

AMENDED IN ASSEMBLY MARCH 5, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 40

Introduced by Assembly Member Bonta

December 2, 2024

An act to amend Section 1317.1 of the Health and Safety Code, relating to health care, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 40, as amended, Bonta. Emergency services and care.

Existing law provides for the licensing and regulation of health facilities by the State Department of Public Health and makes a violation of those provisions a crime. Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law requires a health facility to provide emergency services and care upon request or when a person is in danger of loss of life or serious injury or illness, and requires a health care service plan to reimburse providers for emergency services and care. Existing law defines “emergency services and care” for these purposes to mean medical screening, examination, and evaluation by a physician and surgeon, or other appropriate licensed persons under the supervision of a physician and surgeon, to determine if an emergency medical condition or active labor exists and, if it does, the care, treatment, and surgery, if within the scope of that person’s license, necessary to relieve or eliminate the emergency medical condition, within the capability of the facility, among other things.

This bill would additionally define “emergency services and care” for the above-described purposes to mean reproductive health services, including abortion. By expanding the applicability of a crime with respect to health facilities and health care service plans, the 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares that
2 Californians have the constitutional right that expressly provides
3 that the state shall not deny or interfere with an individual's
4 reproductive freedom in their most intimate decisions, which
5 includes their fundamental right to choose to have an abortion. It
6 is the intent of the Legislature in enacting this act to clarify that
7 existing law related to emergency services and care necessary to
8 relieve or eliminate an emergency medical condition includes
9 reproductive health services, including abortion.

10 SEC. 2. Section 1317.1 of the Health and Safety Code is
11 amended to read:

12 1317.1. Unless the context otherwise requires, the following
13 definitions shall control the construction of this article and Section
14 1371.4:

15 (a) (1) “Emergency services and care” means medical screening,
16 examination, and evaluation by a physician and surgeon, or, to the
17 extent permitted by applicable law, by other appropriate licensed
18 persons under the supervision of a physician and surgeon, to
19 determine if an emergency medical condition or active labor exists
20 and, if it does, the care, treatment, ~~and surgery,~~ *surgery, and*
21 *reproductive health services, including abortion,* if within the
22 scope of that person’s license, necessary to relieve or eliminate

1 the emergency medical condition, within the capability of the
2 facility.

3 ~~(2) “Emergency services and care” also means reproductive~~
4 ~~health services, including abortion.~~

5 ~~(3)~~

6 (2) (A) “Emergency services and care” also means an additional
7 screening, examination, and evaluation by a physician, or other
8 personnel to the extent permitted by applicable law and within the
9 scope of their licensure and clinical privileges, to determine if a
10 psychiatric emergency medical condition exists, and the care and
11 treatment necessary to relieve or eliminate the psychiatric
12 emergency medical condition, within the capability of the facility.

13 (B) The care and treatment necessary to relieve or eliminate a
14 psychiatric emergency medical condition may include admission
15 or transfer to a psychiatric unit within a general acute care hospital,
16 as defined in subdivision (a) of Section 1250, or to an acute
17 psychiatric hospital, as defined in subdivision (b) of Section 1250,
18 pursuant to subdivision (k). This subparagraph does not permit a
19 transfer that is in conflict with the Lanterman-Petris-Short Act
20 (Part 1 (commencing with Section 5000) of Division 5 of the
21 Welfare and Institutions Code), or the federal Emergency Medical
22 Treatment and Labor Act (Section 1395dd of Title 42 of the United
23 States Code).

24 (C) For the purposes of Section 1371.4, emergency services and
25 care as defined in subparagraph (A) shall not apply to Medi-Cal
26 managed care plan contracts entered into with the State Department
27 of Health Care Services pursuant to Chapter 7 (commencing with
28 Section 14000), Chapter 8 (commencing with Section 14200), and
29 Chapter 8.75 (commencing with Section 14591) of Part 3 of
30 Division 9 of the Welfare and Institutions Code, to the extent that
31 those services are excluded from coverage under those contracts.

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

35 (b) “Emergency medical condition” means a medical condition
36 manifesting itself by acute symptoms of sufficient severity
37 (including severe pain) such that the absence of immediate medical
38 attention could reasonably be expected to result in any of the
39 following:

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

1 (2) Serious impairment to bodily functions.

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

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

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

7 (2) A transfer may pose a threat to the health and safety of the
8 patient or the fetus.

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

11 (e) “State department” means the State Department of Public
12 Health.

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

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

17 (h) “Within the capability of the facility” means those
18 capabilities that the hospital is required to have as a condition of
19 its emergency medical services permit and services specified on
20 Services Inventory Form 7041 filed by the hospital with the
21 Department of Health Care Access and Information.

22 (i) “Consultation” means the rendering of an opinion or advice,
23 prescribing treatment, or the rendering of a decision regarding
24 hospitalization or transfer by telephone or other means of
25 communication. When determined to be medically necessary,
26 jointly by the treating physician and surgeon, or by other
27 appropriate licensed persons acting within their scope of licensure,
28 under the supervision of a physician and surgeon, and the
29 consulting physician and surgeon, “consultation” includes review
30 of the patient’s medical record, examination, and treatment of the
31 patient in person by a consulting physician and surgeon, or by
32 other appropriate licensed persons acting within their scope of
33 licensure under the supervision of a consulting physician and
34 surgeon, who is qualified to give an opinion or render the necessary
35 treatment in order to stabilize the patient. A request for consultation
36 shall be made by the treating physician and surgeon, or by other
37 appropriate licensed persons acting within their scope of licensure
38 under the supervision of a treating physician and surgeon, provided
39 the request is made with the contemporaneous approval of the
40 treating physician and surgeon. The treating physician and surgeon

1 may request to communicate directly with the consulting physician
2 and surgeon, and when determined to be medically necessary,
3 jointly by the treating physician and surgeon and the consulting
4 physician and surgeon, the consulting physician and surgeon shall
5 examine and treat the patient in person. The consulting physician
6 and surgeon is ultimately responsible for providing the necessary
7 consultation to the patient, regardless of who makes the in-person
8 appearance.

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

18 (k) (1) “Psychiatric emergency medical condition” means a
19 mental health disorder that manifests itself by acute symptoms of
20 sufficient severity that it renders the patient as being either of the
21 following, regardless of whether the patient is voluntary or
22 involuntarily detained for assessment, evaluation, and crisis
23 intervention, or placement for evaluation and treatment pursuant
24 to the Lanterman-Petris-Short Act (Part 1 (commencing with
25 Section 5000) of Division 5 of the Welfare and Institutions Code):

26 (A) An immediate danger to themselves or to others.

27 (B) Immediately unable to provide for, or utilize, food, shelter,
28 or clothing, due to the mental health disorder.

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

32 (l) This section does not expand the scope of licensure for
33 licensed persons providing services pursuant to this section.

34 (m) This section does not require a transfer or admission that
35 is in conflict with the Lanterman-Petris-Short Act (Part 1
36 (commencing with Section 5000) of Division 5 of the Welfare and
37 Institutions Code) or with the requirements of the federal
38 Emergency Medical Treatment and Labor Act (42 U.S.C. Sec.
39 1395dd).

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

10 SEC. 4. This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety within
12 the meaning of Article IV of the California Constitution and shall
13 go into immediate effect. The facts constituting the necessity are:
14 In order to protect the public from actions that are contrary to
15 the public policy and laws of this state, including actions that
16 interfere with a person's ability to access the emergency medical
17 reproductive care they need, it is necessary that this act take effect
18 immediately.