

AMENDED IN ASSEMBLY JULY 14, 2011
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

Introduced by Senator Pavley

February 9, 2011

An act to *repeal and* 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, as~~
2 ~~amended by Section 91 of Chapter 886 of the Statutes of 1989, is~~
3 ~~repealed.~~

4 ~~1317.1. Unless the context otherwise requires, the following~~
5 ~~definitions shall control the construction of this article:~~

6 ~~(a) “Emergency services and care” means medical screening,~~
7 ~~examination, and evaluation by a physician, or, to the extent~~
8 ~~permitted by applicable law, by other appropriate personnel under~~
9 ~~the supervision of a physician, to determine if an emergency~~
10 ~~medical condition or active labor exists and, if it does, the care,~~
11 ~~treatment, and surgery by a physician necessary to relieve or~~
12 ~~eliminate the emergency medical condition, within the capability~~
13 ~~of the facility.~~

14 ~~(b) “Emergency medical condition” means a medical condition~~
15 ~~manifesting itself by acute symptoms of sufficient severity~~
16 ~~(including severe pain) such that the absence of immediate medical~~
17 ~~attention could reasonably be expected to result in any of the~~
18 ~~following:~~

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

20 ~~(2) Serious impairment to bodily functions.~~

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

22 ~~(c) “Active labor” means a labor at a time at which either of the~~
23 ~~following would occur:~~

24 ~~(1) There is inadequate time to effect safe transfer to another~~
25 ~~hospital prior to delivery.~~

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

28 ~~(d) “Hospital” means all hospitals with an emergency department~~
29 ~~licensed by the state department.~~

30 ~~(e) “State department” means the State Department of Health~~
31 ~~Services.~~

32 ~~(f) “Medical hazard” means a material deterioration in, or~~
33 ~~jeopardy to, a patient’s medical condition or expected chances for~~
34 ~~recovery.~~

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

36 ~~(h) “Within the capability of the facility” means those~~
37 ~~capabilities which the hospital is required to have as a condition~~
38 ~~of its emergency medical services permit and services specified~~

1 on ~~Services Inventory Form 7041 filed by the hospital with the~~
2 ~~Office of Statewide Health Planning and Development.~~

3 (i) ~~“Consultation” means the rendering of an opinion, advice,~~
4 ~~or prescribing treatment by telephone and, when determined to be~~
5 ~~medically necessary jointly by the emergency and the specialty~~
6 ~~physicians, includes review of the patient’s medical record,~~
7 ~~examination and treatment of the patient in person by a specialty~~
8 ~~physician who is qualified to give an opinion or render the~~
9 ~~necessary treatment in order to stabilize the patient.~~

10 SECTION 4.

11 SEC. 2. Section 1317.1 of the Health and Safety Code, as
12 amended by Section 1 of Chapter 423 of the Statutes of 2009, is
13 amended to read:

14 1317.1. Unless the context otherwise requires, the following
15 definitions shall control the construction of this article and Section
16 1371.4:

17 (a) (1) “Emergency services and care” means medical screening,
18 examination, and evaluation by a physician and surgeon, or, to the
19 extent permitted by applicable law, by other appropriate licensed
20 persons acting within their scope of licensure under the supervision
21 of a physician and surgeon, to determine if an emergency medical
22 condition or active labor exists and, if it does, the care, treatment,
23 and surgery, if within the scope of that person’s license, necessary
24 to relieve or eliminate the emergency medical condition, within
25 the capability of the facility.

26 (2) (A) “Emergency services and care” also means an additional
27 screening, examination, and evaluation by a physician, or other
28 personnel to the extent permitted by applicable law and within the
29 scope of their licensure and clinical privileges, to determine if a
30 psychiatric emergency medical condition exists, and the care and
31 treatment necessary to relieve or eliminate the psychiatric
32 emergency medical condition, within the capability of the facility.

33 (B) The care and treatment necessary to relieve or eliminate a
34 psychiatric emergency medical condition may include admission
35 or transfer to a psychiatric unit within a general acute care hospital,
36 as defined in subdivision (a) of Section 1250, or to an acute
37 psychiatric hospital, as defined in subdivision (b) of Section 1250,
38 pursuant to subdivision (k). Nothing in this subparagraph shall be
39 construed to permit a transfer that is in conflict with the

1 Lanterman-Petris-Short Act (Part 1 (commencing with Section
2 5000) of Division 5 of the Welfare and Institutions Code).

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

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

14 (b) “Emergency medical condition” means a medical condition
15 manifesting itself by acute symptoms of sufficient severity
16 (including severe pain) such that the absence of immediate medical
17 attention could reasonably be expected to result in any of the
18 following:

- 19 (1) Placing the patient’s health in serious jeopardy.
- 20 (2) Serious impairment to bodily functions.
- 21 (3) Serious dysfunction of any bodily organ or part.

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

- 24 (1) There is inadequate time to effect safe transfer to another
25 hospital prior to delivery.
- 26 (2) A transfer may pose a threat to the health and safety of the
27 patient or the unborn child.

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

30 (e) “State department” means the State Department of Public
31 Health.

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

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

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

1 (i) “Consultation” means the rendering of an opinion, advice,
2 prescribing treatment, or decision regarding hospitalization or
3 transfer by telephone or other means of communication. When
4 determined to be medically necessary, jointly by the treating
5 physician and surgeon, or by other appropriate ~~personnel acting~~
6 ~~pursuant to their scope of practice and~~ licensed persons acting
7 within their scope of licensure, under the supervision of a physician
8 and surgeon, and the consulting physician and surgeon,
9 “consultation” includes review of the patient’s medical record,
10 examination, and treatment of the patient in person by a consulting
11 physician and surgeon, or by other appropriate licensed persons
12 acting within their scope of licensure under the supervision of a
13 consulting physician and surgeon, who is qualified to give an
14 opinion or render the necessary treatment in order to stabilize the
15 patient. A request for consultation shall be made by the treating
16 physician and surgeon, or by other appropriate licensed persons
17 acting within their scope of licensure under the supervision of a
18 treating physician and surgeon, provided the request is made with
19 the contemporaneous approval of the treating physician and
20 surgeon. The treating physician and surgeon may request to
21 communicate directly with the consulting physician and surgeon,
22 and when determined to be medically necessary, jointly by the
23 treating physician and surgeon and the consulting physician and
24 surgeon, the consulting physician and surgeon shall examine and
25 treat the patient in person. The consulting physician and surgeon
26 is ultimately responsible for providing the necessary consultation
27 to the patient, regardless of who makes the in-person appearance.

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

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

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

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

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

7 (l) This section shall not be construed to expand the scope of
8 licensure for licensed persons providing services pursuant to this
9 section.

10 ~~SEC. 2.~~

11 *SEC. 3.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.