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HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] (*Division 2 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 2. Health Facilities [1250 - 1339.59] (*Chapter 2 repealed and added by Stats. 1973, Ch. 1202.*)

ARTICLE 7. Other Services [1315 - 1323.1] (*Article 7 added by Stats. 1973, Ch. 1202.*)

1315. (a) Dental services, as defined in the Dental Practice Act, may be provided to a patient in a health facility licensed under this chapter. Those services shall be provided by a person licensed by the State of California pursuant to Section 1611 of the Business and Professions Code.

(b) (1) Dental hygiene services, as defined in the Dental Practice Act, may be provided to a patient in a long-term health care facility, as defined in Section 1418, that is licensed under this chapter, by a person licensed by the State of California as a registered dental hygienist in alternative practice pursuant to Section 1922 of the Business and Professions Code, practicing in accordance with those provisions.

(2) A person licensed as a registered dental hygienist by the State of California pursuant to Section 1917, 1917.1, 1918, or 1922 of the Business and Professions Code, practicing in accordance with those provisions, may provide oral health inservice training to staff in a long-term health care facility licensed under this chapter.

(c) This section shall not limit or restrict the right of a licensed physician and surgeon to perform any acts authorized under the Medical Practice Act.

(Amended by Stats. 2023, Ch. 677, Sec. 5. (AB 1257) Effective January 1, 2024.)

1316. (a) The rules of a health facility shall include provisions for use of the facility by, and staff privileges for, duly licensed podiatrists within the scope of their respective licensure, subject to rules and regulations governing such use or privileges established by the health facility. Such rules and regulations shall not discriminate on the basis of whether the staff member holds a M. D., D.O., or D.P.M. degree, within the scope of their respective licensure. Each health facility shall establish a staff comprised of physicians and surgeons, podiatrists, or any combination thereof, which shall regulate the admission, conduct suspension, or termination of the staff appointment of the podiatrists while using the facilities. No classification of health facilities by the state department, nor any other classification of health facilities based on quality of service or otherwise, by any person, body, or governmental agency of this state or any subdivision thereof shall be affected by a health facility's provision for use of its facilities by duly licensed podiatrists, nor shall any such classification be affected by the subjection of the podiatrists, to the rules and regulations of a staff comprising podiatrists, physicians and surgeons, or any combination thereof, which govern the podiatrists' use of the facilities. No classification of health facilities by any governmental agency of this state or any subdivision thereof pursuant to present law or laws passed hereinafter for the purposes of ascertaining eligibility for compensation, reimbursement, or other benefit for treatment of patients shall be affected by a health facility's provision for use of its facilities by duly licensed podiatrists, nor shall any such classification be affected by the subjection of the podiatrists and dentists to the rules and regulations of a staff comprising podiatrists, physicians and surgeons, or any combination thereof, which govern the podiatrists' use of the facilities.

With regard to the practice of podiatry in health facilities throughout this state, medical staff status shall include and provide for the right to pursue and practice full clinical and surgical privileges for holders of M.D., D.O., and D. P.M. degrees within the scope of their respective licensure. Such rights and privileges shall be limited or restricted only upon the basis of an individual practitioner's demonstrated competence. Such competence shall be determined by health facility rules, regulations, and procedures which are necessary and are applied in good faith, equally and in a nondiscriminatory manner, to all practitioners regardless of whether they hold a M.D., D.O., or D.P.M. degree.

Nothing in this section shall be construed to require a health facility to offer a specific health service or services not otherwise offered. If a health service is offered, the facility shall not discriminate between persons holding M.D. , D.O., or D.P.M. degrees who are authorized by law to perform such services.

This subdivision shall not prohibit a health facility which is a clinical teaching facility owned or operated by a university operating a school of medicine from requiring that a podiatrist have a faculty teaching appointment as a condition for eligibility for staff privileges for that facility.

(b) The rules of a health facility which include provisions for use of the facility by, and staff privileges for, medical staff shall not discriminate on the basis of whether the staff member holds a M.D., D.O., or D.P.M. degree, within the scope of their respective licensure. The health facility staff processing, reviewing, evaluating, and determining qualifications for staff privileges for medical staff shall include, if possible, staff members that hold M.D., D.O., and D.P.M. degrees.

(c) Any violation by a health facility of the provisions of this section may be enjoined in an action brought in the name of the people of the State of California by the district attorney of the county in which the health facility is located, upon receipt of a complaint by an aggrieved physician and surgeon or podiatrist.

(Amended by Stats. 1977, Ch. 1214.)

1316.5. (a) (1) Each health facility owned and operated by the state offering care or services within the scope of practice of a psychologist shall establish rules and medical staff bylaws that include provisions for medical staff membership and clinical privileges for clinical psychologists within the scope of their licensure as psychologists, subject to the rules and medical staff bylaws governing medical staff membership or privileges as the facility shall establish. The rules and regulations shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology within the scope of the member's respective licensure. Each of these health facilities owned and operated by the state shall establish a staff comprised of physicians and surgeons, dentists, podiatrists, psychologists, or any combination thereof, that shall regulate the admission, conduct, suspension, or termination of the staff appointment of psychologists employed by the health facility.

(2) With regard to the practice of psychology in health facilities owned and operated by the state offering care or services within the scope of practice of a psychologist, medical staff status shall include and provide for the right to pursue and practice full clinical privileges for holders of a doctoral degree of psychology within the scope of their respective licensure. These rights and privileges shall be limited or restricted only upon the basis of an individual practitioner's demonstrated competence. Competence shall be determined by health facility rules and medical staff bylaws that are necessary and are applied in good faith, equally and in a nondiscriminatory manner, to all practitioners, regardless of whether they hold an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology.

(3) Nothing in this subdivision shall be construed to require a health facility owned and operated by the state to offer a specific health service or services not otherwise offered. If a health service is offered in such a health facility that includes provisions for medical staff membership and clinical privileges for clinical psychologists, the facility shall not discriminate between persons holding an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology who are authorized by law to perform the service within the scope of the person's respective licensure.

(4) The rules and medical staff bylaws of a health facility owned and operated by the state that include provisions for medical staff membership and clinical privileges for medical staff and duly licensed clinical psychologists shall not discriminate on the basis of whether the staff member holds an M.D., D.O., D.D.S., D.P.M., or doctoral degree in psychology within the scope of the member's respective licensure. The health facility staff of these health facilities who process, review, evaluate, and determine qualifications for staff privileges for medical staff shall include, if possible, staff members who are clinical psychologists.

(b) (1) The rules of a health facility not owned or operated by this state may enable the appointment of clinical psychologists on the terms and conditions that the facility shall establish. In these health facilities, clinical psychologists may hold membership and serve on committees of the medical staff and carry professional responsibilities consistent with the scope of their licensure and their competence, subject to the rules of the health facility.

(2) Nothing in this subdivision shall be construed to require a health facility not owned or operated by this state to offer a specific health service or services not otherwise offered. If a health service is offered by a health facility with both licensed physicians and surgeons and clinical psychologists on the medical staff, which both licensed physicians and surgeons and clinical psychologists are authorized by law to perform, the service may be performed by either, without discrimination.

(3) This subdivision shall not prohibit a health facility that is a clinical teaching facility owned or operated by a university operating a school of medicine from requiring that a clinical psychologist have a faculty teaching appointment as a condition for eligibility for staff privileges at that facility.

(4) In any health facility that is not owned or operated by this state that provides staff privileges to clinical psychologists, the health facility staff who process, review, evaluate, and determine qualifications for staff privileges for medical staff shall include, if possible, staff members who are clinical psychologists.

(c) No classification of health facilities by the department, nor any other classification of health facilities based on quality of service or otherwise, by any person, body, or governmental agency of this state or any subdivision thereof shall be affected by a health facility's provision for use of its facilities by duly licensed clinical psychologists, nor shall any classification of these facilities be affected by the subjection of the psychologists to the rules and regulations of the organized professional staff. No classification of health facilities by any governmental agency of this state or any subdivision thereof pursuant to any law, whether enacted prior or subsequent to the effective date of this section, for the purposes of ascertaining eligibility for compensation, reimbursement, or other benefit for treatment of patients shall be affected by a health facility's provision for use of its facilities by duly licensed clinical psychologists, nor shall any classification of these facilities be affected by the subjection of the psychologists to the rules and regulations of the organized professional staff which govern the psychologists' use of the facilities.

(d) "Clinical psychologist," as used in this section, means a psychologist licensed by this state who meets both of the following requirements:

(1) Possesses an earned doctorate degree in psychology from an educational institution meeting the criteria of subdivision (b) of Section 2914 of the Business and Professions Code.

(2) Has not less than two years clinical experience in a multidisciplinary facility licensed or operated by this or another state or by the United States to provide health care, or, is listed in the latest edition of the National Register of Health Service Providers in Psychology, as adopted by the Council for the National Register of Health Service Providers in Psychology.

(e) Nothing in this section is intended to expand the scope of licensure of clinical psychologists. Notwithstanding the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code), the Public Employment Relations Board is precluded from creating any additional bargaining units for the purpose of exclusive representation of state psychologist employees that might result because of medical staff membership and/or privilege changes for psychologists due to the enactment of provisions by Assembly Bill No. 3141 of the 1995–96 Regular Session.

(Amended by Stats. 2012, Ch. 24, Sec. 13. (AB 1470) Effective June 27, 2012.)

1316.6. Notwithstanding any other provision of this chapter, the exercise of privileges in any health facility may be limited, restricted, or revoked for the violation of such health facility's rules, regulations, or procedures which are applied, in good faith, in a nondiscriminatory manner to all practitioners in such health facility exercising such privileges or entitled to exercise such privileges.

(Added by Stats. 1978, Ch. 116.)

1316.7. (a) An adult patient who receives primary care services in a facility, clinic, unlicensed clinic, center, office, or other setting where primary care services are provided, shall be offered a hepatitis B screening test and a hepatitis C screening test, to the extent these services are covered under the patient's health insurance, based on the latest screening indications recommended by the United States Preventive Services Task Force, unless the health care provider reasonably believes that one of the following conditions applies:

(1) The patient is being treated for a life-threatening emergency.

(2) (A) The patient has previously been offered or has been the subject of a hepatitis B screening test or hepatitis C screening test.

(B) This paragraph does not apply if the health care provider determines that one or both of the screening tests should be offered again.

(3) The patient lacks capacity to consent to a hepatitis B screening test or hepatitis C screening test, or both.

(4) The patient is being treated in the emergency department of a general acute care hospital, as defined in subdivision (a) of Section 1250.

(b) (1) If a patient accepts the offer of the hepatitis B screening test and the test is hepatitis B surface antigen (HBsAg) positive, a health care provider shall offer the patient followup health care or refer the patient to a health care provider who can provide followup health care.

(2) If a patient accepts the offer of the hepatitis C screening test and the test is positive, the health care provider shall offer the patient followup health care or refer the patient to a health care provider who can provide followup health care. The followup health care shall include a hepatitis C diagnostic test (HCV RNA).

(c) The offering of a hepatitis B screening test and hepatitis C screening test under this section shall be culturally and linguistically appropriate.

(d) This section shall not affect the scope of practice of any health care provider or diminish any authority or legal or professional obligation of any health care provider to offer a hepatitis B screening test, hepatitis C screening test, or both, or a hepatitis C diagnostic test, or to provide services or care for the patient of a hepatitis B screening test, hepatitis C screening test, or both, or a hepatitis C diagnostic test.

(e) A health care provider that fails to comply with the requirements of this section shall not be subject to any disciplinary actions related to their licensure or certification, or to any civil or criminal liability, because of the health care provider's failure to comply with the requirements of this section.

(f) For purposes of this section, the following definitions apply:

(1) "Followup health care" includes providing medical management and antiviral treatment for chronic hepatitis B or hepatitis C according to the latest national clinical practice guidelines recommended by the American Association for the Study of Liver Diseases.

(2) "Hepatitis B screening test" includes any laboratory tests or tests that detect the presence of hepatitis B surface antigen (HBsAg) and provides confirmation of whether the patient has a chronic hepatitis B infection.

(3) "Hepatitis C diagnostic test" includes any laboratory test or tests that detect the presence of the hepatitis C virus in the blood and provides confirmation of whether the patient has an active hepatitis C virus infection.

(4) "Hepatitis C screening test" includes any laboratory screening test or tests that detect the presence of hepatitis C virus antibodies in the blood and provides confirmation of whether the patient has ever been infected with the hepatitis C virus.

(Added by Stats. 2021, Ch. 470, Sec. 1. (AB 789) Effective January 1, 2022.)

1317. (a) Emergency services and care shall be provided to any person requesting the services or care, or for whom services or care is requested, for any condition in which the person is in danger of loss of life, or serious injury or illness, at any health facility licensed under this chapter 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.

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

(c) Neither the health facility, its employees, nor any physician and surgeon, dentist, clinical psychologist, or podiatrist shall be liable in any action arising out of a refusal to render emergency services or care if the refusal is based on the determination, exercising reasonable care, that the person is not suffering from an emergency medical condition, or that the health facility does not have the appropriate facilities or qualified personnel available to render those services.

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

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

(f) A general acute care hospital or acute psychiatric hospital shall not require a person who voluntarily seeks care to be in custody pursuant to Section 5150 of the Welfare and Institutions Code as a condition of accepting a transfer of that person after his or her written consent for treatment and transfer is documented or in the absence of evidence of probable cause for detention, as defined in Section 5150.05 of the Welfare and Institutions Code.

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

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

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

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

(a) (1) "Emergency services and care" means 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 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.

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

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

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

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

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

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

(2) Serious impairment to bodily functions.

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

(c) "Active labor" means a labor at a time at which either of the following would occur:

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

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

(d) "Hospital" means all hospitals with an emergency department licensed by the state department.

(e) "State department" means the State Department of Public Health.

(f) "Medical hazard" means a material deterioration in medical condition in, or jeopardy to, a patient's medical condition or expected chances for recovery.

(g) "Board" means the Medical Board of California.

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

(i) "Consultation" means the rendering of an opinion or advice, prescribing treatment, or the rendering of a decision regarding hospitalization or transfer by telephone or other means of communication. When determined to be medically necessary, jointly by the treating physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure, under the supervision of a physician and surgeon, and the consulting physician and surgeon, "consultation" includes review of the patient's medical record, examination, and treatment of the patient in person by a consulting physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure under the supervision of a consulting physician and surgeon, who is qualified to give an opinion

or render the necessary treatment in order to stabilize the patient. A request for consultation shall be made by the treating physician and surgeon, or by other appropriate licensed persons acting within their scope of licensure under the supervision of a treating physician and surgeon, provided the request is made with the contemporaneous approval of the treating physician and surgeon. The treating physician and surgeon may request to communicate directly with the consulting physician and surgeon, and when determined to be medically necessary, jointly by the treating physician and surgeon and the consulting physician and surgeon, the consulting physician and surgeon shall examine and treat the patient in person. The consulting physician and surgeon is ultimately responsible for providing the necessary consultation to the patient, regardless of who makes the in-person appearance.

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

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

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

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

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

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

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

(Amended by Stats. 2024, Ch. 632, Sec. 1. (AB 1316) Effective January 1, 2025.)

1317.2. A person needing emergency services and care shall not be transferred from a hospital to another hospital for any nonmedical reason (such as the person's inability to pay for any emergency service or care) unless each of the following conditions are met:

(a) The person is examined and evaluated by a physician and surgeon, including, if necessary, consultation, prior to transfer.

(b) The person has been provided with emergency services and care so that it can be determined, within reasonable medical probability, that the transfer or delay caused by the transfer will not create a medical hazard to the person.

(c) A physician and surgeon at the transferring hospital has notified and has obtained the consent to the transfer by a physician and surgeon at the receiving hospital and confirmation by the receiving hospital that the person meets the hospital's admissions criteria relating to appropriate bed, personnel, and equipment necessary to treat the person.

(d) The transferring hospital provides for appropriate personnel and equipment that a reasonable and prudent physician and surgeon in the same or similar locality exercising ordinary care would use to effect the transfer.

(e) All of the person's pertinent medical records and copies of all the appropriate diagnostic test results that are reasonably available are transferred with the person.

(f) The records transferred with the person include a "Transfer Summary" signed by the transferring physician and surgeon that contains relevant transfer information. The form of the "Transfer Summary" shall, at a minimum, contain the person's name, address, sex, race, age, insurance status, and medical condition; the name and address of the transferring physician and surgeon or emergency department personnel authorizing the transfer; the time and date the person was first presented at the transferring hospital; the name of the physician and surgeon at the receiving hospital consenting to the transfer and the time and date of the consent; the time and date of the transfer; the reason for the transfer; and the declaration of the signor that the signor is assured, within reasonable medical probability, that the transfer creates no medical hazard to the patient. Neither the transferring physician and surgeon nor transferring hospital shall be required to duplicate, in the "Transfer Summary," information contained in medical records transferred with the person.

(g) The transfer conforms with regulations established by the state department. These regulations may prescribe minimum protocols for patient transfers.

(h) The patient shall be asked if there is a preferred contact person to be notified and, prior to the transfer, the hospital shall make a reasonable attempt to contact that person and alert him or her about the proposed transfer, in accordance with subdivision (b) of Section 56.1007 of the Civil Code. If the patient is not able to respond, the hospital shall make a reasonable effort to ascertain the

identity of the preferred contact person or the next of kin and alert him or her about the transfer, in accordance with subdivision (b) of Section 56.1007 of the Civil Code. The hospital shall document in the patient's medical record any attempts to contact a preferred contact person or next of kin.

(i) This section shall not apply to a transfer of a patient for medical reasons.

(j) This section shall not prohibit the transfer or discharge of a patient when the patient or the patient's representative requests a transfer or discharge and gives informed consent to the transfer or discharge against medical advice.

(Amended by Stats. 2013, Ch. 711, Sec. 1. (AB 974) Effective January 1, 2014.)

1317.2a. (a) A hospital that has a legal obligation, whether imposed by statute or by contract, to the extent of that contractual obligation, to any third-party payor, including, but not limited to, a health maintenance organization, health care service plan, nonprofit hospital service plan, insurer, or preferred provider organization, a county, or an employer to provide care for a patient under the circumstances specified in Section 1317.2 shall receive that patient to the extent required by the applicable statute or by the terms of the contract, or, when the hospital is unable to accept a patient for whom it has a legal obligation to provide care whose transfer will not create a medical hazard as specified in Section 1317.2, it shall make appropriate arrangements for the patient's care.

(b) A county hospital shall accept a patient whose transfer will not create a medical hazard as specified in Section 1317.2 and who is determined by the county to be eligible to receive health care services required under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, unless the hospital does not have appropriate bed capacity, medical personnel, or equipment required to provide care to the patient in accordance with accepted medical practice. When a county hospital is unable to accept a patient whose transfer will not create a medical hazard as specified in Section 1317.2, it shall make appropriate arrangements for the patient's care. The obligation to make appropriate arrangements as set forth in this subdivision does not mandate a level of service or payment, modify the county's obligations under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, create a cause of action, or limit a county's flexibility to manage county health systems within available resources. However, the county's flexibility shall not diminish a county's responsibilities under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code or the requirements contained in Chapter 2.5 (commencing with Section 1440).

(c) The receiving hospital shall provide personnel and equipment reasonably required in the exercise of good medical practice for the care of the transferred patient.

(d) Any third-party payor, including, but not limited to, a health maintenance organization, health care service plan, nonprofit hospital service plan, insurer, or preferred provider organization, or employer that has a statutory or contractual obligation to provide or indemnify emergency medical services on behalf of a patient shall be liable, to the extent of the statutory or contractual obligation to the patient, for the reasonable charges of the transferring hospital and the treating physicians for the emergency services provided pursuant to this article, except that the patient shall be responsible for uncovered services, or any deductible or copayment obligation. Notwithstanding this section, the liability of a third-party payor that has contracted with health care providers for the provision of these emergency services shall be set by the terms of that contract. Notwithstanding this section, the liability of a third-party payor that is licensed by the Insurance Commissioner or the Director of the Department of Managed Health Care and has a contractual obligation to provide or indemnify emergency medical services under a contract that covers a subscriber or an enrollee shall be determined in accordance with the terms of that contract and shall remain under the sole jurisdiction of that licensing agency.

(e) A hospital that has a legal obligation to provide care for a patient as specified by subdivision (a) of Section 1317.2a to the extent of its legal obligation, imposed by statute or by contract to the extent of that contractual obligation, which does not accept transfers of, or make other appropriate arrangements for, medically stable patients in violation of this article or regulations adopted pursuant thereto shall be liable for the reasonable charges of the transferring hospital and treating physicians for providing services and care that should have been provided by the receiving hospital.

(f) Subdivisions (d) and (e) do not apply to county obligations under Section 17000 of the Welfare and Institutions Code.

(g) This section does not require a hospital to make arrangements for the care of a patient for whom the hospital does not have a legal obligation to provide care.

(Amended by Stats. 2024, Ch. 632, Sec. 2. (AB 1316) Effective January 1, 2025.)

1317.3. (a) As a condition of licensure, each hospital shall adopt, in consultation with the medical staff, policies and transfer protocols consistent with this article and regulations adopted hereunder.

(b) As a condition of licensure, each hospital shall adopt a policy prohibiting discrimination in the provision of emergency services and care based on ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the

provision of appropriate medical care to the patient. Transfer by a hospital of a patient who requires evaluation for involuntary psychiatric treatment, as determined by the receiving hospital or other receiving health facility, based upon the decision of a professional person duly authorized by law to make that decision, shall not constitute discrimination for the purposes of this section, if the transferring hospital has not been designated as an evaluation facility by a county pursuant to Section 5150 of the Welfare and Institutions Code, and if the transfer is in compliance with Section 1317.2.

(c) As a condition of licensure, each hospital shall require that physicians and surgeons who serve on an "on-call" basis to the hospital's emergency room cannot refuse to respond to a call on the basis of the patient's ethnicity, citizenship, age, preexisting medical condition, insurance status, economic status, ability to pay for medical services, or any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the provision of appropriate medical care to the patient. If a contract between a physician and surgeon and hospital for the provision of emergency room coverage presently prevents the hospital from imposing those conditions, the conditions shall be included in the contract as soon as is legally permissible. Nothing in this section shall be construed as requiring that any physician serve on an "on-call" basis.

(d) As a condition of licensure, all hospitals shall inform all persons presented to an emergency room or their representatives if any are present and the person is unable to understand verbal or written communication, both orally and in writing, of the reasons for the transfer or refusal to provide emergency services and care and of the person's right to emergency services and care prior to transfer or discharge without regard to ability to pay. Nothing in this subdivision requires notification of the reasons for the transfer in advance of the transfer where a person is unaccompanied and the hospital has made a reasonable effort to locate a representative, and because of the person's physical or mental condition, notification is not possible. All hospitals shall prominently post a sign in their emergency rooms informing the public of their rights. Both the posted sign and written communication concerning the transfer or refusal to provide emergency services and care shall give the address of the department as the government agency to contact in the event the person wishes to complain about the hospital's conduct.

(e) If a hospital does not timely adopt the policies and protocols required in this article, the hospital, in addition to denial or revocation of any of its licenses, shall be subject to a fine not to exceed one thousand dollars (\$1,000) each day after expiration of 60 days' written notice from the state department that the hospital's policies or protocols required by this article are inadequate unless the delay is excused by the state department upon a showing of good and sufficient cause by the hospital. The notice shall include a detailed statement of the state department's reasons for its determination and suggested changes to the hospital's protocols which would be acceptable to the state department.

(f) Each hospital's policies and protocols required in or under this article shall be submitted for approval to the state department by December 31, 1988.

(Amended by Stats. 2007, Ch. 568, Sec. 38. Effective January 1, 2008.)

1317.4. (a) All hospitals shall maintain records of each transfer made or received, including the "Memorandum of Transfer" described in subdivision (f) of Section 1317.2, for a period of three years.

(b) All hospitals making or receiving transfers shall file with the state department annual reports on forms prescribed by the department which shall describe the aggregate number of transfers made and received according to the person's insurance status and reasons for transfers.

(c) The receiving hospital, and all physicians, other licensed emergency room health personnel, and certified prehospital emergency personnel at the receiving hospital who know of apparent violations of this article or the regulations adopted hereunder shall, and the corresponding personnel at the transferring hospital and the transferring hospital may, report the apparent violations to the state department on a form prescribed by the state department within one week following its occurrence. The state department shall promptly send a copy of the form to the hospital administrator and appropriate medical staff committee of the transferring hospital and the local emergency medical services agency, unless the state department concludes that the complaint does not allege facts requiring further investigation, or is otherwise unmeritorious, or the state department concludes, based upon the circumstances of the case, that its investigation of the allegations would be impeded by disclosure of the form. When two or more persons required to report jointly have knowledge of an apparent violation, a single report may be made by a member of the team selected by mutual agreement in accordance with hospital protocols. Any individual, required to report by this section, who disagrees with the proposed joint report has a right and duty to separately report.

A failure to report under this subdivision shall not constitute a violation within the meaning of Section 1290 or 1317.6.

(d) No hospital, government agency, or person shall retaliate against, penalize, institute a civil action against, or recover monetary relief from, or otherwise cause any injury to a physician or other personnel for reporting in good faith an apparent violation of this article or the regulations adopted hereunder to the state department, hospital, medical staff, or any other interested party or government agency.

(e) No hospital, government agency, or person shall retaliate against, penalize, institute a civil action against, or recover monetary relief from, or otherwise cause any injury to a physician who refused to transfer a patient when the physician determines, within reasonable medical probability, that the transfer or delay caused by the transfer will create a medical hazard to the person.

(f) Any person who violates subdivision (d) or (e) of Section 1317.4 is subject to a civil money penalty of no more than ten thousand dollars (\$10,000) per violation. The remedy specified in this section shall be in addition to any other remedy provided by law.

(g) The state department shall on an annual basis publish and provide to the Legislature a statistical summary by county on the extent of economic transfers of emergency patients, the frequency of medically hazardous transfers, the insurance status of the patient populations being transferred and all violations finally determined by the state department describing the nature of the violations, hospitals involved, and the action taken by the state department in response. These summaries shall not reveal the identity of individual persons transferred.

(h) Proceedings by the state department to impose a fine under Section 1317.3 or 1317.6, and proceedings by the board to impose a fine under Section 1317.6, shall be conducted as follows:

(1) If a hospital desires to contest a proposed fine, the hospital shall within 15 business days after service of the notice of proposed fine notify the director in writing of its intention to contest the proposed fine. If requested by the hospital, the director or the director's designee, shall hold, within 30 business days, an informal conference, at the conclusion of which he or she may affirm, modify, or dismiss the proposed fine. If the director or the director's designee affirms, modifies, or dismisses the proposed fine, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to the hospital. If the hospital desires to contest a determination made after the informal conference, the hospital shall inform the director in writing within 15 business days after it receives the decision by the director or director's designee. The hospital shall not be required to request an informal conference to contest a proposed fine, as specified in this section. If the hospital fails to notify the director in writing that it intends to protest the proposed fine within the times specified in this subdivision, the proposed fine shall be deemed a final order of the state department and shall not be subject to further administrative review.

(2) If a hospital notifies the director that it intends to contest a proposed fine, the director shall immediately notify the Attorney General. Upon notification, the Attorney General shall promptly take all appropriate action to enforce the proposed fine in a court of competent jurisdiction for the county in which the hospital is located.

(3) A judicial action to enforce a proposed fine shall be filed by the Attorney General after a hospital notifies the director of its intent to contest the proposed fine. If a judicial proceeding is prosecuted under the provisions of this section, the state department shall have the burden of establishing by a preponderance of the evidence that the alleged facts supporting the proposed fine occurred, that the alleged facts constituted a violation for which a fine may be assessed under Section 1317.3, 1317.4, or 1317.6, and the proposed fine is appropriate. The state department shall also have the burden of establishing by a preponderance of the evidence that the assessment of the proposed fine should be upheld. If a hospital timely notifies the state department of its decision to contest a proposed fine, the fine shall not be due and payable unless and until the judicial proceeding is terminated in favor of the state department.

(4) Action brought under the provisions of this section shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. Times for responsive pleading and for hearing any such proceeding shall be set by the judge of the court with the object of securing a decision as to subject matters at the earliest possible time.

(5) If the proposed fine is dismissed or reduced, the state department shall take action immediately to ensure that the public records reflect in a prominent manner that the proposed fine was dismissed or reduced.

(6) In lieu of a judicial proceeding, the state department and the hospital may jointly elect to submit the matter to binding arbitration, in which case, the department shall initiate arbitration proceedings. The parties shall agree upon an arbitrator designated by the American Arbitration Association in accordance with the Association's established rules and procedures. The arbitration hearing shall be set within 45 days of the parties' joint election, but in no event less than 28 days from the date of selection of an arbitrator. The arbitration hearing may be continued up to 15 days if necessary at the arbitrator's discretion. The decision of arbitrator shall be based upon substantive law and shall be binding on all parties, subject to judicial review. This review shall be limited to whether there was substantial evidence to support the decision of the arbitrator.

(7) Proceedings by the board to impose a fine under Section 1317.6 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 1987, Ch. 1240, Sec. 7.)

1317.4a. (a) (1) Notwithstanding subdivision (j) of Section 1317.1, a patient may be transferred for admission to a psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, or an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, for care and treatment that is solely necessary to relieve or eliminate a psychiatric emergency medical condition, as defined in subdivision (k) of Section 1317.1, provided that, in the opinion of the treating provider, the patient's psychiatric emergency medical condition is such that, within reasonable medical probability, no material deterioration of the patient's psychiatric emergency medical condition is likely to result from, or occur during, a transfer of the patient.

(2) A provider shall notify the patient's health care service plan, or the health plan's contracting medical provider of the need for the transfer if identification of the plan is obtained pursuant to paragraph (1) of subdivision (b).

(b) A hospital that transfers a patient pursuant to subdivision (a) shall do both of the following:

(1) Seek to obtain the name and contact information of the patient's health care service plan. The hospital shall document its attempt to ascertain this information in the patient's medical record. The hospital's attempt to ascertain the information shall include requesting the patient's health care service plan member card, asking the patient, the patient's family member, or other person accompanying the patient if they can identify the patient's health care service plan, or using other means known to the hospital to accurately identify the patient's health care service plan.

(2) Notify the patient's health care service plan or the health plan's contracting medical provider of the transfer, provided that the identification of the plan was obtained pursuant to paragraph (1). The hospital shall provide the plan or its contracting medical provider with the name of the patient, the patient's member identification number, if known, the location and contact information, including a telephone number, for the location where the patient will be admitted, and the preliminary diagnosis.

(c) (1) A hospital shall make the notification described in paragraph (2) of subdivision (b) by either following the instructions on the patient's health care service plan member card or by using the contact information provided by the patient's health care service plan. A health care service plan shall provide all noncontracting hospitals in the state to which one of its members would be transferred pursuant to paragraph (1) of subdivision (b) with specific contact information needed to make the contact required by this section. The contact information provided to hospitals shall be updated as necessary, but no less than once a year.

(2) A hospital making the transfer pursuant to subdivision (a) shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, provided that in all cases the health care service plan, or its contracting medical provider, shall be able to reach a representative of the provider upon returning the call, should the plan, or its contracting medical provider, need to call back. The representative of the hospital who makes the telephone call may be, but is not required to be, a physician and surgeon.

(d) If a transfer made pursuant to subdivision (a) is made to a facility that does not have a contract with the patient's health care service plan, the plan may subsequently require and make provision for the transfer of the patient receiving services pursuant to this section and subdivision (a) of Section 1317.1 from the noncontracting facility to a psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, or an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, that has a contract with the plan or its delegated payer, provided that in the opinion of the treating provider the patient's psychiatric emergency medical condition is such that, within reasonable medical probability, no material deterioration of the patient's psychiatric emergency medical condition is likely to result from, or occur during, the transfer of the patient.

(e) Upon admission, the hospital to which the patient was transferred shall notify the health care service plan of the transfer, provided that the facility has the name and contact information of the patient's health care service plan. The facility shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, provided that in all cases the health care service plan, or its contracting medical provider, shall be able to reach a representative of the facility upon returning the call, should the plan, or its contracting medical provider, need to call back. The representative of the facility who makes the telephone call may be, but is not required to be, a physician and surgeon.

(f) A provider is not required to seek prior authorization to provide emergency services and care, as defined in paragraph (2) of subdivision (a) of Section 1317.1, or to make a transfer pursuant to subdivision (a) for a patient who has a psychiatric emergency medical condition, as defined in subdivision (k) of Section 1317.1, that is not otherwise required by law.

(Amended by Stats. 2024, Ch. 632, Sec. 3. (AB 1316) Effective January 1, 2025.)

1317.4b. (a) A psychiatric unit within a general acute care hospital, as defined in subdivision (a) of Section 1250, a psychiatric health facility of more than 16 beds, as defined in Section 1250.2 and subject to subdivision (d), or an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, shall accept a transfer of a person with a psychiatric emergency medical condition, as defined in subdivision (k) of Section 1317.1, from a health facility licensed under this chapter that maintains and operates an emergency department and the receiving facility shall provide emergency services and care to that person consistent with paragraph (2) of subdivision (a) of Section 1317.1, regardless of whether the person is voluntary or involuntarily detained for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), or whether the facility operates an emergency department, if all of the following requirements are met:

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

(2) The facility has an available bed.

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

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

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

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

(Amended by Stats. 2024, Ch. 632, Sec. 4. (AB 1316) Effective January 1, 2025.)

1317.5. (a) All alleged violations of this article and the regulations adopted hereunder shall be investigated by the state department. The state department, with the agreement of the local EMS agency, may refer violations of this article to the local EMS agency for investigation. The investigation shall be conducted pursuant to procedures established by the state department and shall be completed no later than 60 days after the report of apparent violation is received by the state department.

(b) At the conclusion of its investigation, the state department or the local EMS agency shall refer any alleged violation by a physician to the Medical Board of California unless it is determined that the complaint is without a reasonable basis.

(Amended (as added by Stats. 1987, Ch. 1240) by Stats. 1989, Ch. 886, Sec. 93.)

1317.5a. A health facility licensed under this chapter that maintains and operates an emergency department may post a notice in a conspicuous place in the emergency department stating substantially the following:

WE WILL NOT TOLERATE any form of threatening or aggressive behavior toward our staff. Assaults and batteries against our staff are crimes and may result in a criminal conviction.

(Added by Stats. 2024, Ch. 937, Sec. 1. (AB 977) Effective January 1, 2025.)

1317.6. (a) Hospitals found by the state department to have committed or to be responsible for a violation of this article or the regulations adopted pursuant thereto shall be subject to a civil penalty by the state department in an amount not to exceed twenty-five thousand dollars (\$25,000) for each hospital violation. In determining the amount of the fine for a hospital violation, the state department shall take into account all of the following:

(1) Whether the violation was knowing or unintentional.

(2) Whether the violation resulted or was reasonably likely to result in a medical hazard to the patient.

(3) The frequency or gravity of the violation.

(4) Other civil fines which have been imposed as a result of the violation under Section 1395 of Title 42 of the United States Code.

(b) Notwithstanding this section, the director shall refer any alleged violation by a hospital owned and operated by a health care service plan involving a plan member or enrollee to the Department of Managed Health Care unless the director determines the complaint is without reasonable basis. The Department of Managed Health Care shall have sole authority and responsibility to enforce this article with respect to violations involving hospitals owned and operated by health care service plans in their treatment of plan members or enrollees.

(c) Physicians and surgeons found by the board to have committed, or to be responsible for, a violation of this article or the regulations adopted pursuant thereto shall be subject to any and all penalties which the board may lawfully impose and may be subject to a civil penalty by the board in an amount not to exceed five thousand dollars (\$5,000) for each violation. A civil penalty imposed under this subdivision shall not duplicate federal fines, and the board shall credit any federal fine against a civil penalty imposed under this subdivision.

(d) The board may impose fines when it finds any of the following:

(1) The violation was knowing or willful.

(2) The violation was reasonably likely to result in a medical hazard.

(3) There are repeated violations.

(e) It is the intent of the Legislature that the state department has primary responsibility for regulating the conduct of hospital emergency departments and that fines imposed under this section should not be duplicated by additional fines imposed by the federal government as a result of the conduct which constituted a violation of this section. To effectuate the Legislature's intent, the Governor shall inform the Secretary of the federal Department of Health and Human Services of the enactment of this section and

request the federal department to credit any penalty assessed under this section against any subsequent civil monetary penalty assessed pursuant to Section 1395dd of Title 42 of the United States Code for the same violation.

(f) There shall be a cumulative maximum limit of thirty thousand dollars (\$30,000) in fines assessed against hospitals under this article and under Section 1395dd of Title 42 of the United States Code for the same circumstances. To effectuate this cumulative maximum limit, the state department shall do both of the following:

(1) As to state fines assessed prior to the final conclusion, including judicial review, if available, of an action against a hospital by the federal Department of Health and Human Services under Section 1395dd of Title 42 of the United States Code (for the same circumstances finally deemed to have been a violation of this article or the regulations adopted hereunder, because of the state department action authorized by this article), remit and return to the hospital within 30 days after conclusion of the federal action, that portion of the state fine necessary to assure that the cumulative maximum limit is not exceeded.

(2) Immediately credit against state fines assessed after the final conclusion, including judicial review, if available, of an action against a hospital by the federal Department of Health and Human Services under Section 1395dd of Title 42 of the United States Code, which results in a fine against a hospital (for the same circumstances finally deemed to have been a violation of this article or the regulations adopted hereunder, because of the state department action authorized by this article), the amount of the federal fine, necessary to assure the cumulative maximum limit is not exceeded.

(g) Any hospital found by the state department pursuant to procedures established by the state department to have committed a violation of this article or the regulations adopted hereunder may have its emergency medical service permit revoked or suspended by the state department.

(h) Any administrative or medical personnel who knowingly and intentionally violates any provision of this article, may be charged by the local district attorney with a misdemeanor.

(i) Notification of each violation found by the state department of the provisions of this article or the regulations adopted hereunder shall be sent by the state department to the Joint Commission for the Accreditation of Hospitals, the state emergency medical services authority, and local emergency medical services agencies.

(j) Any person who suffers personal harm and any medical facility which suffers a financial loss as a result of a violation of this article or the regulations adopted hereunder may recover, in a civil action against the transferring or receiving hospital, damages, reasonable attorney's fees, and other appropriate relief. Transferring and receiving hospitals from which inappropriate transfers of persons are made or refused in violation of this article and the regulations adopted hereunder shall be liable for the reasonable charges of the receiving or transferring hospital for providing the services and care which should have been provided. Any person potentially harmed by a violation of this article or the regulations adopted hereunder, or the local district attorney or the Attorney General, may bring a civil action against the responsible hospital or administrative or medical personnel, to enjoin the violation, and if the injunction issues, the court shall award reasonable attorney's fees. The provisions of this subdivision are in addition to other civil remedies and do not limit the availability of the other remedies.

(k) The civil remedies established by this section do not apply to violations of any requirements established by any county or county agency.

(Amended by Stats. 2000, Ch. 857, Sec. 18. Effective January 1, 2001.)

1317.7. (a) This article does not preempt any county or any other governmental agency acting within its authority from regulating emergency care or patient transfers, including the imposition of more specific duties, consistent with the requirements of this article and its implementing regulations. Any inconsistent requirements imposed by the Medi-Cal program shall preempt this article with respect to Medi-Cal beneficiaries. To the extent hospitals and physicians enter into contractual relationships with county or other governmental agencies that impose more stringent transfer requirements, those contractual agreements shall control.

(b) Notwithstanding subdivision (a), those duties or contractual agreements shall not unreasonably delay or deny the provision of medically necessary care to a patient with a psychiatric emergency medical condition, as defined in subdivision (k) of Section 1317.1, regardless of whether the patient is voluntary or involuntarily detained for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code).

(Amended by Stats. 2024, Ch. 632, Sec. 5. (AB 1316) Effective January 1, 2025.)

1317.8. If any provision of this article is declared unlawful or unconstitutional in any judicial action, the remaining provisions of this chapter shall remain in effect.

(Added by Stats. 1987, Ch. 1240, Sec. 11.)

1317.9a. (a) This article shall not be construed as altering or repealing Section 2400 of the Business and Professions Code.

(b) Nothing in Sections 1317 et seq. and 1798.170 et seq. shall prevent a physician from exercising his or her professional judgment in conflict with any state or local regulation adopted pursuant to Section 1317 et seq. or 1798.170 et seq., so long as the judgment conforms with Sections 1317, 1317.1, and, except for subdivision (g), Section 1317.2, and acting in compliance with the state or local regulation would be contrary to the best interests of the patient.

(Added by Stats. 1987, Ch. 1240, Sec. 13.)

1317.10. Notwithstanding Sections 1317 and 1317.2, Stanford Hospital and Clinics and Lucile Packard Children's Hospital at Stanford shall be treated as a single licensed facility for purposes of providing emergency services and care to patients with conditions related to active labor presenting to the emergency department at Stanford Hospital and Clinics if all of the following conditions are met:

(a) The two hospitals have entered into an agreement in which Lucile Packard Children's Hospital at Stanford accepts and provides emergency services and care to all patients who are in active labor presenting to the emergency department at Stanford Hospital and Clinics, without regard to insurance status, financial status, or other nonclinical factors.

(b) A physician and surgeon, qualified emergency department registered nurse, or other appropriately licensed personnel under the supervision of a physician and surgeon determines, prior to the transfer, that the patient has signs or symptoms, or both, suggestive of active labor, the patient can be safely transferred from the emergency department at Stanford Hospital and Clinics to the labor and delivery department of Lucile Packard Children's Hospital at Stanford, and the patient does not have a condition, illness, or injury more appropriately treated in the emergency department.

(c) The patient has the right to refuse the transfer.

(d) Each hospital has a prepared plan to promptly transport the patient with an employee escort who has specialized training in transporting women in labor.

(Added by Stats. 2012, Ch. 18, Sec. 2. (SB 630) Effective June 15, 2012.)

1318. (a) The director shall require as a condition precedent to the issuance, or renewal, of any license for a health facility, if the licensee handles or will handle any money of patients within the health facility, that the applicant for the license or the renewal of the license file or have on file with the state department a bond executed by an admitted surety insurer in a sum to be fixed by the state department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars (\$1,000), running to the State of California and conditioned upon the licensee's faithful and honest handling of the money of patients within the health facility.

(b) Every person injured as a result of any improper or unlawful handling of the money of a patient of a health facility may bring an action in a proper court on the bond required to be posted by the licensee pursuant to this section for the amount of damage the person suffered as a result thereof to the extent covered by the bond.

(c) The failure of any licensee under this section to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles any patient's trust funds shall constitute cause for the revocation of the license.

(d) The provisions of this section shall not apply if the licensee handles less than twenty-five dollars (\$25) per patient and less than five hundred dollars (\$500) for all patients in any month.

(e) The director may exempt licensed health facilities of the types specified in subdivisions (a), (b), (c), and (f) of Section 1250 from the requirements of this section. However, the exemption from the bond purchase requirements of this section shall not affect the financial liability of such health facilities.

(Amended by Stats. 1982, Ch. 517, Sec. 266.)

1319. The rules of a health facility may include provisions that require every member of the medical staff to have professional liability insurance as a condition to being on the medical staff of the health facility.

(Added by Stats. 1974, Ch. 889.)

1320. A skilled nursing facility or intermediate care facility shall not require patients to purchase drugs, or rent or purchase medical supplies or equipment, from any particular pharmacy or other source.

This section shall not preclude a skilled nursing facility or intermediate care facility from requiring that the patient's pharmacy or other source comply with the facility's policies and procedures reasonably necessary for the care of the patient or policies and procedures required to meet the intent of state or federal regulations. Nothing in this section shall preclude a skilled nursing facility or intermediate care facility from requiring that controlled substances which are periodically counted by the facility on at least a daily basis be dispensed by the patient's pharmacy in containers suitable for that purpose.

(Added by Stats. 1980, Ch. 785.)

1321. No health facility shall advertise or represent in any way that it provides occupational therapy services unless such services are provided under the administrative control of the health facility by an occupational therapist or occupational therapy assistant within the meaning of Section 2570 of the Business and Professions Code.

(Added by Stats. 1977, Ch. 836.)

1322. A hospital which contracts with an insurer, nonprofit hospital service plan, or health care service plan shall not determine or condition medical staff membership or clinical privileges upon the basis of a physician and surgeon's or podiatrist's participation or nonparticipation in a contract with that insurer, hospital service plan, or health care service plan.

(Amended by Stats. 1992, Ch. 981, Sec. 3. Effective January 1, 1993.)

1323. (a) A health facility, as defined by subdivisions (c) to (g), inclusive, of Section 1250, which has a significant beneficial interest in an ancillary health service provider or which knows that an ancillary health service provider has a significant beneficial interest in the health facility shall disclose that interest in writing to the patients of the health facility, or their representatives, and advise the patients, or their representatives, that they may choose to have another ancillary health service provider provide any supplies or services ordered by a member of the medical staff of the health facility.

(b) If supplies or services are provided on an outpatient basis by an ancillary health service provider which is not on the same site as, or which is not on a site which is adjacent to, a health facility, as defined by subdivision (a) or (b) of Section 1250, which has a significant beneficial interest in the ancillary health service provider, or if the ancillary health service provider has a significant beneficial interest in the health facility, the ancillary health service provider shall disclose that interest in writing to the customers of the ancillary health service provider, or their representatives, and advise the customers, or their representatives, that they may choose to have another ancillary health service provider provide any supplies or services ordered by a member of the medical staff of the health facility.

(c) A health facility, as defined by Section 1250, shall not charge, bill, or otherwise solicit payment from a patient on behalf of, or refer a patient to, another health facility in which the health facility has a significant beneficial interest unless the health facility first discloses in writing to the patient, or his or her representative, that the patient may choose to have another health facility provide any supplies or services ordered by a member of the medical staff of the health facility.

(d) (1) Except as provided in paragraph (2), "significant beneficial interest" means any financial interest that is equal to or greater than the lesser of the following:

(A) Five percent of the whole.

(B) Five thousand dollars (\$5,000).

(2) "Significant beneficial interest" does not include any of the following interests:

(A) A lease agreement between a health facility, ancillary health service provider, another health facility, or a parent corporation of the health facility, or any combination thereof.

(B) Any financial interest held by a health facility or ancillary health service provider in the stock of a publicly held health facility or ancillary health service provider, or any parent corporation of a health facility or ancillary health service provider, if that financial interest does not exceed 5 percent of any class of equity securities of the health facility, ancillary health service provider, or parent corporation.

(C) An ownership interest in a health facility or ancillary health service provider if more than three-fourths of the patients of the health facility or ancillary health service provider are members of a prepaid group practice health care service plan, as defined by Section 1345.

(e) (1) "Ancillary health service provider" includes, but is not limited to, providers of pharmaceutical, laboratory, optometry, prosthetic, or orthopedic supplies or services, suppliers of durable medical equipment, home-health service providers, and providers of mental health or substance abuse services.

(2) As used in subdivision (b), "adjacent" means real property located within a 400-yard radius of the boundaries of the site on which the health facility is located.

(f) Neither a health facility nor an ancillary health service provider is required to make any disclosures required by this section to any patients or customers, or their representatives, if the patients or customers are enrolled in organizations or entities which provide or arrange for the provision of health care services in exchange for a prepaid capitation payment or premium.

(Added by Stats. 1985, Ch. 952, Sec. 1.)

1323.1. (a) A general acute care hospital shall notify each patient scheduled for a service in a hospital-based outpatient clinic when that service is available in another location that is not hospital-based. The notification shall be in substantially the following form:

The location where you are being scheduled to receive services is a hospital-based clinic, and, therefore, may have higher costs. The same service may be available at another location within our health system that is not hospital-based, which may cost less. Check with the [insert name of office] at [insert telephone number] for another location within our health system, or check with your health insurance company, for more information about other locations that may cost less.

(b) For purposes of this section, a "hospital-based outpatient clinic" means a department of a provider, as defined in Section 413.65(a)(2) of Title 42 of the Code of Federal Regulations, that is not located on the campus of that provider.

(c) This section shall not apply to a general acute care hospital operated by a nonprofit corporation under common control with a nonprofit health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2) that exclusively contracts with no more than two medical groups in the state to provide and arrange for medical services for the enrollees of the health care service plan, so long as the cost-sharing design does not vary based on whether the care is provided in a hospital-based clinic or a medical office building.

(Added by Stats. 2016, Ch. 501, Sec. 1. (SB 1365) Effective January 1, 2017.)