

AMENDED IN SENATE MAY 4, 2011
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, *at any licensed health facility*. 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. *Existing law also defines when stabilization of a patient has occurred.*

~~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.~~

This bill would, in regards to the definition of emergency services and care, require that the other appropriate personnel permitted by applicable law be acting pursuant to their scope of practice and licensure under the supervision of a physician and surgeon. This bill would expand the definition of consultation to also mean the rendering of a decision regarding hospitalization or transfer and would provide that consultation includes review of the patient's medical record, examination, and treatment of the patient in person by a specialty physician and surgeon when determined to be medically necessary jointly by the treating physician and surgeon and the consulting physician and surgeon, or by other appropriate personnel acting pursuant to their scope of practice and licensure under the supervision of a physician and surgeon. This bill would expand the definition of when stabilization of a patient has occurred to include the opinion of other personnel acting pursuant to their scope of practice and licensure under the supervision of a physician and surgeon.

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:

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

17 (2) (A) “Emergency services and care” also means an additional
18 screening, examination, and evaluation by a physician, or other
19 personnel to the extent permitted by applicable law and within the
20 scope of their licensure and clinical privileges, to determine if a
21 psychiatric emergency medical condition exists, and the care and
22 treatment necessary to relieve or eliminate the psychiatric
23 emergency medical condition, within the capability of the facility.

24 (B) The care and treatment necessary to relieve or eliminate a
25 psychiatric emergency medical condition may include admission
26 or transfer to a psychiatric unit within a general acute care hospital,
27 as defined in subdivision (a) of Section 1250, or to an acute
28 psychiatric hospital, as defined in subdivision (b) of Section 1250,
29 pursuant to subdivision (k). Nothing in this subparagraph shall be
30 construed to permit a transfer that is in conflict with the
31 Lanterman-Petris-Short Act (Part 1 (commencing with Section
32 5000) of Division 5 of the Welfare and Institutions Code).

33 (C) For the purposes of Section 1371.4, emergency services and
34 care as defined in subparagraph (A) shall not apply to Medi-Cal
35 managed care plan contracts entered into with the State Department
36 of Health Care Services pursuant to Chapter 7 (commencing with
37 Section 14000), Chapter 8 (commencing with Section 14200), and
38 Chapter 8.75 (commencing with Section 14590) of Part 3 of
39 Division 9 of the Welfare and Institutions Code, to the extent that
40 those services are excluded from coverage under those contracts.

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

4 (b) “Emergency medical condition” means a medical condition
5 manifesting itself by acute symptoms of sufficient severity
6 (including severe pain) such that the absence of immediate medical
7 attention could reasonably be expected to result in any of the
8 following:

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

10 (2) Serious impairment to bodily functions.

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

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

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

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

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

20 (e) “State department” means the State Department of Public
21 Health.

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

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

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

31 ~~(i) “Consultation” means the rendering of an opinion, advice,~~
32 ~~or prescribing treatment by telephone and, when determined to be~~
33 ~~medically necessary jointly by the emergency and specialty~~
34 ~~physicians and surgeons, or physician assistants practicing in~~
35 ~~compliance with Chapter 7.7 (commencing with Section 3500) of~~
36 ~~Division 2 of the Business and Professions Code and who practices~~
37 ~~under the supervision of a qualified physician and surgeon,~~
38 ~~pursuant to Division 13.8 (commencing with Section 1399.502)~~
39 ~~of Title 16 of the California Code of Regulations, includes review~~
40 ~~of the patient’s medical record, examination, and treatment of the~~

1 patient in person by a specialty physician and surgeon, or physician
2 assistant practicing in compliance with Chapter 7.7 (commencing
3 with Section 3500) of Division 2 of the Business and Professions
4 Code and who practices under the supervision of a qualified
5 physician and surgeon, pursuant to Division 13.8 (commencing
6 with Section 1399.502) of Title 16 of the California Code of
7 Regulations, who is qualified to give an opinion or render the
8 necessary treatment in order to stabilize the patient.

9 (i) “Consultation” means the rendering of an opinion, advice,
10 prescribing treatment, or decision regarding hospitalization or
11 transfer by telephone and, when determined to be medically
12 necessary, jointly by the treating physician and surgeon and the
13 consulting physician and surgeon, or by other appropriate
14 personnel acting pursuant to their scope of practice and licensure
15 under the supervision of a physician and surgeon, includes review
16 of the patient’s medical record, examination, and treatment of the
17 patient in person by a specialty physician and surgeon who is
18 qualified to give an opinion or render the necessary treatment in
19 order to stabilize the patient. A request for consultation shall be
20 made by the treating physician and surgeon, or by other
21 appropriate personnel acting pursuant to their scope of practice
22 and licensure under the supervision of a physician and surgeon,
23 provided the request is made with the contemporaneous approval
24 of the treating physician and surgeon.

25 (j) A patient is “stabilized” or “stabilization” has occurred when,
26 in the opinion of the treating provider, physician and surgeon, or
27 other appropriate personnel acting pursuant to their scope of
28 practice and licensure under the supervision of a physician and
29 surgeon, the patient’s medical condition is such that, within
30 reasonable medical probability, no material deterioration of the
31 patient’s condition is likely to result from, or occur during, the
32 release or transfer of the patient as provided for in Section 1317.2,
33 Section 1317.2a, or other pertinent statute.

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

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

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

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

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