

AMENDED IN ASSEMBLY JULY 11, 2011

AMENDED IN ASSEMBLY JUNE 28, 2011

AMENDED IN SENATE MAY 18, 2011

AMENDED IN SENATE MAY 4, 2011

AMENDED IN SENATE MARCH 31, 2011

**SENATE BILL**

**No. 233**

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**Introduced by Senator Pavley**

February 9, 2011

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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 recast the definition of emergency services and care 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 consulting 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 within their scope of practice or licensure under the supervision of a *treating* physician and surgeon. The bill would authorize the treating physician and surgeon to request to communicate directly with the consulting physician and surgeon, and would require the consulting physician and surgeon to examine and treat the patient in person when it is determined to be medically necessary, as specified. This bill would expand the definition of when stabilization of a patient has occurred to include the opinion of other appropriate licensed persons acting within their scope of licensure under the supervision of a *treating* 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:

1 1317.1. Unless the context otherwise requires, the following  
2 definitions shall control the construction of this article and Section  
3 1371.4:

4 (a) (1) “Emergency services and care” means medical screening,  
5 examination, and evaluation by a physician and surgeon, or, to the  
6 extent permitted by applicable law, by other appropriate licensed  
7 persons acting within their scope of licensure under the supervision  
8 of a physician and surgeon, to determine if an emergency medical  
9 condition or active labor exists and, if it does, the care, treatment,  
10 and surgery, if within the scope of that person’s license, necessary  
11 to relieve or eliminate the emergency medical condition, within  
12 the capability of the facility.

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

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

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

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

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

1 opinion or render the necessary treatment in order to stabilize the  
2 patient. A request for consultation shall be made by the treating  
3 physician and surgeon, or by other appropriate licensed persons  
4 acting within their scope of licensure under the supervision of a  
5 *treating* physician and surgeon, provided the request is made with  
6 the contemporaneous approval of the treating physician and  
7 surgeon. The treating physician and surgeon may request to  
8 communicate directly with the consulting physician and surgeon,  
9 and when determined to be medically necessary, jointly by the  
10 treating physician and surgeon and the consulting physician and  
11 surgeon, the consulting physician and surgeon shall examine and  
12 treat the patient in person. The consulting physician and surgeon  
13 is ultimately responsible for providing the necessary consultation  
14 to the patient, regardless of who makes the in-person appearance.

15 (j) A patient is “stabilized” or “stabilization” has occurred when,  
16 in the opinion of the treating physician and surgeon, or other  
17 appropriate licensed persons acting within their scope of licensure  
18 under the supervision of a *treating* physician and surgeon, the  
19 patient’s medical condition is such that, within reasonable medical  
20 probability, no material deterioration of the patient’s condition is  
21 likely to result from, or occur during, the release or transfer of the  
22 patient as provided for in Section 1317.2, Section 1317.2a, or other  
23 pertinent statute.

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

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

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

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

34 (l) This section shall not be construed to expand the scope of  
35 licensure for licensed persons providing services pursuant to this  
36 section.

37 SEC. 2. No reimbursement is required by this act pursuant to  
38 Section 6 of Article XIII B of the California Constitution because  
39 the only costs that may be incurred by a local agency or school  
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

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