

AMENDED IN SENATE JULY 2, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 451

Introduced by Assembly Members Arambula and Santiago

February 11, 2019

An act to amend Section 1317 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 451, as amended, Arambula. Health care facilities: treatment of psychiatric emergency medical conditions.

Existing law provides for the licensure and regulation of general acute care hospitals and acute psychiatric hospitals by the State Department of Public Health. Existing law requires emergency services and care to be provided, as specified, at a licensed health facility that maintains and operates an emergency department to provide emergency services to the public when the health facility has appropriate facilities and qualified personnel available to provide the services or care. Existing law requires emergency services and care, including screening, examination, and evaluation to determine if a psychiatric emergency medical condition exists and the care and treatment necessary to relieve or eliminate the psychiatric emergency medical condition, to be provided to any person requesting the services or care. A knowing and intentional violation of these provisions is a crime.

This bill would require a psychiatric unit within a general acute care hospital, a psychiatric health facility, or an acute psychiatric hospital that has accepted a person for the purpose of determining the existence of a psychiatric medical emergency condition, to provide emergency services and care to treat that person, regardless of whether the facility

operates an emergency department, ~~if the facility has appropriate facilities and qualified personnel.~~ *provided that specified criteria are met.* These requirements would not apply to a state psychiatric hospital. By creating a new 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 of the Health and Safety Code, as
2 amended by Section 1 of Chapter 831 of the Statutes of 2018, is
3 amended to read:

4 1317. (a) Emergency services and care shall be provided to
5 any person requesting the services or care, or for whom services
6 or care is requested, for any condition in which the person is in
7 danger of loss of life, or serious injury or illness, at any health
8 facility licensed under this chapter that maintains and operates an
9 emergency department to provide emergency services to the public
10 when the health facility has appropriate facilities and qualified
11 personnel available to provide the services or care.

12 (b) In no event shall the provision of emergency services and
13 care be based upon, or affected by, the person's ethnicity,
14 citizenship, age, preexisting medical condition, insurance status,
15 economic status, ability to pay for medical services, or any other
16 characteristic listed or defined in subdivision (b) or (e) of Section
17 51 of the Civil Code, except to the extent that a circumstance such
18 as age, sex, preexisting medical condition, or physical or mental
19 disability is medically significant to the provision of appropriate
20 medical care to the patient.

21 (c) Neither the health facility, its employees, nor any physician
22 and surgeon, dentist, clinical psychologist, or podiatrist shall be
23 liable in any action arising out of a refusal to render emergency
24 services or care if the refusal is based on the determination,
25 exercising reasonable care, that the person is not suffering from

1 an emergency medical condition, or that the health facility does
 2 not have the appropriate facilities or qualified personnel available
 3 to render those services.

4 (d) Emergency services and care shall be rendered without first
 5 questioning the patient or any other person as to ~~his or her~~ *the*
 6 *patient's* ability to pay therefor. However, the patient or ~~his or her~~
 7 *the patient's* legally responsible relative or guardian shall execute
 8 an agreement to pay therefor or otherwise supply insurance or
 9 credit information promptly after the services are rendered.

10 (e) If a health facility subject to this chapter does not maintain
 11 an emergency department, its employees shall nevertheless exercise
 12 reasonable care to determine whether an emergency exists and
 13 shall direct the persons seeking emergency care to a nearby facility
 14 that can render the needed services, and shall assist the persons
 15 seeking emergency care in obtaining the services, including
 16 transportation services, in every way reasonable under the
 17 circumstances.

18 (f) (1) Notwithstanding subdivision (a), a psychiatric unit within
 19 a general acute care hospital, as defined in subdivision (a) of
 20 Section 1250, a psychiatric health facility, as defined in Section
 21 1250.2, and an acute psychiatric hospital, as defined in subdivision
 22 (b) of Section 1250, shall provide emergency services and care to
 23 treat a person with a psychiatric emergency medical condition, as
 24 defined in subdivision (k) of Section 1317.1, who has been
 25 accepted by the facility consistent with paragraph (2) of subdivision
 26 (a) of Section 1317.1, regardless of whether the facility operates
 27 an emergency department, ~~if the facility has appropriate facilities~~
 28 ~~and qualified personnel available to provide the services or care.~~
 29 *provided that all of the following requirements are met:*

30 (A) *The treating physician at the sending facility has determined*
 31 *that the patient is medically stable and appropriate for treatment*
 32 *in a psychiatric setting and has included that determination in the*
 33 *patient's medical record.*

34 (B) *The facility has an available bed.*

35 (C) *The facility has appropriate facilities and qualified*
 36 *personnel available to provide the services or care.*

37 (2) This paragraph does not apply to a facility listed in Section
 38 4100 of the Welfare and Institutions Code.

39 (g) A general acute care ~~hospital or hospital~~, acute psychiatric
 40 ~~hospital~~ *hospital, or psychiatric health facility* shall not require a

1 person who voluntarily seeks care to be in custody pursuant to
2 Section 5150 of the Welfare and Institutions Code as a condition
3 of accepting a transfer of that person after ~~his or her~~ *the person's*
4 written consent for treatment and transfer is documented or in the
5 absence of evidence of probable cause for detention, as defined in
6 Section 5150.05 of the Welfare and Institutions Code.

7 (h) An act or omission of a rescue team established by a health
8 facility licensed under this chapter, or operated by the federal or
9 state government, a county, or by the Regents of the University of
10 California, done or omitted while attempting to resuscitate a person
11 who is in immediate danger of loss of life shall not impose any
12 liability upon the health facility, the officers, members of the staff,
13 nurses, or employees of the health facility, including, but not
14 limited to, the members of the rescue team, or upon the federal or
15 state government or a county, if good faith is exercised.

16 (i) "Rescue team," as used in this section, means a special group
17 of physicians and surgeons, nurses, and employees of a health
18 facility who have been trained in cardiopulmonary resuscitation
19 and have been designated by the health facility to attempt, in cases
20 of emergency, to resuscitate persons who are in immediate danger
21 of loss of life.

22 (j) This section does not relieve a health facility of any duty
23 otherwise imposed by law upon the health facility for the
24 designation and training of members of a rescue team or for the
25 provision or maintenance of equipment to be used by a rescue
26 team.

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