

House Bill 1324 (AS PASSED HOUSE AND SENATE)

By: Representatives Camp of the 131<sup>st</sup>, Hawkins of the 27<sup>th</sup>, Newton of the 123<sup>rd</sup>, Taylor of the 173<sup>rd</sup>, Lumsden of the 12<sup>th</sup>, and others

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

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

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

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

23 (7) Nothing in this Act is intended to be applicable to healthcare plans which are subject  
24 to the exclusive jurisdiction of the Employee Retirement Income Security Act of 1974,  
25 29 U.S.C. Section 1001, et seq.

26 **SECTION 2.**

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

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

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

37 (B) Serious impairment to bodily functions; or

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

39 **SECTION 3.**

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

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

48 **SECTION 4.**

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

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

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

60 **SECTION 5.**

61 Said title is further amended by revising paragraph (5) of subsection (b) of Code Section  
62 33-20E-2, relating to application to insurers and definitions regarding surprise billing, as  
63 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."

86 **SECTION 7.**

87 Said title is further amended by revising paragraph (2) of subsection (b) of Code Section  
88 33-24-59.27, relating to right to shop for insurance coverage, disclosure of pricing  
89 information, and notice, as follows:

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

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

99 **SECTION 8.**

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

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

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

111

**SECTION 9.**

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