

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL**NO. 1001****Introduced by Assembly Member Haney**

February 15, 2023

An act to add Section 128740.1 to, and to add Article 7.1 (commencing with Section 1323.2) and Article 7.15 (commencing with Section 1323.4) to Chapter 2 of Division 2 of, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as introduced, Haney. Health facilities: behavioral health emergency services.

Existing law provides for the licensing, regulation, and inspection of various types of health facilities by the State Department of Public Health, including general acute care hospitals. Existing law requires certain building standards and regulations to prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified licensed personnel, and of services, based on the type of health facility and the needs of the persons served. Existing law requires specified financial and utilization data to be reported to the department by a hospital at the end of a calendar quarter.

Existing law generally makes a violation of the licensure provisions for health facilities a misdemeanor.

This bill would require a general acute care hospital to adopt policies to respond to a patient requiring behavioral health emergency services, as defined. The bill would require that these protocols meet standards established by the department and consist of various parameters such as minimum staffing requirements for behavioral health emergency services, procedures for response by behavioral health emergency services personnel in a timely manner, and annual training, as specified. The bill would require the department to adopt regulations on standards for general acute care hospitals related to behavioral health emergency services. The bill would require all hospitals to maintain records related to certain data on behavioral health emergency services provided for a period of 3 years and to report that data to the department on a quarterly basis. The bill would require the department to post quarterly reports on that data on its internet website.

Existing law establishes the Department of Health Care Access and Information, which is responsible for administering various programs with respect to health care professions and establishes various programs to facilitate the expansion of the health care workforce.

Existing law authorizes the board of supervisors in each county to establish and maintain a county hospital to provide public health care services within the county. Existing law authorizes the board to prescribe rules for the hospital's government and management, and to appoint a county physician and other necessary officers and employees of the hospital, as specified.

This bill would establish the Behavioral Health Emergency Response and Training Fund to provide grants to qualifying applicants for the purpose of funding a new program or supporting an existing program that increases

the staffing in general acute care hospitals of direct care personnel who are trained in behavioral health care and behavioral health emergency services response or intervention.

The bill would also require the department to evaluate the program and report to the Legislature annually.

By expanding the scope of a crime under the above paragraphs, 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.

Digest Key

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

Bill Text

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 7.1 (commencing with Section 1323.2) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 7.1. Behavioral Health Emergency Services

1323.2. (a) The Legislature finds and declares all of the following:

- (1) Direct patient care in general acute care facilities currently involves patients who have behavioral health needs, including needs related to mental health and substance use, and behavioral health emergencies.
- (2) Patient care outcomes in general acute care hospitals are dependent upon safe staffing levels and the competence of direct care personnel who staff those facilities.
- (3) Insufficient staffing levels of direct patient care personnel, including registered nurses, who have the specialized competency to provide, and are appropriately trained in, behavioral health and behavioral health emergency response results in unsafe patient care and increased occurrences of workplace violence.
- (4) To ensure the availability of direct patient care personnel who have the specialized competency to provide, and are appropriately trained in, behavioral health and behavioral health emergency response in general acute care hospitals, the Legislature intends that all such facilities in this state adopt policies and protocols on behavioral health emergency response and training in compliance with standards established in this article.

(b) This article does not expand the scope of licensure for licensed persons providing services pursuant to this article.

1323.21. For the purposes of this article, the following definitions apply:

(a) (1) "Behavioral health emergency condition" means a psychiatric emergency medical condition, as defined in paragraph (1) of subdivision (k) of Section 1317.1, or a cognitive, mental health, substance use, or stress-related

crisis that manifests itself by acute symptoms of sufficient severity that it renders the patient as being either of the following:

- (A) An immediate danger or risk of danger to themselves or to others.
 - (B) Immediately unable to provide for, or utilize, food, shelter, or clothing, due to a cognitive, mental health, substance use, or stress-related condition.
- (2) A behavioral health emergency condition does not require a psychological evaluation or a psychiatric or mental health diagnosis.
- (3) This subdivision does not expand, restrict, or otherwise affect the scope of licensure or clinical privileges for clinical psychologists or medical personnel.
- (b) (1) “Behavioral health emergency services” means services provided by a general acute care hospital for medical screening, examination, and evaluation by a physician and surgeon or, to the extent permitted by applicable law, by other appropriate licensed persons under the supervision of a physician and surgeon, to determine if a behavioral health emergency condition 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 behavioral health emergency condition, within the capability of the facility.
- (2) Behavioral health emergency services may include the use of a bed, monitoring by nursing and other staff, and any other services that are reasonable and necessary to safely assess a patient’s condition or determine the need for response and intervention by behavioral health emergency services personnel to respond to a behavioral health emergency condition or for a possible inpatient admission to the hospital that has a behavioral health emergency condition.
- (3) This subdivision does not expand, restrict, or otherwise affect the scope of licensure or clinical privileges for clinical psychologists or other medical personnel.
- (c) “General acute care hospital” has the same meaning as defined in subdivision (a) of Section 1250.

1323.23. (a) By January 1, 2025, each general acute care hospital shall adopt policies and protocols to respond to patients requiring behavioral health emergency services that meet standards established by the department and that shall consist of all of the following:

- (1) The names or job titles of the hospital staff responsible for implementing the behavioral health emergency services policies and protocols.
- (2) Minimum staffing requirements for behavioral health emergency services in accordance with subdivision (f), including all of the following:
 - (A) At least two registered nurses who have experience and competency in providing psychiatric care.
 - (B) At least one staff member, in addition to subparagraph (A), who is licensed to provide direct patient care and has experience and competency in providing psychiatric care. Additional staff under this subparagraph may include an additional registered nurse, or a physician and surgeon or a psychiatric technician.
 - (C) At least one staff member who can respond to the psychosocial needs of patients who have a behavioral health emergency condition. Staff under this subparagraph may include a licensed clinical social worker or clinical psychologist.
- (3) Procedures to ensure the availability of behavioral health emergency services personnel in each patient care area at all times, including a requirement that behavioral health emergency services personnel are not

considered to be available if those personnel have other assignments that prevent them from participating in behavioral health emergency services response in a timely manner.

(4) Procedures for identifying and assessing a patient's condition to determine the need for response or intervention by behavioral health emergency services personnel.

(5) Procedures for response by behavioral health emergency services personnel in a timely manner.

(6) Procedures to ensure timely transfers or admissions as required under subdivision (g).

(7) Training and education on a continuing annual basis for behavioral health emergency services personnel who provide direct patient care to ensure competency in existing and new skills in psychiatric care, behavioral health, and substance use treatment services.

(8) Training and education on a continuing annual basis for all behavioral health emergency services personnel on behavioral health emergency services response, including on providing trauma-informed care and ensuring access to linguistically and culturally competent care.

(9) Annual training and education for all hospital staff who are required to be present in a patient care area to recognize patient interactions that require response by behavioral health emergency services personnel and how to obtain that response or intervention.

(10) Procedures to ensure the provision of linguistically and culturally competent behavioral health emergency services to each patient with a behavioral health emergency condition.

(11) Procedures to evaluate a behavioral health emergency services patient for substance use treatment and counseling needs and to ensure the provision of that treatment and counseling.

(12) Procedures for hospital staff to report concerns regarding the availability of sufficient staff to perform behavioral health emergency services and concerns regarding the availability, condition, storage, and maintenance of equipment.

(13) Procedures to coordinate implementation of response and intervention by behavioral health emergency services personnel with the workplace violence prevention plan adopted by a hospital as required in the standard adopted by the Occupational Safety and Health Standards Board under Section 6401.8 of the Labor Code, including methods of reporting and investigating any incidents of workplace violence related to a patient receiving behavioral health emergency services.

(b) Policies and protocols adopted under subdivision (a) shall be maintained and implemented at all times in all units of the general acute care hospitals where patient care is provided and shall be available to all hospital staff at all times.

(c) By July 1, 2024, the department shall develop procedures to evaluate existing programs utilized by general acute care hospitals to provide behavioral health emergency services response and training for compliance with the requirements under the article.

(d) Every general acute care hospital shall designate a licensed registered nurse or physician who has experience and competence in psychiatric services as a director who shall be responsible for the management of the policies and protocols adopted under subdivision (a).

(e) Policies and protocols adopted under subdivision (a) shall be developed, implemented, and reviewed annually with the meaningful input and active involvement of the following general acute care hospital staff, including their recognized collective bargaining agent or agents, if any:

(1) Registered nurses who provide emergency medical services.

- (2) Registered nurses who provide psychiatric nursing care or provide care in a psychiatric unit, if any.
 - (3) Psychiatrists and other physicians who provide inpatient psychiatric services or provide care in a psychiatric unit, if any.
 - (4) Ancillary staff who provide inpatient psychiatric services or provide care in a psychiatric unit, including psychiatric technicians.
 - (5) Behavioral health emergency services personnel as identified in hospital policies and protocols adopted under subdivision (a).
 - (6) Hospital staff who are required to be present in a patient care area that are reasonably anticipated to require response by behavioral health emergency services personnel.
- (f) Development, implementation, and annual review of policies and protocols pursuant to subdivision (e) shall include the participation of general acute care hospital staff in evaluating the effectiveness of the policies and protocols in providing timely access to care for behavioral health services patients, reducing rates of workplace violence, and designing and implementing training on behavioral health emergency services response.
- (g) (1) Training and education required by this article shall be provided in person and shall be designed to provide an opportunity for interactive questions and answers with a person knowledgeable about the behavioral health emergency response and training policies and protocols adopted by the general acute care hospital under subdivision (a).
- (2) Each general acute care hospital shall develop, implement, and annually review training and education required by this article with the meaningful input and active involvement of general acute care hospital staff identified in subdivision (e), including development of curricula and training materials, and review and revision of the training program.
 - (3) Training materials developed to meet the requirements of this article shall be appropriate in content and vocabulary to the educational level, literacy, and language of general acute care hospital staff receiving the training.
- (h) Notwithstanding subdivisions (d) and (e) of Section 1275, behavioral health emergency services provided to patients receiving services shall comply with the same licensed registered nurse-to-patient ratios as supplemental emergency services or, if the patient is in an inpatient bed or unit, the licensed registered nurse-to-patient ratio of that bed or unit, whichever ratio is lower. This subdivision does not alter or amend the effect of any regulation adopted pursuant to Section 1276.4 as of the effective date of the act that added this subdivision.
- (i) A patient who requires behavioral health emergency services with an order by a provider for admission to a general acute care hospital or transfer to another health facility, as defined in Section 1250, shall not be provided care and treatment as a patient receiving observation services, as defined in subdivision (a) of Section 1253.7, or in an observation unit, as defined in subdivision (c) of Section 1253.7, for more than 24 hours.
- (j) The department shall adopt regulations on standards for general acute care hospital on behavioral health emergency services, including on behavioral health emergency services response and training.
- 1323.24. (a) All general acute care hospitals shall maintain records of the following for a period of three years:
- (1) Each transfer of a behavioral health emergency services patient.
 - (2) Each admission of a behavioral health emergency services patient to an inpatient psychiatric unit of the hospital, if any.
 - (3) Each patient readmission within 30 days of being discharged or transferred after receiving behavioral health emergency services at the hospital.

(4) Each patient who received behavioral health emergency services in an observation unit or while receiving observation services.

(b) (1) All hospitals providing behavioral health emergency services shall file with the department quarterly reports on forms prescribed by the department that describe the aggregate number for each of the data listed in subdivision (a) and reasons for transfer, admission, readmission, or placement in an observation unit or receipt of observation services.

(2) The department shall post quarterly reports pursuant to this subdivision on the department's publicly accessible internet website within five calendar days of receipt by the department.

(c) The department, in consultation with the Department of Health Care Services, the Department of Health Care Access and Information, and the Division of Occupational Safety and Health, shall inspect a representative sample of behavioral health emergency response and training programs utilized by general acute care hospitals. In evaluating a behavioral health emergency response and training program, the department shall examine patient outcomes and rates of workplace violence at each facility. If the department determines that a program is not complying with Section 1323.23 or regulations or is not meeting goals related to timely access to care or to workplace violence rate reduction established by the department pursuant to subdivision (d), the department shall be immediately notify a general acute care hospital that utilized the program in writing. The department's district offices shall inspect facility-based behavioral health emergency response and training programs as utilized by general acute care hospitals as part of their annual survey.

(d) (1) The department, in consultation with the Department of Health Care Services and the Department of Health Care Access and Information, shall establish goals related to timely access to care for behavioral health emergency services in general acute care hospitals.

(2) The department, in consultation with the Division of Occupational Safety and Health, shall establish goals to reduce the rates of workplace violence related to behavioral health emergency services in general acute care facilities.

(e) Training components of behavioral health emergency response and training programs shall be conducted during the normal working hours of the hospital staff unless the staff receives at least the normal hourly wage for any additional time spent in the training component of the approved program.

SEC. 2. Article 7.15 (commencing with Section 1323.4) is added to Chapter 2 of Division 2 of the Health and Safety Code, to read:

Article 7.15. The Behavioral Health Emergency Response and Training Fund

1323.4. (a) For the purposes of this article, the following definitions apply:

(1) "Department" means the Department of Health Care Access and Information.

(2) "Fund" means the Behavioral Health Emergency Response and Training Fund.

(3) "Program" means a program for the behavioral health emergency response and training of general acute care hospital staff that meets the criteria established and approved under this chapter.

(b) The Behavioral Health Emergency Response and Training Fund is hereby established in the State Treasury for the purpose of providing grants to support programs described in Section 1323.41 and shall be administered by the department.

(c) The department shall annually establish the total amount of funding necessary to support programs described in Section 1323.41. It is the intent of the Legislature to provide sufficient supplemental funding for these programs pursuant to this article in the annual Budget Act and to deposit that funding in the fund in 2025.

(d) Notwithstanding any other law, the department may receive and deposit moneys in the fund from the following entities:

- (1) Nonstate entities, such as private sector or philanthropic entities.
- (2) Local and federal governmental agencies.

(e) No more than 5 percent of the moneys in the fund shall be available for the department's administrative activities related to planning and production of grants.

(f) Beginning no later than July 1, 2024, the fund shall be available to receive moneys from nonstate entities.

1323.41. (a) The department shall use moneys in the fund to administer grants to general acute care hospitals in California that are designated public hospitals, county hospitals, or hospitals that are operated by nonprofit organizations in California that are exempt from taxation under Section 501(c) of the Internal Revenue Code. A grant recipient under this subdivision shall use the funds awarded to fund a new program or support an existing program that increases the staffing in general acute care hospitals of direct care personnel who are trained in behavioral health care and behavioral health emergency services response or intervention. By way of nonlimiting examples, the program and the awarded funds may be used for any of the following:

- (1) Behavioral health emergency response training programs.
- (2) Costs associated with hiring or retaining behavioral health emergency services personnel who provide behavioral health emergency services that meet the requirements of Section 1323.23.
- (3) Costs associated with training hospital staff in the provision behavioral health emergency services that meet the requirements of Section 1323.23.
- (4) Costs associated with implementation of policies and procedures adopted by a hospital to meet the requirements of Section 1323.23.

(b) (1) Unless otherwise specified by the department, grants made pursuant to this article are for a period of one year and may be renewed.

(2) An application for a grant shall be made on a form to be developed by the department.

(3) Decisions regarding the grants and the funding level of the grant shall be made after consideration of all relevant factors, such as the grantee's anticipated level of need and the availability of funds.

(c) To administer this section, the department shall use moneys in the fund to pay direct and indirect costs of the department, including hiring or administrative costs.

(d) The department shall use moneys in the fund to maintain a system of financial reporting on all aspects of the fund. The financial reporting shall include, but is not limited to, information from the grantees on their expenditures and activities using grant funds associated with this article as the department deems necessary to ensure the use of the funds are consistent with the purposes of this article and the terms of any grant award.

(e) For purposes of this section, the department shall not require the submission of any identifying personal information about individuals receiving behavioral health or emergency services as part of an application for a grant or reporting of expenditures and activities using grant funds under this article. Information required by the department, or its contracted vendor, may only include information in summary, statistical, or other forms that do not identify particular individuals.

(f) Contracts entered into or amended pursuant to this article are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and the State

Administrative Manual, and are exempt from the review or approval of any division of the Department of General Services.

1323.42. The department shall conduct an evaluation of the grant program implemented pursuant to Section 1323.41 and shall report its findings to the Legislature no later than January 1, 2026, and on an annual basis no later than each January 1 thereafter. The first annual report shall cover the period before July 1, 2025. Each subsequent annual report shall cover the previous fiscal year. The department may use moneys in the fund, upon appropriation by the Legislature, for the evaluation of the program. The report shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 3. Section 128740.1 is added to the Health and Safety Code, to read:

128740.1. (a) The quarterly summary utilization data reported to the department by a hospital pursuant to Section 128740, shall include all of the following:

- (1) Number of inpatient psychiatric visits and number of hours of services provided.
 - (2) Number of behavioral health emergency service visits and number of hours of services provided.
 - (3) Number of observation service visits and the number of hours of services provided, including the number of behavioral health emergency service hours provided during observation service visits.
 - (4) Number of behavioral health emergency service inpatient admissions, including the number of behavioral health emergency service admissions to an inpatient psychiatric unit.
 - (5) Number of behavioral health emergency service readmissions within 30 days of discharge or transfer.
- (b) All hospitals shall maintain records of aggregate data listed in subdivision (a) for a period of three years.

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