a) Identify the health care provider;

42 (b) Indicate that the health care provider is registered as an Oregon emergency health care
43 provider;

44 (c) Identify the license or certification held by the health care provider, or previously held by
45 the health care provider if the health care provider is entered in the emergency health care provider

1 registry under ORS 401.658; and

2 (d) Identify the health care provider's usual area of practice, and the types of health care that
3 the health care provider is authorized to provide, if that information is available and the authority
4 determines that it is appropriate to provide that information.

5 (3) The authority by rule shall establish a form for identification cards issued under subsection
6 (2) of this section.

7 (4) The authority shall support and provide assistance to the Oregon Department of Emergency
8 Management in emergencies or crises involving the public health or requiring emergency medical
9 response.

10 (5) The authority may enter into agreements with other states to facilitate the registry of out-
11 of-state health care providers in the emergency health care provider registry established under this
12 section.

13 **SECTION 4.** ORS 401.655, as operative until July 1, 2022, is amended to read:

14 401.655. *[During a state of emergency declared under ORS 401.165 or a state of public health*
15 *emergency proclaimed under ORS 433.441,]* **During a health care emergency,** a health care pro-
16 vider who is licensed, certified or otherwise authorized or permitted by the laws of another state
17 to administer health care services and who is registered under ORS 401.654 may administer health
18 care services in this state as if the health care provider were licensed in this state.

19 **SECTION 5.** ORS 401.655 is amended to read:

20 401.655. *[During a state of emergency declared under ORS 401.165 or a state of public health*
21 *emergency declared under ORS 433.441,]* **During a health care emergency,** a health care provider
22 who is licensed, certified or otherwise authorized or permitted by the laws of another state to ad-
23 minister health care services and who is registered under ORS 401.654 may administer health care
24 services in this state as if the health care provider were licensed in this state.

25 **SECTION 6.** ORS 401.661, as operative until July 1, 2022, is amended to read:

26 401.661. *[If the Governor declares a state of emergency under ORS 401.165 or proclaims a state*
27 *of public health emergency under ORS 433.441:]*

28 **During a health care emergency:**

29 (1) The Oregon Health Authority, in conjunction with the Department of Human Services for
30 facilities licensed by the department, may direct emergency health care providers registered under
31 ORS 401.654 who are willing to provide health care services to proceed to any place in this state
32 where health care services are required by reason of the **health care** emergency *[or crisis;]*.

33 (2) Pursuant to the Emergency Management Assistance Compact and the Pacific Northwest
34 Emergency Management Arrangement, the Oregon Health Authority may direct emergency health
35 care providers registered under ORS 401.654 who are willing to provide health care services in an-
36 other state to proceed to another state where emergency health care services are required by reason
37 of an emergency in that state; *and*].

38 (3) Any emergency health care provider registered under ORS 401.654 or other health care
39 provider may volunteer to perform health care services described in ORS 401.657 at any emergency
40 health care center or health care facility in the manner provided by ORS 401.664.

41 **SECTION 7.** ORS 401.661 is amended to read:

42 401.661. *[If the Governor declares a state of emergency under ORS 401.165 or declares a state of*
43 *public health emergency under ORS 433.441:]*

44 **During a health care emergency:**

45 (1) The Oregon Health Authority, in conjunction with the Department of Human Services for

1 facilities licensed by the department, may direct emergency health care providers registered under
 2 ORS 401.654 who are willing to provide health care services to proceed to any place in this state
 3 where health care services are required by reason of the **health care** emergency [*or crisis*];.

4 (2) Pursuant to the Emergency Management Assistance Compact and the Pacific Northwest
 5 Emergency Management Arrangement, the Oregon Health Authority may direct emergency health
 6 care providers registered under ORS 401.654 who are willing to provide health care services in an-
 7 other state to proceed to another state where emergency health care services are required by reason
 8 of an emergency in that state[; *and*].

9 (3) Any emergency health care provider registered under ORS 401.654 or other health care
 10 provider may volunteer to perform health care services described in ORS 401.657 at any emergency
 11 health care center or health care facility in the manner provided by ORS 401.664.

12 **SECTION 8.** ORS 401.667, as operative until July 1, 2022, is amended to read:

13 401.667. (1) [*If the Governor declares a state of emergency under ORS 401.165, or proclaims a state*
 14 *of public health emergency under ORS 433.441,*] **During a health care emergency,** emergency health
 15 care providers registered under ORS 401.654 and other health care providers who volunteer to per-
 16 form health care services under ORS 401.651 to 401.670 are agents of the state under ORS 30.260
 17 to 30.300 for the purposes of any claims arising out of services that are provided under ORS 401.651
 18 to 401.670 pursuant to directions from a public body and that are within the course and scope of the
 19 health care provider's duties, without regard to whether the health care provider is compensated for
 20 the services.

21 (2) [*If the Governor declares a state of emergency under ORS 401.165, or proclaims a state of*
 22 *public health emergency under ORS 433.441,*] **During a health care emergency,** health care facili-
 23 ties designated under ORS 401.657 and other persons operating emergency health care centers des-
 24 ignated under ORS 401.657 are agents of the state under ORS 30.260 to 30.300 for the purposes of
 25 any claims arising out of services that are provided through those centers or facilities under ORS
 26 401.651 to 401.670 pursuant to directions from a public body and that are within the course and
 27 scope of the duties of the health care facility or other person, without regard to whether the health
 28 care facility or other person is compensated for the services.

29 (3) An emergency health care provider registered under ORS 401.654 participating in training
 30 authorized by the Oregon Health Authority under ORS 401.651 to 401.670 is an agent of the state
 31 under ORS 30.260 to 30.300 for the purposes of any claims arising out of that training.

32 (4) The provisions of subsection (2) of this section apply only to emergency health care centers
 33 or health care facilities that have adopted emergency operations plans and credentialing plans that
 34 govern the use of emergency health care providers registered under ORS 401.654 and other health
 35 care providers who volunteer to perform health care services under ORS 401.651 to 401.670. An
 36 emergency operations plan and a credentialing plan must comply with rules governing those plans
 37 adopted by the authority.

38 **SECTION 9.** ORS 401.667 is amended to read:

39 401.667. (1) [*If the Governor declares a state of emergency under ORS 401.165, or declares a state*
 40 *of public health emergency under ORS 433.441]* **During a health care emergency,** emergency health
 41 care providers registered under ORS 401.654 and other health care providers who volunteer to per-
 42 form health care services under ORS 401.651 to 401.670 are agents of the state under ORS 30.260
 43 to 30.300 for the purposes of any claims arising out of services that are provided under ORS 401.651
 44 to 401.670 pursuant to directions from a public body and that are within the course and scope of the
 45 health care provider's duties, without regard to whether the health care provider is compensated for

1 the services.

2 (2) *[If the Governor declares a state of emergency under ORS 401.165, or declares a state of public*
3 *health emergency under ORS 433.441]* **During a health care emergency**, health care facilities des-
4 ignated under ORS 401.657 and other persons operating emergency health care centers designated
5 under ORS 401.657 are agents of the state under ORS 30.260 to 30.300 for the purposes of any claims
6 arising out of services that are provided through those centers or facilities under ORS 401.651 to
7 401.670 pursuant to directions from a public body and that are within the course and scope of the
8 duties of the health care facility or other person, without regard to whether the health care facility
9 or other person is compensated for the services.

10 (3) An emergency health care provider registered under ORS 401.654 participating in training
11 authorized by the Oregon Health Authority under ORS 401.651 to 401.670 is an agent of the state
12 under ORS 30.260 to 30.300 for the purposes of any claims arising out of that training.

13 (4) The provisions of subsection (2) of this section apply only to emergency health care centers
14 or health care facilities that have adopted emergency operations plans and credentialing plans that
15 govern the use of emergency health care providers registered under ORS 401.654 and other health
16 care providers who volunteer to perform health care services under ORS 401.651 to 401.670. An
17 emergency operations plan and a credentialing plan must comply with rules governing those plans
18 adopted by the authority.

19 **SECTION 10.** ORS 431A.015 is amended to read:

20 431A.015. (1) Unless the Governor has declared a public health emergency under ORS 433.441,
21 the Public Health Director may, upon approval of the Governor or the designee of the Governor,
22 take the public health actions described in subsection (2) of this section if the Public Health Direc-
23 tor determines that:

24 (a)(A) A communicable disease, reportable disease, disease outbreak, epidemic or other condition
25 of public health importance has affected more than one county;

26 (B) There is an immediate need for a consistent response from the state in order to adequately
27 protect the public health;

28 (C) The resources of the local public health authority or authorities are likely to be quickly
29 overwhelmed or unable to effectively manage the required response; and

30 (D) There is a significant risk to the public health; or

31 (b) A communicable disease, reportable disease, disease outbreak, epidemic or other condition
32 of public health importance is reported in Oregon and is an issue of significant regional or national
33 concern or is an issue for which there is significant involvement from federal authorities requiring
34 state-federal coordination.

35 (2) The Public Health Director, after making the determinations required under subsection (1)
36 of this section, may take the following public health actions:

37 (a) Coordinate the public health response across jurisdictions.

38 (b) Prescribe measures for the:

39 (A) Identification, assessment and control of the communicable disease or reportable disease,
40 disease outbreak, epidemic or other condition of public health importance; and

41 (B) Allocation and distribution of antitoxins, serums, vaccines, immunizing agents, antibiotics,
42 antidotes and other pharmaceutical agents, medical supplies or personal protective equipment.

43 (c) After consultation with appropriate medical experts, create and require the use of diagnostic
44 and treatment guidelines and provide notice of those guidelines to health care providers, institutions
45 and facilities.

1 (d) Require a person to obtain treatment and use appropriate prophylactic measures to prevent
2 the introduction or spread of a communicable disease or reportable disease, unless:

3 (A) The person has a medical diagnosis for which a vaccination is contraindicated; or

4 (B) The person has a religious or conscientious objection to the required treatments or
5 prophylactic measures.

6 (e) Notwithstanding ORS 332.075, direct a district school board to close a children's facility or
7 school under the jurisdiction of the board. The authority granted to the Public Health Director un-
8 der this paragraph supersedes the authority granted to the district school board under ORS 332.075
9 to the extent the authority granted to the board is inconsistent with the authority granted to the
10 director.

11 (f) Issue guidelines for private businesses regarding appropriate work restrictions.

12 (g) Organize public information activities regarding the public health response to circumstances
13 described in subsection (1) of this section.

14 (h) Adopt reporting requirements for, and provide notice of those reporting requirements to,
15 health care providers, institutions and facilities for the purpose of obtaining information directly
16 related to the public health threat presented.

17 (i) Take control of antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and
18 other pharmaceutical agents, medical supplies or personal protective equipment.

19 **(j) Direct and deploy emergency health care providers under ORS 401.661.**

20 (3) The authority granted to the Public Health Director under this section is not intended to
21 override the general authority provided to a local public health authority except as already per-
22 mitted by law, or under the circumstances described in subsection (1) of this section.

23 (4) If the Oregon Health Authority adopts temporary rules to implement subsection (2) of this
24 section, the rules adopted are not subject to the provisions of ORS 183.335 (6)(a). The authority may
25 amend the temporary rules adopted under this subsection as often as is necessary to respond to the
26 public health threat.

27 (5) If it is necessary for the authority to purchase antitoxins, serums, vaccines, immunizing
28 agents, antibiotics, antidotes or other pharmaceutical agents, medical supplies or personal protective
29 equipment, the purchases are not subject to the provisions of ORS chapter 279A, 279B or 279C.

30 (6) If property is taken under the authority granted to the Public Health Director under sub-
31 section (2) of this section, the owner of the property is entitled to reasonable compensation from the
32 state.

33 **SECTION 11. Section 12 of this 2022 Act is added to and made a part of ORS chapter 656.**

34 **SECTION 12. (1) The Oregon Health Authority shall provide workers' compensation cov-**
35 **erage for volunteer emergency health care providers registered under ORS 401.654 who are**
36 **injured in the course and scope of performing emergency health care services if the injury**
37 **occurs:**

38 (a) While the volunteer is performing health care services at the direction of the au-
39 thority under ORS 401.661; or

40 (b) While the volunteer is engaged in training being conducted or approved by the au-
41 thority for the purpose of preparing the volunteer to perform emergency health care ser-
42 vices.

43 (2) Workers' compensation coverage shall be provided under this section in the manner
44 provided by ORS 656.039.

45

PHARMACY BENEFIT MANAGERS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

SECTION 13. Section 5, chapter 526, Oregon Laws 2019, is amended to read:

Sec. 5. [*Section 2 of this 2019 Act*] **ORS 735.536** and the amendments to ORS 735.530 and 735.534 by sections 3 and 4, [*of this 2019 Act*] **chapter 526, Oregon Laws 2019**, apply to pharmacy benefits and to contracts between pharmacies or pharmacists and pharmacy benefit managers:

- (1) Entered into, renewed or extended on or after January 1, 2021.
- (2) **Automatically renewed on or after January 1, 2023.**

CAPTIONS

SECTION 14. The unit captions used in this 2022 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2022 Act.

EFFECTIVE DATE

SECTION 15. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.
