

House Bill 2429

Sponsored by Representatives YUNKER, BOICE; Representative OSBORNE, Senators NASH, SMITH DB, WEBER
(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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act limits the minors who can make health care choices without a parent's consent to minors who have been emancipated. (Flesch Readability Score: 60.6).

Modifies provisions authorizing unemancipated minors to consent to health care services without parental consent.

A BILL FOR AN ACT

1
2 Relating to medical decision-making by individuals under 18 years of age; amending ORS 109.680,
3 418.307, 419B.552, 433.267 and 441.054; and repealing ORS 109.640, 109.650, 109.670, 109.675,
4 109.685, 109.690 and 109.695.

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

6 **SECTION 1.** ORS 419B.552 is amended to read:

7 419B.552. (1) A juvenile court, upon the written application of a minor who is domiciled within
8 the jurisdiction of such court, is authorized to enter a judgment of emancipation in the manner
9 provided in ORS 419B.558. A judgment of emancipation shall serve only to:

10 (a) Recognize the minor as an adult for the purposes of **consenting and withholding consent**
11 **to health care**, contracting and conveying, establishing a residence, suing and being sued, and
12 making a will, and recognize the minor as an adult for purposes of the criminal laws of this state.

13 (b) Terminate as to the parent and child relationship the provisions of ORS 109.010 until the
14 child reaches the age of majority.

15 (c) Terminate as to the parent and child relationship the provisions of ORS 108.045, 109.100,
16 419B.373, 419B.400, 419B.402, 419B.404, 419B.406, 419B.408 and 419C.550.

17 (2) A judgment of emancipation shall not affect any age qualification for purchasing alcoholic
18 liquor, the requirements for obtaining a marriage license, nor the minor's status under ORS 109.510.

19 **SECTION 2.** ORS 418.307 is amended to read:

20 418.307. (1) A physician licensed by the Oregon Medical Board, a naturopathic physician li-
21 censed under ORS chapter 685, a dentist licensed by the Oregon Board of Dentistry or a hospital
22 licensed by the Department of Human Services is authorized to treat a child who is ward of the
23 court or is a dependent or delinquent child in accord with the best medical judgment of the physi-
24 cian, naturopathic physician, dentist or responsible official of the hospital and without consent if:

25 (a) Because of the general state of the child's health or any particular condition, the physician,
26 naturopathic physician, dentist or responsible official of the hospital determines that in the medical
27 judgment of the physician, naturopathic physician, dentist or responsible official prompt action is
28 reasonably necessary to avoid unnecessary suffering or discomfort or to effect a more expedient or
29 effective cure; 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) It is impossible or highly impractical to obtain consent for treating the child from the
 2 child-caring agency, the child's parent or the child's legal guardian.

3 (2) No charge of assault or battery shall be made against a physician, naturopathic physician,
 4 dentist or hospital official or employee who provides medical treatment pursuant to subsection (1)
 5 of this section.

6 *[(3) A minor child described in subsection (1) of this section may consent to medical treatment as
 7 provided in ORS 109.640.]*

8 **SECTION 3.** ORS 433.267 is amended to read:

9 433.267. (1) As a condition of attendance in any school or children's facility in this state, every
 10 child through grade 12 shall submit to the administrator, unless the school or facility the child at-
 11 tends already has on file a record that indicates that the child has received immunizations against
 12 the restrictable diseases prescribed by rules of the Oregon Health Authority as provided in ORS
 13 433.273, one of the following:

14 (a) A document signed by the parent, a practitioner of the healing arts who has within the scope
 15 of the practitioner's license the authority to administer immunizations or a representative of the
 16 local health department certifying the immunizations the child has received;

17 (b) A document signed by a physician or a representative of the local health department stating
 18 that the child should be exempted from receiving specified immunization because of indicated med-
 19 ical diagnosis; or

20 (c) A document, on a form prescribed by the authority by rule and signed by the parent of the
 21 child, stating that the parent is declining one or more immunizations on behalf of the child. A doc-
 22 ument submitted under this paragraph:

23 (A) May include the reason for declining the immunization, including whether the parent is de-
 24 clining the immunization because of a religious or philosophical belief; and

25 (B) Must include either:

26 (i) A signature from a health care practitioner verifying that the health care practitioner has
 27 reviewed with the parent information about the risks and benefits of immunization that is consistent
 28 with information published by the Centers for Disease Control and Prevention and the contents of
 29 the vaccine educational module approved by the authority pursuant to rules adopted under ORS
 30 433.273; or

31 (ii) A certificate verifying that the parent has completed a vaccine educational module approved
 32 by the authority pursuant to rules adopted under ORS 433.273.

33 (2)(a) A newly entering child or a transferring child shall be required to submit the document
 34 described in subsection (1) of this section prior to attending the school or facility.

35 (b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the
 36 United States must submit the document required by subsection (1) of this section not later than the
 37 exclusion date set by rule of the authority.

38 (3) Persons who have been emancipated pursuant to ORS 419B.558 *[or who have reached the age
 39 of consent for medical care pursuant to ORS 109.640]* may sign those documents on their own behalf
 40 otherwise requiring the signatures of parents under subsection (1) of this section.

41 (4) The administrator shall conduct a primary evaluation of the records submitted pursuant to
 42 subsection (1) of this section to determine whether the child is entitled to begin attendance by rea-
 43 son of having submitted a document that complies with the requirements of subsection (1) of this
 44 section.

45 (5) If the records do not meet the initial minimum requirements established by rule, the child

1 may not be allowed to attend until the requirements are met. If the records meet the initial minimum
 2 requirements, the child shall be allowed to attend.

3 (6) At the time specified by the authority by rule, records for children meeting the initial mini-
 4 mum requirements and records previously on file shall be reviewed for completion of requirements
 5 by the administrator to determine whether the child is entitled to continue in attendance. If the
 6 records do not comply, the administrator shall notify the local health department and shall transmit
 7 any records concerning the child's immunization status to the local health department.

8 (7) The local health department shall provide for a secondary evaluation of the records to de-
 9 termine whether the child should be excluded for noncompliance with the requirements stated in
 10 subsection (1) of this section. If the child is determined to be in noncompliance, the local health
 11 department shall issue an exclusion order and shall send copies of the order to the parent or the
 12 person who is emancipated or has reached the age of majority and the administrator. On the effec-
 13 tive date of the order, the administrator shall exclude the child from the school or facility and not
 14 allow the child to attend the school or facility until the requirements of this section have been met.

15 (8) The administrator shall readmit the child to the school or facility when in the judgment of
 16 the local health department the child is in compliance with the requirements of this section.

17 (9) The administrator shall be responsible for updating the document described in subsection
 18 (1)(a) of this section as necessary to reflect the current status of the immunization of the child and
 19 the time at which the child comes into compliance with immunizations against the restrictable dis-
 20 eases prescribed by rules of the authority pursuant to ORS 433.273.

21 (10) Nothing in this section shall be construed as relieving agencies, in addition to school dis-
 22 tricts, which are involved in the maintenance and evaluation of immunization records on April 27,
 23 1981, from continuing responsibility for these activities.

24 (11) All documents required by this section shall be on forms approved or provided by the au-
 25 thority.

26 (12) In lieu of signed documents from practitioners, the authority may accept immunization re-
 27 cord updates using practitioner documented immunization records generated by electronic means or
 28 on unsigned practitioner letterhead if the authority determines such records are accurate.

29 (13) As used in this section:

30 (a) "Newly entering child" means a child who is initially attending:

31 (A) A facility in this state;

32 (B) A school at the entry grade level;

33 (C) Either a school at any grade level or a facility from homeschooling; or

34 (D) A school at any grade level or a facility after entering the United States from another
 35 country.

36 (b) "Transferring child" means a child moving from:

37 (A) One facility to another facility;

38 (B) One school in this state to another school in this state when the move is not the result of
 39 a normal progression of grade level; or

40 (C) A school in another state to a school in this state.

41 **SECTION 4.** ORS 441.054 is amended to read:

42 441.054. (1) As used in this section:

43 (a) "Discharge" means the release of a patient from a hospital following admission to the hos-
 44 pital.

45 (b) "Lay caregiver" means:

1 (A) For a patient who is [*younger than 14*] **an unemancipated individual under 18** years of age,
 2 a parent or legal guardian of the patient.

3 (B) For a patient who is at least [*14*] **18** years of age, an individual designated by the patient
 4 [*or a parent or legal guardian of the patient to the extent permitted under ORS 109.640 and 109.675*].

5 (2) A hospital shall adopt and enforce policies for the discharge of a patient who is hospitalized
 6 for mental health treatment. The policies must be publicly available and include, at a minimum, all
 7 of the following:

8 (a) Encouraging the patient to sign an authorization for the disclosure of information that is
 9 necessary for a lay caregiver to participate in the patient’s discharge planning and to provide ap-
 10 propriate support to the patient following discharge including, but not limited to, discussing the
 11 patient’s prescribed medications and the circumstances under which the patient or lay caregiver
 12 should seek immediate medical attention.

13 (b) Assessing the patient’s risk of suicide, with input from the lay caregiver if appropriate.

14 (c) Assessing the long-term needs of the patient including:

15 (A) The patient’s need for community-based services;

16 (B) The patient’s capacity for self-care; and

17 (C) To the extent practicable, whether the patient can be properly cared for in the place where
 18 the patient was residing when the patient presented at the hospital.

19 (d) A process to coordinate the patient’s care and transition the patient from an acute care
 20 setting to outpatient treatment that may include community-based providers, peer support, lay
 21 caregivers and others who can execute the patient’s care plan following discharge.

22 (e) Scheduling follow-up appointments for no later than seven days after discharge or docu-
 23 menting why the seven-day goal could not be met.

24 **SECTION 5.** ORS 109.680, as amended by section 30, chapter 73, Oregon Laws 2024, is amended
 25 to read:

26 109.680. (1) As used in this section, “mental health care provider” means a physician or physi-
 27 cian associate licensed by the Oregon Medical Board, psychologist licensed by the Oregon Board
 28 of Psychology, nurse practitioner registered by the Oregon State Board of Nursing, clinical social
 29 worker licensed under ORS 675.530, professional counselor or marriage and family therapist licensed
 30 by the Oregon Board of Licensed Professional Counselors and Therapists, naturopathic physician
 31 licensed under ORS chapter 685 or community mental health program established and operated
 32 pursuant to ORS 430.620 when approved to do so by the Oregon Health Authority pursuant to rule.

33 (2)(a) A mental health care provider that is providing services to a minor [*pursuant to ORS*
 34 *109.675*] may disclose relevant health information about the minor without the minor’s consent as
 35 provided in [*ORS 109.675 (2) and*] this subsection.

36 (b) If the minor’s condition has deteriorated or the risk of a suicide attempt has become such
 37 that inpatient treatment is necessary, or if the minor’s condition requires detoxification in a resi-
 38 dential or acute care facility, the minor’s mental health care provider may disclose the relevant in-
 39 formation regarding the minor’s diagnosis and treatment to the minor’s parent or legal guardian to
 40 the extent the mental health care provider determines the disclosure is clinically appropriate and
 41 will serve the best interests of the minor’s treatment.

42 (c) If the mental health care provider assesses the minor to be at serious and imminent risk of
 43 a suicide attempt but inpatient treatment is not necessary or practicable:

44 (A) The mental health care provider shall disclose relevant information about the minor to and
 45 engage in safety planning with the minor’s parent, legal guardian or other individuals the provider

1 reasonably believes may be able to prevent or lessen the minor's risk of a suicide attempt.

2 (B) The mental health care provider may disclose relevant information regarding the minor's
3 treatment and diagnosis that the mental health care provider determines is necessary to further the
4 minor's treatment to those organizations, including appropriate schools and social service entities,
5 that the mental health care provider reasonably believes will provide treatment support to the minor
6 to the extent the mental health care provider determines necessary.

7 (d) [*Except as provided in ORS 109.675 (2) and paragraphs (a) and (b) of this subsection,*] If a
8 mental health care provider has provided the minor with the opportunity to object to the disclosure
9 and the minor has not expressed an objection, the mental health care provider may disclose infor-
10 mation related to the minor's treatment and diagnosis to individuals, including the minor's parent
11 or legal guardian, and organizations when the information directly relates to the individual's or
12 organization's involvement in the minor's treatment.

13 (3) Notwithstanding subsection (2)(c)(A) of this section, a mental health care provider is not re-
14 quired to disclose the minor's treatment and diagnosis information to an individual if the mental
15 health care provider:

16 (a) Reasonably believes the individual has abused or neglected the minor or subjected the minor
17 to domestic violence or may abuse or neglect the minor or subject the minor to domestic violence;

18 (b) Reasonably believes disclosure of the minor's information to the individual could endanger
19 the minor; or

20 (c) Determines that it is not in the minor's best interest to disclose the information to the indi-
21 vidual.

22 (4) Nothing in this section is intended to limit a mental health care provider's authority to dis-
23 close information related to the minor with the minor's consent.

24 (5) If a mental health care provider discloses a minor's information as provided in subsection (2)
25 of this section in good faith, the mental health care provider is immune from civil liability for
26 making the disclosure without the consent of the minor.

27 **SECTION 6. ORS 109.640, 109.650, 109.670, 109.675, 109.685, 109.690 and 109.695 are repealed.**

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