

AMENDED IN SENATE MAY 18, 2011

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 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, ~~in regards to~~ *recast* 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 to include other appropriate licensed persons acting within their scope of 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~~ *licensed persons acting within their scope of 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~~ *appropriate licensed persons acting within their scope of 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:
- 7 (a) (1) "Emergency services and care" means medical screening,
- 8 examination, and evaluation by a physician and surgeon, or, to the

1 extent permitted by applicable law, by other appropriate personnel
2 acting pursuant to their scope of practice and *licensed persons*
3 acting within their scope of licensure under the supervision of a
4 physician and surgeon, to determine if an emergency medical
5 condition or active labor exists and, if it does, the care, treatment,
6 and surgery, *if within the scope of that person's license*, necessary
7 to relieve or eliminate the emergency medical condition, within
8 the capability of the facility.

9 (2) (A) "Emergency services and care" also means an additional
10 screening, examination, and evaluation by a physician, or other
11 personnel to the extent permitted by applicable law and within the
12 scope of their licensure and clinical privileges, to determine if a
13 psychiatric emergency medical condition exists, and the care and
14 treatment necessary to relieve or eliminate the psychiatric
15 emergency medical condition, within the capability of the facility.

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

25 (C) For the purposes of Section 1371.4, emergency services and
26 care as defined in subparagraph (A) shall not apply to Medi-Cal
27 managed care plan contracts entered into with the State Department
28 of Health Care Services pursuant to Chapter 7 (commencing with
29 Section 14000), Chapter 8 (commencing with Section 14200), and
30 Chapter 8.75 (commencing with Section 14590) of Part 3 of
31 Division 9 of the Welfare and Institutions Code, to the extent that
32 those services are excluded from coverage under those contracts.

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

36 (b) "Emergency medical condition" means a medical condition
37 manifesting itself by acute symptoms of sufficient severity
38 (including severe pain) such that the absence of immediate medical
39 attention could reasonably be expected to result in any of the
40 following:

- 1 (1) Placing the patient’s health in serious jeopardy.
- 2 (2) Serious impairment to bodily functions.
- 3 (3) Serious dysfunction of any bodily organ or part.
- 4 (c) “Active labor” means a labor at a time at which either of the
- 5 following would occur:
- 6 (1) There is inadequate time to effect safe transfer to another
- 7 hospital prior to delivery.
- 8 (2) A transfer may pose a threat to the health and safety of the
- 9 patient or the unborn child.
- 10 (d) “Hospital” means all hospitals with an emergency department
- 11 licensed by the state department.
- 12 (e) “State department” means the State Department of Public
- 13 Health.
- 14 (f) “Medical hazard” means a material deterioration in medical
- 15 condition in, or jeopardy to, a patient’s medical condition or
- 16 expected chances for recovery.
- 17 (g) “Board” means the Medical Board of California.
- 18 (h) “Within the capability of the facility” means those
- 19 capabilities that the hospital is required to have as a condition of
- 20 its emergency medical services permit and services specified on
- 21 Services Inventory Form 7041 filed by the hospital with the Office
- 22 of Statewide Health Planning and Development.
- 23 (i) “Consultation” means the rendering of an opinion, advice,
- 24 prescribing treatment, or decision regarding hospitalization or
- 25 transfer by telephone and, when determined to be medically
- 26 necessary, jointly by the treating physician and surgeon and the
- 27 consulting physician and surgeon, or by other appropriate ~~personnel~~
- 28 ~~acting pursuant to their scope of practice and licensed persons~~
- 29 *acting within their scope of licensure* under the supervision of a
- 30 physician and surgeon, includes review of the patient’s medical
- 31 record, examination, and treatment of the patient in person by a
- 32 specialty physician and surgeon, *or by other appropriate licensed*
- 33 *persons acting within their scope of licensure under the supervision*
- 34 *of a physician and surgeon*, who is qualified to give an opinion or
- 35 render the necessary treatment in order to stabilize the patient. A
- 36 request for consultation shall be made by the treating physician
- 37 and surgeon, or by other appropriate ~~personnel acting pursuant to~~
- 38 ~~their scope of practice and licensed persons acting within their~~
- 39 *scope of licensure* under the supervision of a physician and surgeon,

1 provided the request is made with the contemporaneous approval
2 of the treating physician and surgeon.

3 (j) A patient is “stabilized” or “stabilization” has occurred when,
4 in the opinion of the treating physician and surgeon, or other
5 appropriate ~~personnel acting pursuant to their scope of practice~~
6 ~~and licensed persons acting within their scope of~~ licensure under
7 the supervision of a physician and surgeon, the patient’s medical
8 condition is such that, within reasonable medical probability, no
9 material deterioration of the patient’s condition is likely to result
10 from, or occur during, the release or transfer of the patient as
11 provided for in Section 1317.2, Section 1317.2a, or other pertinent
12 statute.

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

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

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

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

23 (l) *This section shall not be construed to expand the scope of*
24 *licensure for licensed persons providing services pursuant to this*
25 *section.*

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

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