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**AB-2316 Mental health: county patients' rights advocates: training materials.** (2017-2018)

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**Assembly Bill No. 2316**

**CHAPTER 237**

An act to amend Section 5370.2 of, and to add Section 5524 to, the Welfare and Institutions Code, relating to mental health advocacy.

[ Approved by Governor August 28, 2018. Filed with Secretary of State August 28, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2316, Eggman. Mental health: county patients' rights advocates: training materials.

Existing law requires the State Department of State Hospitals and the State Department of Health Care Services to contract with a single nonprofit entity to provide for protection and advocacy services to persons with mental disabilities, as specified. Existing law requires each local mental health director to appoint, or contract for the services of, one or more county patients' rights advocates. Existing law requires these advocates to, among other things, monitor mental health facilities, services, and programs, as defined, for compliance with statutory and regulatory patients' rights provisions, and receive and investigate certain complaints from or concerning recipients of mental health services residing in licensed health or community care facilities.

This bill additionally would require the contracted entity to make patients' rights advocacy training materials readily accessible to all county patients' rights advocates online and would require the training materials to include specified topics. The bill would require a county to verify that its patients' rights advocates review the training materials within 90 days of employment. The bill would also require the county to keep a record of the verification and send a copy to a specified entity. The bill would exempt county patients' rights advocates who have been employed for at least a year on or after January 1, 2019, from the requirement to review the training materials. By requiring counties to perform new duties, 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

**SECTION 1.** The Legislature finds and declares as follows:

(a) Persons with mental health disabilities are vulnerable to abuse, neglect, and unreasonable and unlawful deprivations of their rights.

(b) County patients' rights advocates are necessary to ensure the civil rights of persons with mental health disabilities are protected. County patients' rights advocates should not have direct or indirect responsibility for providing services to persons with mental health disabilities, except advocacy services.

(c) County patients' rights advocates should have training to ensure they are sufficiently competent to conduct their statutory duties as stated under Section 5520 of the Welfare and Institutions Code.

**SEC. 2.** Section 5370.2 of the Welfare and Institutions Code is amended to read:

**5370.2.** (a) The State Department of State Hospitals and the State Department of Health Care Services shall contract with a single nonprofit agency that meets the criteria specified in subdivision (b) of Section 5510 to conduct the activities specified in paragraphs (1) to (5), inclusive. These two state departments shall enter into a memorandum of understanding to ensure the effective management of the contract and the required activities affecting county patients' rights programs:

(1) Provide patients' rights advocacy services for, and conduct investigations of alleged or suspected abuse and neglect of, including deaths of, persons with mental disabilities residing in state hospitals.

(2) Investigate and take action as appropriate and necessary to resolve complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, and unreasonable denial, or punitive withholding of rights guaranteed under this division that cannot be resolved by county patients' rights advocates.

(3) Provide consultation, technical assistance, and support to county patients' rights advocates in accordance with their duties under Section 5520.

(4) Conduct program review of patients' rights programs.

(5) Make patients' rights advocacy training materials readily accessible to all county patients' rights advocates online. The training materials shall include, but are not limited to, the topics described in Section 5512.

(b) The services shall be provided in coordination with the appropriate mental health patients' rights advocates.

(c) (1) The contractor shall develop a plan to provide patients' rights advocacy services for, and conduct investigations of alleged or suspected abuse and neglect of, including the deaths of, persons with mental disabilities residing in state hospitals.

(2) The contractor shall develop the plan in consultation with the statewide organization of mental health patients' rights advocates, the statewide organization of mental health clients, and the statewide organization of family members of persons with mental disabilities, and the statewide organization of county mental health directors.

(3) In order to ensure that persons with mental disabilities have access to high quality advocacy services, the contractor shall establish a grievance procedure and shall advise persons receiving services under the contract of the availability of other advocacy services, including services provided by the protection and advocacy agency specified in Section 4901 and the county patients' rights advocates specified in Section 5520.

(d) This section does not restrict or limit the authority of the department to conduct the reviews and investigations it deems necessary for personnel, criminal, and litigation purposes.

(e) The State Department of State Hospitals and the State Department of Health Care Services shall jointly contract on a multiyear basis for a contract term of up to five years.

**SEC. 3.** Section 5524 is added to the Welfare and Institutions Code, to read:

**5524.** (a) Subject to subdivision (b), a county shall verify that county patients' rights advocates review the patients' rights advocacy training materials provided online as described in paragraph (5) of subdivision (a) of Section 5370.2 within 90 days of employment. The county shall keep a record of this verification and send a copy electronically to the Patients' Rights Committee of the California Behavioral Health Planning Council established pursuant to Section 5514.

(b) A county patients' rights advocate who has been employed for at least one year on or after January 1, 2019, shall not be required to review the materials described in paragraph (5) of subdivision (a) of Section 5370.2.

(c) The requirements of this section do not replace the ongoing training required to be provided by the contractor to county patients' rights advocates as described in Section 5512.

**SEC. 4.** If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

