

The House Committee on Insurance offers the following substitute to HB 1324:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 31 and Title 33 of the Official Code of Georgia Annotated,
2 relating to emergency medical services and insurance, respectively, so as to clarify that the
3 prudent layperson standard is not affected by the diagnoses given; to provide for unfair
4 claims settlement practices; to provide for legislative findings; to provide for related matters;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 The General Assembly finds that:

- 9 (1) This state recognizes a "prudent layperson" standard with regard to the need for
10 emergency care;
- 11 (2) Insurance companies operating in this state are required to adhere to that standard;
- 12 (3) Patients in this state have had emergency medical claims denied due to insurers'
13 failure to adhere to the prudent layperson standard as intended;
- 14 (4) The federal court system has recognized that this standard is not intended to look to
15 the diagnosis that a patient receives. Rather, the only relevant considerations are the

patient's symptoms and whether a prudent layperson would think that emergency medical attention is necessary based on those symptoms;

(5) This legislative body has intended and continues to intend that the prudent layperson standard be applied in the same manner;

(6) In order to better protect Georgians seeking emergency care, legislation is needed not to change the meaning but to clarify the intended application of the prudent layperson standard in this state; and

(7) Nothing in this Act is intended to be applicable to healthcare plans which are subject to the exclusive jurisdiction of the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001, et seq.

SECTION 2.

Chapter 11 of Title 31 of the Official Code of Georgia Annotated, relating to emergency medical services, is amended by revising paragraph (1) of Code Section 31-11-81, relating to definitions, as follows:

"(1) 'Emergency condition' means any ~~medical~~ physical or mental condition of a recent onset and severity, including but not limited to severe pain, regardless of the initial, interim, final, or other diagnoses that are given, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that his or her condition, sickness, or injury is of such a nature that failure to obtain immediate medical care could result in:

(A) Placing the patient's health in serious jeopardy;

(B) Serious impairment to bodily functions; or

(C) Serious dysfunction of any bodily organ or part."

SECTION 3.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by revising Code Section 33-6-34, relating to unfair claims settlement practices, by deleting "and" at the end of paragraph (14), by replacing the period with "; and" at the end of paragraph (15), and by adding a new paragraph to read as follows:

"(16) Failure to comply with any insurer requirement relating to emergency services or care in Article 4 of Chapter 11 of Title 31, Article 1 of Chapter 20A of this title, Chapter 20E of this title, Chapter 21A of this title, Code Section 33-24-59.27, and Chapter 30 of this title."

SECTION 4.

Said title is further amended by revising paragraph (1) of Code Section 33-20A-3, relating to definitions regarding managed health care plans, as follows:

"(1) 'Emergency services' or 'emergency care' means those physical or mental health care services that are provided for a condition of recent onset and sufficient severity, including, but not limited to, severe pain, regardless of the initial, interim, final, or other diagnoses that are given, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that his or her condition, sickness, or injury is of such a nature that failure to obtain immediate medical care could result in:

- (A) Placing the patient's health in serious jeopardy;
- (B) Serious impairment to bodily functions; or
- (C) Serious dysfunction of any bodily organ or part."

SECTION 5.

Said title is further amended by revising paragraph (5) of subsection (b) of Code Section 33-20E-2, relating to application to insurers and definitions regarding surprise billing, as follows:

64 "(5) 'Emergency medical services' means ~~medical~~ physical or mental health care services
65 rendered after the recent onset of a medical or traumatic condition, sickness, or injury
66 exhibiting acute symptoms of sufficient severity, including, but not limited to, severe
67 pain, regardless of the initial, interim, final, or other diagnoses that are given, that would
68 lead a prudent layperson possessing an average knowledge of medicine and health to
69 believe that his or her condition, sickness, or injury is of such a nature that failure to
70 obtain immediate medical care could result in:

- 71 (A) Placing the patient's health in serious jeopardy;
- 72 (B) Serious impairment to bodily functions; or
- 73 (C) Serious dysfunction of any bodily organ or part."

74 SECTION 6.

75 Said title is further amended by revising paragraph (4) of Code Section 33-21A-2, relating
76 to definitions regarding Medicaid care management organizations, as follows:

77 "(4) 'Emergency health care services' means physical or mental health care services that
78 are provided for a condition of recent onset and sufficient severity, including, but not
79 limited to, severe pain, regardless of the initial, interim, final, or other diagnoses that are
80 given, that would lead a prudent layperson, possessing an average knowledge of medicine
81 and health, to believe that his or her condition, sickness, or injury is of such a nature that
82 failure to obtain immediate medical care could result in:

- 83 (A) Placing the patient's health in serious jeopardy;
- 84 (B) Serious impairment to bodily functions; or
- 85 (C) Serious dysfunction of any bodily organ or part."

SECTION 7.

Said title is further amended by revising paragraph (2) of subsection (b) of Code Section 33-24-59.27, relating to right to shop for insurance coverage, disclosure of pricing information, and notice, as follows:

"(2) 'Emergency services' means those physical or mental health care services that are provided for a condition of recent onset and sufficient severity, including, but not limited to, severe pain, regardless of the initial, interim, final, or other diagnoses that are given, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that his or her condition, sickness, or injury is of such a nature that failure to obtain immediate medical care could result in:

- (A) Placing the patient's health in serious jeopardy;
- (B) Serious impairment to bodily functions; or
- (C) Serious dysfunction of any bodily organ or part."

SECTION 8.

Said title is further amended by revising paragraph (1) of Code Section 33-30-22, relating to definitions regarding preferred provider arrangements, as follows:

"(1) 'Emergency services' or 'emergency care' means those physical or mental health care services that are provided for a condition of recent onset and sufficient severity, including, but not limited to, severe pain, regardless of the initial, interim, final, or other diagnoses that are given, that would lead a prudent layperson, possessing an average knowledge of medicine and health, to believe that his or her condition, sickness, or injury is of such a nature that failure to obtain immediate medical care could result in:

- (A) Placing the patient's health in serious jeopardy;
- (B) Serious impairment to bodily functions; or
- (C) Serious dysfunction of any bodily organ or part."

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SECTION 9.

112 All laws and parts of laws in conflict with this Act are repealed.