

AMENDED IN SENATE AUGUST 31, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 451**

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**Introduced by Assembly Member Arambula**

February 8, 2021

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An act to ~~amend Section 1317 of~~ *add Section 1317.4b* to 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 accept the transfer of a person with a psychiatric emergency medical condition from a health*

*facility that operates an emergency department and to provide emergency services and care to treat that person, regardless of whether the facility operates an emergency department, if specified criteria are met. These requirements would not apply to a state psychiatric hospital. The bill would also require a facility accepting a transfer of a person pursuant to those provisions to comply with specified requirements. The bill would exclude state psychiatric hospitals and specified psychiatric health facilities from its provisions. 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 is~~
- 2     ~~amended to read:~~
- 3     ~~1317. (a) Emergency services and care shall be provided to~~
- 4     ~~any person requesting the services or care, or for whom services~~
- 5     ~~or care is requested, for any condition in which the person is in~~
- 6     ~~danger of loss of life, or serious injury or illness, at any health~~
- 7     ~~facility licensed under this chapter that maintains and operates an~~
- 8     ~~emergency department to provide emergency services to the public~~
- 9     ~~when the health facility has appropriate facilities and qualified~~
- 10    ~~personnel available to provide the services or care.~~
- 11    ~~(b) The provision of emergency services and care shall not be~~
- 12    ~~based upon, or affected by, the person's ethnicity, citizenship, age,~~
- 13    ~~preexisting medical condition, insurance status, economic status,~~
- 14    ~~ability to pay for medical services, or any other characteristic listed~~
- 15    ~~or defined in subdivision (b) or (c) of Section 51 of the Civil Code,~~
- 16    ~~except to the extent that a circumstance such as age, sex,~~
- 17    ~~preexisting medical condition, or physical or mental disability is~~
- 18    ~~medically significant to the provision of appropriate medical care~~
- 19    ~~to the patient.~~
- 20    ~~(c) The health facility, its employees, any physician and surgeon,~~
- 21    ~~dentist, clinical psychologist, or podiatrist shall not be liable in~~

1 any action arising out of a refusal to render emergency services or  
2 care if the refusal is based on the determination, exercising  
3 reasonable care, that the person is not suffering from an emergency  
4 medical condition, or that the health facility does not have the  
5 appropriate facilities or qualified personnel available to render  
6 those services.

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

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

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

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

36 (B) The facility has an available bed.

37 (C) The facility has appropriate facilities and qualified personnel  
38 available to provide the services or care.

39 (2) This subdivision does not apply to a facility listed in Section  
40 4100 of the Welfare and Institutions Code.

1 ~~(g) A general acute care hospital, acute psychiatric hospital, or~~  
2 ~~psychiatric health facility shall not require a person who voluntarily~~  
3 ~~seeks care to be in custody pursuant to Section 5150 of the Welfare~~  
4 ~~and Institutions Code as a condition of accepting a transfer of that~~  
5 ~~person after the person's written consent for treatment and transfer~~  
6 ~~is documented or in the absence of evidence of probable cause for~~  
7 ~~detention, as defined in Section 5150.05 of the Welfare and~~  
8 ~~Institutions Code.~~

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

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

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

29 *SECTION 1. Section 1317.4b is added to the Health and Safety*  
30 *Code, to read:*

31 *1317.4b. (a) A psychiatric unit within a general acute care*  
32 *hospital, as defined in subdivision (a) of Section 1250, a psychiatric*  
33 *health facility of more than 16 beds, as defined in Section 1250.2*  
34 *and subject to subdivision (d), or an acute psychiatric hospital, as*  
35 *defined in subdivision (b) of Section 1250, shall accept a transfer*  
36 *of a person with a psychiatric emergency medical condition, as*  
37 *defined in subdivision (k) of Section 1317.1, from a health facility*  
38 *licensed under this chapter that maintains and operates an*  
39 *emergency department and the receiving facility shall provide*  
40 *emergency services and care to that person consistent with*

1 *paragraph (2) of subdivision (a) of Section 1317.1, regardless of*  
2 *whether the facility operates an emergency department, if all of*  
3 *the following requirements are met:*

4 *(1) The treating physician at the sending facility has determined*  
5 *that the patient is medically stable and appropriate for treatment*  
6 *in a psychiatric setting and has included that determination in the*  
7 *patient's medical record.*

8 *(2) The facility has an available bed.*

9 *(3) The facility has appropriate facilities and qualified personnel*  
10 *available to provide the services or care.*

11 *(b) A facility accepting a transfer of a person with a psychiatric*  
12 *emergency medical condition pursuant to subdivision (a) shall*  
13 *comply with the requirements of subdivisions (b), (d), and (f) of*  
14 *Section 1317.*

15 *(c) This section shall not apply to a facility listed in Section*  
16 *4100 of the Welfare and Institutions Code.*

17 *(d) This section shall not apply to a psychiatric health facility*  
18 *that is county owned and operated.*

19 SEC. 2. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.