



SENATE BILL 1681

By Lamar

AN ACT to amend Tennessee Code Annotated, Title 63 and Title 68, relative to medical facility procedures for women experiencing certain medical conditions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Emergency medical condition" means:

(A) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:

(i) Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or the woman's unborn child, in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part; and

(B) With respect to a pregnant woman who is having contractions:

(i) That there is inadequate time to effect a safe transfer to another hospital before delivery; or

(ii) That transfer may pose a threat to the health or safety of the woman or the woman's unborn child;

(2) "Specialized capabilities or facilities" includes:

(A) Burn units;

(B) Trauma units;

(C) Neonatal intensive care units; and

(D) With respect to rural areas, regional referral centers as identified by federal regulation by the federal secretary of health and human services;

(3) "Stabilize" has the same meaning as defined in the federal Emergency Medical Treatment and Labor Act (EMTALA) (42 U.S.C. § 1395dd);

(4) "Stabilized" has the same meaning as defined in the federal Emergency Medical Treatment and Labor Act (EMTALA) (42 U.S.C. § 1395dd);
and

(5) "Transfer" has the same meaning as defined in the federal Emergency Medical Treatment and Labor Act (EMTALA) (42 U.S.C. § 1395dd).

(b) A hospital emergency department, including a satellite emergency department, shall not deny to a woman who presents at such facility and purports or, if incapacitated, appears to be pregnant and experiencing active labor, other symptoms associated with active labor, or an emergency medical condition, an appropriate medical screening examination within the capability of the emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition or active labor exists.

(c)

(1) If a hospital emergency department determines that a pregnant woman described in subsection (b) has an emergency medical condition or is in active labor, then the hospital affiliated with the emergency department shall provide:

(A) Within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition; or

(B) For transfer of the pregnant woman to another medical facility in accordance with subsection (d).

(2) A hospital is deemed to meet the requirement of subdivision (c)(1)(A) with respect to a pregnant woman if the hospital offers the pregnant woman the further medical examination and treatment described in subdivision (c)(1)(A) and informs the pregnant woman, or a legally authorized person acting on the woman's behalf, of the risks and benefits to the pregnant woman of such examination and treatment, but the pregnant woman, or the legally authorized person acting on the woman's behalf, refuses to consent to the examination and treatment. The hospital shall take all reasonable steps to secure the pregnant woman's or authorized person's written informed consent to refuse such examination and treatment.

(3) A hospital is deemed to meet the requirement of subdivision (c)(1)(B) with respect to a pregnant woman if the hospital offers to transfer the pregnant woman to another medical facility in accordance with subdivision (c)(1)(B) and informs the pregnant woman, or a legally authorized person acting on the woman's behalf, of the risks and benefits to the pregnant woman of such transfer, but the pregnant woman, or the legally authorized person acting on the woman's behalf, refuses to consent to the transfer. The hospital shall take all reasonable steps to secure the pregnant woman's or authorized person's written informed consent to refuse such transfer.

(d) If a pregnant woman at a hospital has an emergency medical condition or active labor that has not been stabilized, then the hospital shall not transfer the pregnant woman unless:

(1) The pregnant woman, or a legally authorized person acting on the woman's behalf, after being informed of the hospital's obligations under this section and of the risk of transfer, in writing requests transfer to another medical facility;

(2) Either:

(A) A physician has signed a certification that, based upon the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the pregnant woman and, in the case of labor, to the unborn child from effecting the transfer; or

(B) If a physician is not physically present in the emergency department at the time the pregnant woman is transferred, a qualified medical professional, as defined by the commissioner of health by rule, has signed a certification described in subdivision (d)(2)(A) after a physician, in consultation with the qualified medical professional, has made the determination described in subdivision (d)(2)(A), and subsequently countersigns the certification; and

(3) The transfer is an appropriate transfer, as described in 42 U.S.C. § 1395dd, to that facility.

(e) A hospital that has specialized capabilities or facilities shall not refuse to accept an appropriate transfer pursuant to subsection (d) of a pregnant woman who

requires such specialized capabilities or facilities if the hospital has the capacity to treat the pregnant woman.

(f) A hospital shall not delay provision of an appropriate medical screening examination required under subsection (b) or further medical examination and treatment required under subdivision (c)(1)(A) in order to inquire about the pregnant woman's method of payment or insurance status.

(g) A hospital shall not penalize or take adverse action against:

(1) A qualified medical professional described in subdivision (d)(2)(B) or a physician because the qualified medical professional or physician refuses to authorize the transfer of a pregnant woman with an emergency medical condition that has not been stabilized; or

(2) Any hospital employee because the employee reports a violation of this section.

(h)

(1) The executive director of the health facilities commission is authorized to investigate and enforce violations of this section by healthcare facilities licensed under this part.

(2) The department of health, including a health-related licensing board attached to the department of health, is authorized to investigate and enforce violations of this section by individual healthcare professionals licensed, regulated, certified, or otherwise permitted pursuant to title 63 or this title to deliver health care in the course of a profession in this state.

(3) A hospital or satellite emergency department that violates this section may be subject to a civil penalty of not more than fifty thousand dollars (\$50,000)

for each violation or, in the case of a hospital with less than one hundred (100) beds, not more than twenty-five thousand dollars (\$25,000) for each violation.

(4)

(A) Subject to subdivision (h)(4)(B), a physician who is responsible for the examination, treatment, or transfer of a pregnant woman in a hospital, including a physician on-call for the care of such pregnant woman, and who violates this section is subject to:

(i) A civil penalty of not more than fifty thousand dollars (\$50,000) for each violation; and

(ii) Licensure sanction by the board of medical examiners or the board of osteopathic examination, as applicable.

(B) If, after an initial examination, a physician determines that the pregnant woman requires the services of a physician listed by the hospital on its list of on-call physicians, if required by 42 U.S.C. § 1395cc(a)(1)(I), notifies the on-call physician, the on-call physician fails or refuses to appear within a reasonable period of time, and the physician orders the transfer of the pregnant woman because the physician determines that without the services of the on-call physician, the benefits of transfer outweigh the risks of transfer, then the physician authorizing the transfer is not subject to a penalty under subdivision (h)(4)(A). However, the exemption created by this subdivision (h)(4)(A) does not apply to the hospital or to the on-call physician who failed or refused to appear.

(C) Subdivision (h)(4)(A) includes a physician who:

(i) Signs a certification under subdivision (d)(2)(B) that the medical benefits reasonably to be expected from a transfer to

another facility outweigh the risks associated with the transfer, if the physician knew or should have known that the benefits did not outweigh the risks; or

(ii) Misrepresents a pregnant woman's condition or other information, including a hospital's obligations under this section.

SECTION 2. This act takes effect July 1, 2026, the public welfare requiring it, and applies to conduct occurring on or after that date.

Amendment No. 1 to SB1681

Crowe
Signature of Sponsor

AMEND Senate Bill No. 1681*

House Bill No. 1943

by adding the following after the end of subsection (h) in SECTION 1 as new subsections:

(i) A physician, qualified medical professional, or hospital employee is not subject to a civil penalty, licensure sanction, or other adverse action under this section if the physician, qualified medical professional, or hospital employee acts in good faith and exercises reasonable clinical judgment based upon the information available at the time care is rendered or a transfer decision is made.

(j) A civil penalty or licensure sanction shall not be imposed under this section for conduct that is the subject of an enforcement action, settlement, corrective action plan, or final determination under the federal Emergency Medical Treatment and Labor Act (EMTALA) (42 U.S.C. § 1395dd), as amended, or federal regulations promulgated to effectuate such act.

AND FURTHER AMEND by adding the following at the end of subsection (e) in SECTION 1:

As used in this subsection (e), "capacity" has the same meaning as defined in 42 CFR 489.24.

AND FURTHER AMEND by adding the following at the end of subdivision (h)(3) in SECTION 1:

Civil penalties imposed pursuant to this section are limited to one (1) civil penalty per patient encounter, regardless of the number of alleged violations arising from the same event.

AND FURTHER AMEND by deleting "who violates this section" from subdivision (h)(4)(A) in SECTION 1 and substituting "who knowingly and willfully violates this section".