

AMENDED IN ASSEMBLY AUGUST 25, 2011

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 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 91 of Chapter 886 of the Statutes of 1989,
3 is repealed.

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

7 1317.1. Unless the context otherwise requires, the following
8 definitions shall control the construction of this article and Section
9 1371.4:

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

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

26 (B) The care and treatment necessary to relieve or eliminate a
27 psychiatric emergency medical condition may include admission
28 or transfer to a psychiatric unit within a general acute care hospital,
29 as defined in subdivision (a) of Section 1250, or to an acute
30 psychiatric hospital, as defined in subdivision (b) of Section 1250,
31 pursuant to subdivision (k). Nothing in this subparagraph shall be
32 construed to permit a transfer that is in conflict with the
33 Lanterman-Petris-Short Act (Part 1 (commencing with Section
34 5000) of Division 5 of the Welfare and Institutions Code).

35 (C) For the purposes of Section 1371.4, emergency services and
36 care as defined in subparagraph (A) shall not apply to Medi-Cal
37 managed care plan contracts entered into with the State Department
38 of Health Care Services pursuant to Chapter 7 (commencing with

1 Section 14000), Chapter 8 (commencing with Section 14200), and
2 Chapter 8.75 (commencing with Section 14590) of Part 3 of
3 Division 9 of the Welfare and Institutions Code, to the extent that
4 those services are excluded from coverage under those contracts.

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

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

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

14 (2) Serious impairment to bodily functions.

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

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

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

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

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

24 (e) “State department” means the State Department of Public
25 Health.

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

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

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

35 (i) “Consultation” means the rendering of an opinion; *or* advice,
36 prescribing treatment, or *the rendering of a* decision regarding
37 hospitalization or transfer by telephone or other means of
38 communication. When determined to be medically necessary,
39 jointly by the treating physician and surgeon, or by other
40 appropriate licensed persons acting within their scope of licensure,

1 under the supervision of a physician and surgeon, and the
2 consulting physician and surgeon, “consultation” includes review
3 of the patient’s medical record, examination, and treatment of the
4 patient in person by a consulting physician and surgeon, or by
5 other appropriate licensed persons acting within their scope of
6 licensure under the supervision of a consulting physician and
7 surgeon, who is qualified to give an opinion or render the necessary
8 treatment in order to stabilize the patient. A request for consultation
9 shall be made by the treating physician and surgeon, or by other
10 appropriate licensed persons acting within their scope of licensure
11 under the supervision of a treating physician and surgeon, provided
12 the request is made with the contemporaneous approval of the
13 treating physician and surgeon. The treating physician and surgeon
14 may request to communicate directly with the consulting physician
15 and surgeon, and when determined to be medically necessary,
16 jointly by the treating physician and surgeon and the consulting
17 physician and surgeon, the consulting physician and surgeon shall
18 examine and treat the patient in person. The consulting physician
19 and surgeon is ultimately responsible for providing the necessary
20 consultation to the patient, regardless of who makes the in-person
21 appearance.

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

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

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

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

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

1 (l) This section shall not be construed to expand the scope of
2 licensure for licensed persons providing services pursuant to this
3 section.

4 SEC. 3. 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.