

AMENDED IN SENATE MARCH 31, 2011

SENATE BILL

No. 233

Introduced by Senator Pavley

February 9, 2011

An act to amend Section 1317.1 of the Health and Safety Code, relating to emergency services.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as amended, Pavley. Emergency services and care.

Existing law provides for the licensure and regulation of health facilities. A violation of these provisions is a crime. Existing law requires emergency services and care to be provided to any person requesting the services or care for any condition in which the person is in danger of loss of life, or serious injury or illness. For the purposes of these provisions, emergency services and care is defined to include medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine the care, treatment, and surgery by a physician necessary to relieve or eliminate the emergency medical condition or active labor, within the capability of the facility. Existing law also defines consultation as the rendering of an opinion, advice, or prescribing treatment by telephone and, when determined to be medically necessary jointly by the emergency and specialty physicians, includes review of the patient's record, examination, and treatment of the patient in person by a specialty physician who is qualified to give an opinion or render the necessary treatment in order to stabilize the patient.

This bill would expand the definition of emergency services and care to include care, treatment, and surgery by a physician assistant in

compliance with prescribed provisions. This bill would also expand the definition of consultation to authorize physician assistants to provide a consultation.

By expanding the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1317.1 of the Health and Safety Code,
2 as amended by Section 1 of Chapter 423 of the Statutes of 2009,
3 is amended to read:

4 1317.1. Unless the context otherwise requires, the following
5 definitions shall control the construction of this article and Section
6 1371.4:

7 (a) (1) "Emergency services and care" means medical screening,
8 examination, and evaluation by a physician, or, to the extent
9 permitted by applicable law, by other appropriate personnel under
10 the supervision of a physician, to determine if an emergency
11 medical condition or active labor exists and, if it does, the care,
12 treatment, and surgery by a physician and surgeon, or physician
13 assistant practicing in compliance with Chapter 7.7 (commencing
14 with Section 3500) of Division 2 of the Business and Professions
15 Code *and who practices under the supervision of a qualified*
16 *physician and surgeon, pursuant to Division 13.8 (commencing*
17 *with Section 1399.502) of Title 16 of the California Code of*
18 *Regulations, necessary to relieve or eliminate the emergency*
19 *medical condition, within the capability of the facility.*

20 (2) (A) "Emergency services and care" also means an additional
21 screening, examination, and evaluation by a physician, or other
22 personnel to the extent permitted by applicable law and within the
23 scope of their licensure and clinical privileges, to determine if a
24 psychiatric emergency medical condition exists, and the care and

1 treatment necessary to relieve or eliminate the psychiatric
2 emergency medical condition, within the capability of the facility.

3 (B) The care and treatment necessary to relieve or eliminate a
4 psychiatric emergency medical condition may include admission
5 or transfer to a psychiatric unit within a general acute care hospital,
6 as defined in subdivision (a) of Section 1250, or to an acute
7 psychiatric hospital, as defined in subdivision (b) of Section 1250,
8 pursuant to subdivision (k). Nothing in this subparagraph shall be
9 construed to permit a transfer that is in conflict with the
10 Lanterman-Petris-Short Act (Part 1 (commencing with Section
11 5000) of Division 5 of the Welfare and Institutions Code).

12 (C) For the purposes of Section 1371.4, emergency services and
13 care as defined in subparagraph (A) shall not apply to Medi-Cal
14 managed care plan contracts entered into with the State Department
15 of Health Care Services pursuant to Chapter 7 (commencing with
16 Section 14000), Chapter 8 (commencing with Section 14200), and
17 Chapter 8.75 (commencing with Section 14590) of Part 3 of
18 Division 9 of the Welfare and Institutions Code, to the extent that
19 those services are excluded from coverage under those contracts.

20 (D) This paragraph does not expand, restrict, or otherwise affect
21 the scope of licensure or clinical privileges for clinical
22 psychologists or other medical personnel.

23 (b) “Emergency medical condition” means a medical condition
24 manifesting itself by acute symptoms of sufficient severity
25 (including severe pain) such that the absence of immediate medical
26 attention could reasonably be expected to result in any of the
27 following:

28 (1) Placing the patient’s health in serious jeopardy.

29 (2) Serious impairment to bodily functions.

30 (3) Serious dysfunction of any bodily organ or part.

31 (c) “Active labor” means a labor at a time at which either of the
32 following would occur:

33 (1) There is inadequate time to effect safe transfer to another
34 hospital prior to delivery.

35 (2) A transfer may pose a threat to the health and safety of the
36 patient or the unborn child.

37 (d) “Hospital” means all hospitals with an emergency department
38 licensed by the state department.

39 (e) “State department” means the State Department of Public
40 Health.

1 (f) “Medical hazard” means a material deterioration in medical
2 condition in, or jeopardy to, a patient’s medical condition or
3 expected chances for recovery.

4 (g) “Board” means the Medical Board of California.

5 (h) “Within the capability of the facility” means those
6 capabilities that the hospital is required to have as a condition of
7 its emergency medical services permit and services specified on
8 Services Inventory Form 7041 filed by the hospital with the Office
9 of Statewide Health Planning and Development.

10 (i) “Consultation” means the rendering of an opinion, advice,
11 or prescribing treatment by telephone and, when determined to be
12 medically necessary jointly by the emergency and specialty
13 physicians and surgeons, or physician assistants practicing in
14 compliance with Chapter 7.7 (commencing with Section 3500) of
15 Division 2 of the Business and Professions Code *and who practices*
16 *under the supervision of a qualified physician and surgeon,*
17 *pursuant to Division 13.8 (commencing with Section 1399.502) of*
18 *Title 16 of the California Code of Regulations*, includes review of
19 the patient’s medical record, examination, and treatment of the
20 patient in person by a specialty physician and surgeon, or physician
21 assistant practicing in compliance with Chapter 7.7 (commencing
22 with Section 3500) of Division 2 of the Business and Professions
23 Code *and who practices under the supervision of a qualified*
24 *physician and surgeon, pursuant to Division 13.8 (commencing*
25 *with Section 1399.502) of Title 16 of the California Code of*
26 *Regulations*, who is qualified to give an opinion or render the
27 necessary treatment in order to stabilize the patient.

28 (j) A patient is “stabilized” or “stabilization” has occurred when,
29 in the opinion of the treating provider, the patient’s medical
30 condition is such that, within reasonable medical probability, no
31 material deterioration of the patient’s condition is likely to result
32 from, or occur during, the release or transfer of the patient as
33 provided for in Section 1317.2, Section 1317.2a, or other pertinent
34 statute.

35 (k) (1) “Psychiatric emergency medical condition” means a
36 mental disorder that manifests itself by acute symptoms of
37 sufficient severity that it renders the patient as being either of the
38 following:

39 (A) An immediate danger to himself or herself or to others.

1 (B) Immediately unable to provide for, or utilize, food, shelter,
2 or clothing, due to the mental disorder.

3 (2) This subdivision does not expand, restrict, or otherwise
4 affect the scope of licensure or clinical privileges for clinical
5 psychologists or medical personnel.

6 SEC. 2. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

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