

AMENDED IN ASSEMBLY MAY 5, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1223**

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**Introduced by Assembly Member O'Donnell**

February 27, 2015

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An act to amend Sections 1797.98a, 1797.98c, and 1797.220 of, and to add Section 1797.120 to, and 1797.225 to the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1223, as amended, O'Donnell. Emergency medical services: ~~noncritical cases; ambulance transportation.~~

~~Existing law establishes the Maddy Emergency Medical Services (EMS) Fund, and authorizes each county to establish an emergency medical services fund for reimbursement of costs related to emergency medical services. Existing law limits payments made from the fund to claims for care rendered by physicians to patients who are initially medically screened, evaluated, treated, or stabilized in specified facilities, including a site that was approved by a county prior to January 1, 1990, as a paramedic receiving station for the treatment of emergency patients.~~

~~This bill would expand those specified facilities to include any licensed clinic or mental health facility, and any site approved by a county as a paramedic receiving station for the treatment of emergency patients. This bill would make conforming changes.~~

~~Existing law establishes the Emergency Medical Services Authority, and requires it to adopt regulations that further the purpose of~~

*establishing a statewide system for emergency medical services. Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, authorizes each county to develop an emergency medical services program. The act further authorizes a local emergency medical services (EMS) agency to develop and submit a plan to the Emergency Medical Services Authority for an emergency medical services system, and requires the local EMS agency, using state minimum standards, to establish policies and procedures to assure medical control of the emergency medical services system that may require basic life support emergency medical transportation services to meet any medical control requirements, including dispatch, patient destination policies, patient care guidelines, and quality assurance requirements.*

*This bill would ~~require~~ authorize a local EMS agency to ~~include in those adopt~~ policies and procedures ~~specified policies, including the establishment and enforcement of criteria relating to ambulance patient offload time, as defined, and for the transport of a patient to an alternate emergency department or facility under specified circumstances.~~ defined. The bill would require the authority to develop a statewide standard methodology for the calculation and reporting by a local EMS agency of ambulance patient offload time.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 1797.98a of the Health and Safety Code~~
- 2     ~~is amended to read:~~
- 3     ~~1797.98a. (a) The fund provided for in this chapter shall be~~
- 4     ~~known as the Maddy Emergency Medical Services (EMS) Fund.~~
- 5     ~~(b) (1) Each county may establish an emergency medical~~
- 6     ~~services fund, upon the adoption of a resolution by the board of~~
- 7     ~~supervisors. The moneys in the fund shall be available for the~~
- 8     ~~reimbursements required by this chapter. The fund shall be~~
- 9     ~~administered by each county, except that a county electing to have~~
- 10    ~~the state administer its medically indigent services program may~~
- 11    ~~also elect to have its emergency medical services fund administered~~
- 12    ~~by the state.~~
- 13    ~~(2) Costs of administering the fund shall be reimbursed by the~~
- 14    ~~fund in an amount that does not exceed the actual administrative~~

1 costs or 10 percent of the amount of the fund, whichever amount  
2 is lower.

3 ~~(3) All interest earned on moneys in the fund shall be deposited~~  
4 ~~in the fund for disbursement as specified in this section.~~

5 ~~(4) Each administering agency may maintain a reserve of up to~~  
6 ~~15 percent of the amount in the portions of the fund reimbursable~~  
7 ~~to physicians and surgeons, pursuant to subparagraph (A) of, and~~  
8 ~~to hospitals, pursuant to subparagraph (B) of, paragraph (5). Each~~  
9 ~~administering agency may maintain a reserve of any amount in~~  
10 ~~the portion of the fund that is distributed for other emergency~~  
11 ~~medical services purposes as determined by each county, pursuant~~  
12 ~~to subparagraph (C) of paragraph (5).~~

13 ~~(5) The amount in the fund, reduced by the amount for~~  
14 ~~administration and the reserve, shall be utilized to reimburse~~  
15 ~~physicians and surgeons and hospitals for patients who do not~~  
16 ~~make payment for emergency medical services and for other~~  
17 ~~emergency medical services purposes as determined by each county~~  
18 ~~according to the following schedule:~~

19 ~~(A) Fifty-eight percent of the balance of the fund shall be~~  
20 ~~distributed to physicians and surgeons for emergency services~~  
21 ~~provided by all physicians and surgeons, except those physicians~~  
22 ~~and surgeons employed by county hospitals, in general acute care~~  
23 ~~hospitals that provide basic, comprehensive, or standby emergency~~  
24 ~~services pursuant to paragraph (4) or (6) of subdivision (f) of~~  
25 ~~Section 1797.98e up to the time the patient is stabilized.~~

26 ~~(B) Twenty-five percent of the fund shall be distributed only to~~  
27 ~~hospitals providing disproportionate trauma and emergency medical~~  
28 ~~care services.~~

29 ~~(C) Seventeen percent of the fund shall be distributed for other~~  
30 ~~emergency medical services purposes as determined by each~~  
31 ~~county, including, but not limited to, the funding of regional poison~~  
32 ~~control centers. Funding may be used for purchasing equipment~~  
33 ~~and for capital projects only to the extent that these expenditures~~  
34 ~~support the provision of emergency services and are consistent~~  
35 ~~with the intent of this chapter.~~

36 ~~(e) The source of the moneys in the fund shall be the penalty~~  
37 ~~assessment made for this purpose, as provided in Section 76000~~  
38 ~~of the Government Code.~~

39 ~~(d) Any physician and surgeon may be reimbursed for up to 50~~  
40 ~~percent of the amount claimed pursuant to subdivision (a) of~~

1 Section 1797.98e for the initial cycle of reimbursements made by  
2 the administering agency in a given year, pursuant to Section  
3 1797.98e. All funds remaining at the end of the fiscal year in excess  
4 of any reserve held and rolled over to the next year pursuant to  
5 paragraph (4) of subdivision (b) shall be distributed proportionally,  
6 based on the dollar amount of claims submitted and paid to all  
7 physicians and surgeons who submitted qualifying claims during  
8 that year.

9 (e) ~~Of the money deposited into the fund pursuant to Section~~  
10 ~~76000.5 of the Government Code, 15 percent shall be utilized to~~  
11 ~~provide funding for all pediatric trauma centers throughout the~~  
12 ~~county, both publicly and privately owned and operated. The~~  
13 ~~expenditure of money shall be limited to reimbursement to~~  
14 ~~physicians and surgeons, and to hospitals for patients who do not~~  
15 ~~make payment for emergency care services in hospitals up to the~~  
16 ~~point of stabilization, or to hospitals for expanding the services~~  
17 ~~provided to pediatric trauma patients at trauma centers and other~~  
18 ~~hospitals providing care to pediatric trauma patients, or at pediatric~~  
19 ~~trauma centers, including the purchase of equipment. Local~~  
20 ~~emergency medical services (EMS) agencies may conduct a needs~~  
21 ~~assessment of pediatric trauma services in the county to allocate~~  
22 ~~these expenditures. Counties that do not maintain a pediatric trauma~~  
23 ~~center shall utilize the money deposited into the fund pursuant to~~  
24 ~~Section 76000.5 of the Government Code to improve access to,~~  
25 ~~and coordination of, pediatric trauma and emergency services in~~  
26 ~~the county, with preference for funding given to hospitals that~~  
27 ~~specialize in services to children, and physicians and surgeons~~  
28 ~~who provide emergency care for children. Funds spent for the~~  
29 ~~purposes of this section, shall be known as Richie's Fund. This~~  
30 ~~subdivision shall remain in effect until January 1, 2017, and shall~~  
31 ~~have no force or effect on or after that date, unless a later enacted~~  
32 ~~statute, that is chaptered before January 1, 2017, deletes or extends~~  
33 ~~that date.~~

34 (f) ~~Costs of administering money deposited into the fund~~  
35 ~~pursuant to Section 76000.5 of the Government Code shall be~~  
36 ~~reimbursed from the money collected in an amount that does not~~  
37 ~~exceed the actual administrative costs or 10 percent of the money~~  
38 ~~collected, whichever amount is lower. This subdivision shall remain~~  
39 ~~in effect until January 1, 2017, and shall have no force or effect~~

1 on or after that date, unless a later enacted statute, that is chaptered  
2 before January 1, 2017, deletes or extends that date.

3 ~~SEC. 2. Section 1797.98e of the Health and Safety Code is~~  
4 ~~amended to read:~~

5 ~~1797.98e. (a) It is the intent of the Legislature that a simplified,~~  
6 ~~cost-efficient system of administration of this chapter be developed~~  
7 ~~so that the maximum amount of funds may be utilized to reimburse~~  
8 ~~physicians and surgeons and for other emergency medical services~~  
9 ~~purposes. The administering agency shall select an administering~~  
10 ~~officer and shall establish procedures and time schedules for the~~  
11 ~~submission and processing of proposed reimbursement requests~~  
12 ~~submitted by physicians and surgeons. The schedule shall provide~~  
13 ~~for disbursements of moneys in the Emergency Medical Services~~  
14 ~~Fund on at least a quarterly basis to applicants who have submitted~~  
15 ~~accurate and complete data for payment. When the administering~~  
16 ~~agency determines that claims for payment for physician and~~  
17 ~~surgeon services are of sufficient numbers and amounts that, if~~  
18 ~~paid, the claims would exceed the total amount of funds available~~  
19 ~~for payment, the administering agency shall fairly prorate, without~~  
20 ~~preference, payments to each claimant at a level less than the~~  
21 ~~maximum payment level. Each administering agency may~~  
22 ~~encumber sufficient funds during one fiscal year to reimburse~~  
23 ~~claimants for losses incurred during that fiscal year for which~~  
24 ~~claims will not be received until after the fiscal year. The~~  
25 ~~administering agency may, as necessary, request records and~~  
26 ~~documentation to support the amounts of reimbursement requested~~  
27 ~~by physicians and surgeons and the administering agency may~~  
28 ~~review and audit the records for accuracy. Reimbursements~~  
29 ~~requested and reimbursements made that are not supported by~~  
30 ~~records may be denied to, and recouped from, physicians and~~  
31 ~~surgeons. Physicians and surgeons found to submit requests for~~  
32 ~~reimbursement that are inaccurate or unsupported by records may~~  
33 ~~be excluded from submitting future requests for reimbursement.~~  
34 ~~The administering officer shall not give preferential treatment to~~  
35 ~~any facility, physician and surgeon, or category of physician and~~  
36 ~~surgeon and shall not engage in practices that constitute a conflict~~  
37 ~~of interest by favoring a facility or physician and surgeon with~~  
38 ~~which the administering officer has an operational or financial~~  
39 ~~relationship. A hospital administrator of a hospital owned or~~  
40 ~~operated by a county of a population of 250,000 or more as of~~

1 January 1, 1991, or a person under the direct supervision of that  
2 person, shall not be the administering officer. The board of  
3 supervisors of a county or any other county agency may serve as  
4 the administering officer. The administering officer shall solicit  
5 input from physicians and surgeons and hospitals to review  
6 payment distribution methodologies to ensure fair and timely  
7 payments. This requirement may be fulfilled through the  
8 establishment of an advisory committee with representatives  
9 comprised of local physicians and surgeons and hospital  
10 administrators. In order to reduce the county's administrative  
11 burden, the administering officer may instead request an existing  
12 board, commission, or local medical society, or physicians and  
13 surgeons and hospital administrators, representative of the local  
14 community, to provide input and make recommendations on  
15 payment distribution methodologies.

16 (b) Each provider of health services that receives payment under  
17 this chapter shall keep and maintain records of the services  
18 rendered, the person to whom rendered, the date, and any additional  
19 information the administering agency may, by regulation, require,  
20 for a period of three years from the date the service was provided.  
21 The administering agency shall not require any additional  
22 information from a physician and surgeon providing emergency  
23 medical services that is not available in the patient record  
24 maintained by the entity listed in subdivision (f) where the  
25 emergency medical services are provided, nor shall the  
26 administering agency require a physician and surgeon to make  
27 eligibility determinations.

28 (c) During normal working hours, the administering agency  
29 may make any inspection and examination of a hospital's or  
30 physician and surgeon's books and records needed to carry out  
31 this chapter. A provider who has knowingly submitted a false  
32 request for reimbursement shall be guilty of civil fraud.

33 (d) Nothing in this chapter shall prevent a physician and surgeon  
34 from utilizing an agent who furnishes billing and collection services  
35 to the physician and surgeon to submit claims or receive payment  
36 for claims.

37 (e) All payments from the fund pursuant to Section 1797.98c  
38 to physicians and surgeons shall be limited to physicians and  
39 surgeons who, in person, provide onsite services in a clinical

1 setting, including, but not limited to, radiology and pathology  
2 settings:

3 (f) All payments from the fund shall be limited to claims for  
4 care rendered by physicians and surgeons to patients who are  
5 initially medically screened, evaluated, treated, or stabilized in  
6 any of the following:

7 (1) A basic or comprehensive emergency department of a  
8 licensed general acute care hospital:

9 (2) A licensed clinic or mental health facility:

10 (3) A site that is approved by a county as a paramedic receiving  
11 station for the treatment of emergency patients:

12 (4) A standby emergency department that was in existence on  
13 January 1, 1989, in a hospital specified in Section 124840:

14 (5) For the 1991-92 fiscal year and each fiscal year thereafter,  
15 a facility which contracted prior to January 1, 1990, with the  
16 National Park Service to provide emergency medical services:

17 (6) A standby emergency room in existence on January 1, 2007,  
18 in a hospital located in Los Angeles County that meets all of the  
19 following requirements:

20 (A) The requirements of subdivision (m) of Section 70413 and  
21 Sections 70415 and 70417 of Title 22 of the California Code of  
22 Regulations:

23 (B) Reported at least 18,000 emergency department patient  
24 encounters to the Office of Statewide Health Planning and  
25 Development in 2007 and continues to report at least 18,000  
26 emergency department patient encounters to the Office of Statewide  
27 Health Planning and Development in each year thereafter:

28 (C) A hospital with a standby emergency department meeting  
29 the requirements of this paragraph shall do both of the following:

30 (i) Annually provide the State Department of Public Health and  
31 the local emergency medical services agency with certification  
32 that it meets the requirements of subparagraph (A). The department  
33 shall confirm the hospital's compliance with subparagraph (A):

34 (ii) Annually provide to the State Department of Public Health  
35 and the local emergency medical services agency the emergency  
36 department patient encounters it reports to the Office of Statewide  
37 Health Planning and Development to establish that it meets the  
38 requirement of subparagraph (B):

39 (g) Payments shall be made only for emergency medical services  
40 provided on the calendar day on which emergency medical services

1 are first provided and on the immediately following two calendar  
2 days:

3 ~~(h) Notwithstanding subdivision (g), if it is necessary to transfer~~  
4 ~~the patient to a second facility providing a higher level of care for~~  
5 ~~the treatment of the emergency condition, reimbursement shall be~~  
6 ~~available for services provided at the facility to which the patient~~  
7 ~~was transferred on the calendar day of transfer and on the~~  
8 ~~immediately following two calendar days.~~

9 ~~(i) Payment shall be made for medical screening examinations~~  
10 ~~required by law to determine whether an emergency condition~~  
11 ~~exists, notwithstanding the determination after the examination~~  
12 ~~that a medical emergency does not exist. Payment shall not be~~  
13 ~~denied solely because a patient was not admitted to an acute care~~  
14 ~~facility. Payment shall be made for services to an inpatient only~~  
15 ~~when the inpatient has been admitted to a hospital from an entity~~  
16 ~~specified in subdivision (f).~~

17 ~~(j) The administering agency shall compile a quarterly and~~  
18 ~~yearend summary of reimbursements paid to facilities and~~  
19 ~~physicians and surgeons. The summary shall include, but shall not~~  
20 ~~be limited to, the total number of claims submitted by physicians~~  
21 ~~and surgeons in aggregate from each facility and the amount paid~~  
22 ~~to each physician and surgeon. The administering agency shall~~  
23 ~~provide copies of the summary and forms and instructions relating~~  
24 ~~to making claims for reimbursement to the public, and may charge~~  
25 ~~a fee not to exceed the reasonable costs of duplication.~~

26 ~~(k) Each county shall establish an equitable and efficient~~  
27 ~~mechanism for resolving disputes relating to claims for~~  
28 ~~reimbursements from the fund. The mechanism shall include a~~  
29 ~~requirement that disputes be submitted either to binding arbitration~~  
30 ~~conducted pursuant to arbitration procedures set forth in Chapter~~  
31 ~~3 (commencing with Section 1282) and Chapter 4 (commencing~~  
32 ~~with Section 1285) of Part 3 of Title 9 of the Code of Civil~~  
33 ~~Procedure, or to a local medical society for resolution by neutral~~  
34 ~~parties.~~

35 ~~(l) Physicians and surgeons shall be eligible to receive payment~~  
36 ~~for patient care services provided by, or in conjunction with, a~~  
37 ~~properly credentialed nurse practitioner or physician's assistant~~  
38 ~~for care rendered under the direct supervision of a physician and~~  
39 ~~surgeon who is present in the facility where the patient is being~~  
40 ~~treated and who is available for immediate consultation. Payment~~



1 shall be limited to those claims that are substantiated by a medical  
2 record and that have been reviewed and countersigned by the  
3 supervising physician and surgeon in accordance with regulations  
4 established for the supervision of nurse practitioners and physician  
5 assistants in California.

6 ~~SEC. 3.~~

7 *SECTION 1.* Section 1797.120 is added to the Health and Safety  
8 Code, to read:

9 1797.120. (a) The authority shall ~~develop~~ *develop, using input*  
10 *from stakeholders, including, but not limited to, hospitals, local*  
11 *EMS agencies, and public and private EMS service providers, a*  
12 *statewide standard methodology for the calculation and reporting*  
13 *by a local EMS agency of ambulance patient offload time.*

14 (b) *For the purposes of this section, “ambulance patient offload*  
15 *time” is defined as the interval between the arrival of an*  
16 *ambulance patient transported by a local EMS agency at an*  
17 *emergency department and the time that the emergency department*  
18 *assumes responsibility for care of the patient following the transfer*  
19 *of the patient to a stretcher utilized by the emergency department.*

20 ~~SEC. 4.~~ Section 1797.220 of the Health and Safety Code is  
21 amended to read:

22 1797.220. (a) ~~The local EMS agency, using state minimum~~  
23 ~~standards, shall establish policies and procedures approved by the~~  
24 ~~medical director of the local EMS agency to assure medical control~~  
25 ~~of the EMS system. The policies and procedures approved by the~~  
26 ~~medical director may require basic life support emergency medical~~  
27 ~~transportation services to meet any medical control requirements,~~  
28 ~~including dispatch, patient destination policies, patient care~~  
29 ~~guidelines, and quality assurance requirements.~~

30 (b) ~~The policies and procedures adopted pursuant to subdivision~~  
31 ~~(a) shall include the following:~~

32 (1) ~~A policy that uses the authority’s standard methodology for~~  
33 ~~calculating ambulance patient offload time to establish and enforce~~  
34 ~~compliance with criteria for the offloading of a patient transported~~  
35 ~~by ambulance.~~

36 (2) ~~Criteria for the reporting of and quality assurance followup~~  
37 ~~for a “never event,” as defined in subdivision (c).~~

38 (3) ~~A policy that allows a patient the right to request transport~~  
39 ~~to another emergency department if the patient is subject to~~  
40 ~~extended ambulance patient offload time.~~

1     ~~(4) A policy that allows a patient with a minor medical injury~~  
 2     ~~or illness to be transported, as approved by a licensed physician~~  
 3     ~~under direct medical control of the patient, to a county-approved~~  
 4     ~~or state-approved receiving facility, including a clinic, stand-alone~~  
 5     ~~emergency department, mental health facility, or sobering center.~~

6     ~~(e) For the purposes of this section, a “never event” occurs when~~  
 7     ~~the ambulance patient offload time for a patient exceeds one hour.~~

8     ~~(d) For the purposes of this section, “ambulance patient offload~~  
 9     ~~time” is defined as the interval between the arrival of an ambulance~~  
 10    ~~patient transported by the local EMS agency at an emergency~~  
 11    ~~department and the time that the emergency department assumes~~  
 12    ~~responsibility for care of the patient following the transfer of the~~  
 13    ~~patient to a stretcher utilized by the emergency department.~~

14    *SEC. 2. Section 1797.225 is added to the Health and Safety*  
 15    *Code, to read:*

16    *1797.225. (a) A local EMS agency may adopt policies and*  
 17    *procedures for calculating and reporting ambulance patient offload*  
 18    *time, as defined in subdivision (b) of Section 1797.120.*

19    *(b) A local EMS agency that adopts policies and procedures*  
 20    *for calculating and reporting ambulance patient offload time*  
 21    *pursuant to subdivision (a) shall do all of the following:*

22    *(1) Use the statewide standard methodology for calculating and*  
 23    *reporting ambulance patient offload time developed by the*  
 24    *authority pursuant to Section 1797.120.*

25    *(2) Establish criteria for the reporting of, and quality assurance*  
 26    *followup for, a “never event,” as defined in subdivision (c).*

27    *(c) For the purposes of this section, a “never event” occurs*  
 28    *when the ambulance patient offload time for a patient exceeds a*  
 29    *period of time designated in the criteria established by the local*  
 30    *EMS agency pursuant to paragraph (2) of subdivision (b).*