



# Ambulatory Services: Urgent Care Policy Options

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## Urgent Care Background

Providers that operate under an urgent care model are marketed as a cost-effective way of serving a patient's acute care needs outside of a more expensive emergency room while providing convenient hours and minimal wait times. Urgent care providers are not intended to provide emergency intervention for critical, major trauma, life-threatening or potentially disabling conditions. The scope of operations, hours of operation, scope of services, and the nature of the physician-patient relationship are all important elements that define the urgent care model.

Urgent care providers operate on an unscheduled walk-in basis, serving patients as needed. They are typically open during normal business hours (9AM to 5PM weekdays) but typically include early and late weekday hours and weekend hours, and are often open on holidays. Some urgent care facilities operate 24 hours a day, seven days a week.

Urgent care providers are a source for outpatient diagnosis and treatment for ambulatory patients with acute illness or minor traumas that are not life threatening or permanently disabling. Services can include a medical history, physical examination and treatment services, such as those provided by a physician's practice. Additional services may include intravenous hydration, suturing of minor lacerations and providing occupational medicine therapies. Urgent care facilities can also include advanced imaging services, in-house lab services for immediate point-of-care testing, and even point-of-care dispensing of pre-packaged pharmaceuticals. When unable to appropriately serve a patient requiring more emergency care, urgent care providers generally have transfer and referral protocols in place.

There is no expectation of an ongoing physician-patient relationship with an urgent care provider. Once the acute illness or trauma has been treated, the patient's ongoing care should be provided by with their primary care physician or by referral to a specialist.

Urgent care facilities are not intended for well care, chronic disease management, or inpatient care or hospitalization. They are also not intended to be used as emergency rooms and are not subject to the Emergency Medical Treatment and Labor Act (EMTALA), requiring acceptance of patients without regard for the ability to pay.

Some urgent care providers operate as physician practices (termed "Urgent Care Practices"). Some primary care practices may have an urgent care component, with designated hours for walk-in acute care. Larger urgent care providers may operate as licensed Diagnostic & Treatment Centers and are considered urgent care clinics or centers ("UCC").

## **Current Federal and NYS Regulations**

Urgent care providers are not consistently regulated in New York State. Urgent care providers that operate as centers or clinics and fall under the category of Diagnostic and Treatment Centers are subject to licensure and the Certificate of Need process. Other urgent care providers are physician practices and are governed through radiological imaging and professional licensing requirements.

### ***Pros:***

- Potentially create savings for the healthcare system by diverting non-severe emergency patients from emergency departments that have substantially higher costs.
- Lower overhead costs as compared to Emergency Departments due to size, scope and staffing models.
- Provide customer service related to extended hours as compared to physician practices and report shorter waiting room times than Emergency Departments.
- Support patient overflows from existing entities.

### ***Cons:***

- Larger urgent care models, generally UCC, that operate with 24/7 hours may have higher costs and need to charge patients more for services, creating pricing inconsistencies across urgent care providers.
- May be skimming procedures with higher margins away from Emergency Departments and existing physician practices, making these providers less financially sustainable.
- Patient confusion regarding services provided compared to an Emergency Department, and in which situation to go to an urgent care provider.
- Patient overreliance on an urgent care practice or center for non-urgent care may undermine the relationship with a primary care physician or patient medical home.
- Concerns that staff may not have sufficient training to diagnose and treat patients with severe conditions or with chronic underlying conditions.

## Options

### 1. Define Urgent Care Providers New York State

#### **Options:**

- *Define urgent care and urgent care providers (e.g. scope of services, hours of operation, hospital affiliation, ownership requirements, etc.) in statute or regulation.*
- *Urgent care definition may specify:*

Definition of Urgent Care Services. A prescribed set of pre-identified diagnostic and treatment services that:

- (a) are for episodic, urgent care related to an acute illness or minor traumas that are not life-threatening or permanently disabling; services shall include advanced imaging and diagnostic services such as X-Ray; and
- (b) additional services may include immunizations and occupational medicine therapies;
- (c) require only a focused history and physical examination that does not require the dispensing of controlled substances;
- (d) may make use of only CLIA-waived tests;
- (e) are of a nature that may be provided within the projected duration of patient encounters, using available facilities and equipment.

Urgent Care shall not include emergency intervention for critical, major trauma, life-threatening or potentially disabling conditions. Urgent Care shall not mean surgical services, dental services or birth center services. Urgent Care shall not only be unscheduled walk-in primary care, and shall not substitute primary care services for the ongoing maintenance of chronic illness or physical rehabilitation.

- *Urgent care provider definition may specify:*

Definition of Urgent Care Provider. An Urgent Care Provider shall offer services as defined in (1) Definition of Urgent Care Services, shall offer unscheduled walk-in services, and shall be open during normal business hours plus extended hours.

- (1) Extended hours may include early morning, late evening, weekend hours and holidays.
- (2) An Urgent Care Provider shall have no expectation of an ongoing physician-patient relationship.

**Pros:**

- Creates a functional definition that can be used to target future rules and regulations.
- Clarifies role of urgent care providers vs. role of other providers within the urgent to emergent care spectrum (for example, retail clinics and Emergency Departments).

**Cons:**

- Providers may adjust their model to fall out of scope.

**State Models:**

Arizona, Florida, Maryland, Minnesota, New Hampshire and Utah have definitions of urgent care center and urgent care center-equivalent facilities.

**Arizona**

Arizona Revised Statutes (A.R.S.), Revised Statute §36-401 Definitions, Item 21-a defines a “Freestanding urgent care center” as an “outpatient treatment center that regardless of its posted or advertised name, meets any of the following requirements:

- i. “Is open twenty-four hours a day, excluding at its option weekends or certain holidays, but is not licensed as a hospital.
- ii. “Claims to provide unscheduled medical services not otherwise routinely available in primary care physician offices.
- iii. “By its posted or advertised name, gives the impression to the public that it provides medical care for urgent, immediate or emergency conditions.
- iv. “Routinely provides ongoing unscheduled medical services for more than eight consecutive hours for an individual patient.”

Item 21-b specifies that a “Freestanding urgent care center” does not include the following:

- i. “A medical facility that is licensed under a hospital’s license and that uses the hospital’s medical provider number.
- ii. “A qualifying community health center pursuant to section 36-2907.06.
- iii. “Any other health care institution licensed pursuant to this chapter.”
- iv. “A physician’s office that offers extended hours or same day appointments to existing and new patients and that does not meet the requirements of subdivision (a), item (i), (iii) or (iv). For the purposes of this item, “physician” means a person licensed pursuant to title 32, chapter 13 or 17.”

**Florida**

Florida State Statute (2012) Chapter 395, Part I Hospital Licensing and Regulation, Section 1(30) defines a UCC as a “facility or clinic that provides immediate but not emergent ambulatory medical care to patients. The term includes an offsite emergency department of a hospital that is presented to the general public in any

manner as a department where immediate and not only emergent medical care is provided. The term also includes:

(a) An offsite facility of a facility licensed under this chapter, or a joint venture between a facility licensed under this chapter and a provider licensed under chapter 458 or chapter 459, that does not require a patient to make an appointment and is presented to the general public in any manner as a facility where immediate but not emergent medical care is provided.”

(b) A clinic organization that is licensed under part X of chapter 400, maintains three or more locations using the same or a similar name, does not require a patient to make an appointment, and holds itself out to the general public in any manner as a facility or clinic where immediate but not emergent medical care is provided<sup>1</sup>.”

### **Maryland**

10.09.77.01, Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE Subtitle 09 MEDICAL CARE PROGRAMS Chapter 77 Urgent Care Centers Authority: Health-General Article,.01 Definitions, (13) defines urgent care as “the delivery of ambulatory care, such as for acute illnesses or minor traumas, in a facility dedicated to the delivery of unscheduled, walk-in care outside of a hospital emergency department, a free-standing clinic, or a physician's office<sup>2</sup>.”

### **Minnesota**

Chapter 4654, of Minnesota Health Care Quality Measures Subpart 22 states that an Urgent Care Center “means a medical facility where ambulatory patients can walk in without an appointment and receive services required to treat an illness or injury that would not result in further disability or death if not treated immediately, but requires professional attention and that has the potential to develop such a threat if treatment is delayed. Urgent care center does not include physician clinics offering extended hours for patient care.”

### **New Hampshire**

In He-P 806.03-ak New Hampshire defines NEWCC as “...a medical facility where a patient can receive medical care which is not of an emergency life-threatening nature, without making an appointment and without the intention of developing an ongoing care relationship with the licensed practitioner. This term includes such facilities that are self-described as urgent care centers, retail health clinics, and convenient care clinics. A NEWCC can be a stand-alone entity or an entity located within a retail store or pharmacy, which can be owned and operated by the retail store or pharmacy, or be owned and operated by a third party<sup>3</sup>.”

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<sup>1</sup> For full legislative text, Florida State Statutes, <http://www.flsenate.gov/Laws/Statutes/2012/395.002>

<sup>2</sup> For full text, Maryland <http://www.dsd.state.md.us/comar/getfile.aspx?file=10.09.77.01.htm>

<sup>3</sup> For full regulatory text, New Hampshire Code of Administrative Rules <http://www.dhhs.nh.gov/oos/bhfa/documents/he-p806.pdf>

## Utah

Utah R432-1 General Health Care Facility Rules, Section 3 Definitions (50) defines a Freestanding Urgent Care Center as “distinguished from a private physician's office or emergency room setting, means a facility which provides out-patient health care service (on an as-needed basis, without appointment) to the public for diagnosis and treatment of medical conditions which do not require hospitalization or emergency intervention for a life-threatening or potentially permanently disabling condition. Diagnostic and therapeutic services provided by a free-standing urgent care center include: a medical history physical examination, assessment of health status and treatment for a variety of medical conditions commonly offered in a physician's office.”

## 2. Require Certificate of Need (CON)

### **Options:**

- *Require that all urgent care providers, both clinic and physician practice, apply for CON approval.*
- *Require that urgent care providers accept Medicaid and serve low-income patients as a condition of approval.*
- *Require that urgent care providers establish an affiliation with hospital/hospital networks as a condition of approval (see also Require Referral Protocol).*

### **Considerations:**

- Would existing urgent care providers be grandfathered in?

### **Pros:**

- Enforces physical plant standards.
- Considers need, potential destabilization of market and access.
- Establishes an expectation of, relationships with existing medical facilities and networks.
- Evaluates financial viability.
- Evaluates ownership structure and character.

### **Cons:**

- CON may discourage urgent care providers from establishing in NYS.
- Urgent care centers that are licensed as Diagnostic and Treatment Centers already are subject to CON; unclear if an urgent care CON would need to be distinct from other facility types.
- Added time and expense for providers.

### 3. Require Licensure (Operational Oversight)

#### **Options:**

- *Establish a specific licensure category for urgent care providers.*
- *Require that urgent care providers accept Medicaid and serve low-income patients as a condition of approval.*
- *Require utilization of certified electronic health records that are connected to the Statewide Health Information Network for New York (SHIN-NY) and Regional Health Information Organizations (RHIOS).*
- *Require compliance with Statewide Policy Guidance for sharing of electronic patient health information.*
- *Require that urgent care providers establish an affiliation with hospital/hospital networks as a condition of approval (see also Require Referral Protocol).*
- *Require the above only for urgent care centers (and not urgent care practices).*

#### **Additional Considerations:**

- If an urgent care provider is part of a chain, would the state require a single license or require each location to obtain its own license?
- Would existing urgent care providers be grandfathered?

#### **Pros:**

- Establishes quality care standards unique to urgent care providers.
- Establishes staffing requirements.
- Requires referral processes be in place to expedite triage and referral.
- Vehicle for requiring Medicaid participation.
- Vehicle for establishing service posting requirements.

#### **Cons:**

- Urgent care providers with licensure would be eligible for facility fees, increasing the overall cost of care.
- Existing urgent care providers may fall out of licensure range.
- Existing urgent care providers may not meet architectural and engineering requirements, necessitating construction to meet compliance.
- May discourage urgent care providers from opening in NYS/in some regions.
- Urgent care clinics/centers that fall under Diagnostic and Treatment Centers already are subject to licensure.
- Added time and expense for facilities.

#### **State Models:**

Arizona has legislation that defines Freestanding Urgent Care Clinics and outlines licensure process, includes relationship between health care service organizations and UCC, and establishes posting requirements.

Example: A.R.S. Title 20, Chapter 4, Article 9, Section 20-1077 on Health Organizations and Urgent Care Clinics:

- Requires posting of consumer information about when to use an Urgent Care Clinic.
- Requires a referral process be in place between a health care service organization and an Urgent Care Clinic.
- Requires credentialing Urgent Care Centers every two years.

Florida recently enacted (effective January 2013) legislation that amends F.S. 400.991 that requires health care facilities to be licensed in order to receive reimbursement for the provision of personal injury services. Facilities are exempt that are owned by an existing licensed entity, e.g. a hospital (Florida HB0119-06)<sup>4</sup>.

#### **4. Require Registration for Urgent Care Providers**

##### ***Options:***

- *Create a requirement that urgent care providers register with the state.*
- *Require re-registration every 3 to 5 years.*
- *Can be accomplished through regulation or statute, contingent on a definition.*
- *Registration information collection may include:*
  - Entity name
  - Location(s)
  - Services provided
  - Staffing structure
  - Ownership structure
  - Patient volume
  - Payer mix
  - Quality and outcome reporting
  - Error and adverse event reporting

##### ***Pros:***

- Provides data on urgent care providers in New York State to inform future decisions and understanding of this model of care.

##### ***Cons:***

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<sup>4</sup> For full legislative text, Florida statute:  
[http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=\\_h0119er.docx&DocumentType=Bill&BillNumber=0119&Session=2012](http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=_h0119er.docx&DocumentType=Bill&BillNumber=0119&Session=2012)

## 5. Require Accreditation for Urgent Care Providers\*

*\*Included as part of universal ambulatory service options*

### **Options:**

- *Require accreditation by a national accrediting body. Bodies that can provide accreditation may include:*
  - The Joint Commission (JCAHO): The Joint Commission accredits urgent care centers as a subset of ambulatory care<sup>5</sup>.
  - Accreditation Association for Ambulatory Health Care (AAAHC): The AAAHC website lists “Urgent and immediate care” centers as one of the types of organizations it accredits<sup>6</sup>.
  - National Association for Ambulatory Care (NAFAC): NAFAC has created a program that both accredits and certifies Urgent Care Centers<sup>7</sup>.
- *Require accrediting body to provide data to the Department (i.e. patient safety and quality data).*
- *Require accreditation through statute or regulation.*

### **Pros:**

- Promotes evidence-based practices.
- Monitors quality based on industry standards.
- Fulfills quality review survey requirements for DOH.
- May provide data on urgent care providers in New York State to inform future decisions and understanding of this model of care.
- May address through licensure and registration.

### **Cons:**

- This represents a shift in Joint Commission accreditation from voluntary to mandatory.
- Fees for Joint Commission Accreditation may present a barrier to entry.

### **State Models:**

New York State Public Health Law § 230-d, Office Based Surgery creates a definition of Office Based Surgery and requires accreditation of facilities where Office Based Surgery takes place. State Education Law State Education Law § 6530(48) enforces this by requiring that licensed physicians abide by this requirement and not practice surgery in non-accredited facilities.

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<sup>5</sup> The Joint Commission. “Seeking Urgent Care Accreditation.”

[http://www.jointcommission.org/accreditation/ahc\\_seeking\\_urgent\\_care.aspx](http://www.jointcommission.org/accreditation/ahc_seeking_urgent_care.aspx)

<sup>6</sup> Accreditation Association for Ambulatory Health Care. “Accreditation.”

<http://www.aaahc.org/accreditation/>

<sup>7</sup> National Association for Ambulatory Care (NAFAC). “National Urgent Care Practice Standards Certification.” <http://www.urgentcare.org/CertificationStandards/tabid/134/Default.aspx>

## 6. Create Naming Guidelines for Urgent Care Providers

### **Options:**

- *Create criteria for providers that may call themselves urgent care providers (contingent on a definition).*
- *Create a naming requirement that urgent care providers must call themselves “Urgent Care” and not some form of “emergency” such as “emergent” or “emergicare.”*
- *Possibly limit use of commercial terms in names such as “Immediate,” or “Convenient,” as these words do not clearly indicate the type of services that will be received at the facility.*

### **Pros:**

- Clarifies role of urgent care providers vs. role of other facilities in the ambulatory care spectrum for consumers.
- Works in conjunction with defining urgent care providers in legislation or regulation.

### **Cons:**

- Depends on a functional definition of urgent care model(s).
- May not be able to enforce without licensure or registration.

### **State Models:**

Delaware and Illinois have statutory language regarding the naming of facilities so as to not cause confusion with Emergency Rooms; the use of “Urgent” and “Emergency” and similar derivatives are prohibited unless the facility is an actual Emergency Room.

### **Illinois**

Illinois only permits the use of the term “emergency” “urgent” or a derivative of those terms if the facility is actually an emergency room. 210 ILCS 70/2 of the Emergency Medical Treatment Act covers prohibited terms and states “After the effective date of this amendatory Act of the 93rd General Assembly, no person, facility, or entity shall hold itself out to the public as an “urgent”, “urgi-”, “emergi-”, or “emergent” care center or use any similar term, as defined by rule, that would give the impression that emergency medical treatment is provided by the person or entity or at the facility unless the facility is the emergency room of a facility licensed as a hospital under the Hospital Licensing Act or a facility licensed as a freestanding emergency center under the Emergency Medical Services (EMS) Systems Act... Violation of this Section constitutes a business offense with a minimum fine of \$5,000 plus \$1,000 per day for a continuing violation, with a maximum of \$25,000<sup>8</sup>.”

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<sup>8</sup> For full legislative text, Illinois Legislative Reference Bureau  
<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1231&ChapterID=21>

## Delaware

Delaware licenses Free Standing Emergency Centers, and prohibits the use of the term “emergency” or “urgent” by a facility if that facility is not able to handle life-threatening emergency care. Delaware Regulatory Administrative Code Title 16, 4400 Health Systems Protection, 4404 Free Standing Emergency Centers, **9.0 Licensing Requirements and Procedures**, part 9.6 states: “The terms emergency, urgent care or parts of those terms or any other language or symbols which imply or indicate to the public that immediate medical treatment is available to individuals suffering from a life threatening medical condition shall not be used as part of the name of any facility in this State, unless the facility has been licensed by the Division of Public Health<sup>9</sup>.”

## 7. Establish an updated Medicaid Reimbursement Model for Urgent Care Providers

### **Options:**

- *Develop Medicaid reimbursement model for urgent care providers that recognizes the provider as direct (vs. requiring them to bill Medicaid via the individual physicians).*

### **Pros:**

- Permits Medicaid patients to visit an urgent care provider without paying out of pocket.
- Enables direct reimbursement to the facility vs. requiring reimbursement for the individual practitioners, which would streamline reimbursement accounting.
- Enables Medicaid billing to distinguish urgent care from other service categories.
- Can tie reimbursement to reporting requirements; motivates urgent care providers to follow reporting requirements.

### **Cons:**

- Urgent care providers often have higher costs than a regular physician practice because of the inconsistent schedule and type of services actually rendered can vary based on unanticipated need; accepting Medicaid reimbursement may not be financially viable for some establishments.
- Rates may put pressure on the global Medicaid spending cap.
- Fee schedules may not support urgent care provider financial needs.
- Requiring urgent care providers to accept Medicaid reimbursement may discourage them from establishing in NYS.

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<sup>9</sup> For full regulatory text regarding licensing of Free Standing Emergency Centers in Delaware: [http://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Public%20Health/Health%20Systems%20Protection%20\(HSP\)/4404.shtm](http://regulations.delaware.gov/AdminCode/title16/Department%20of%20Health%20and%20Social%20Services/Division%20of%20Public%20Health/Health%20Systems%20Protection%20(HSP)/4404.shtm)  
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