

## **AB 988 Trailer Bill Language**

Sections 4-8 & 17 of [AB 118 Budget Act of 2023: health](#)

### **SEC. 4.**

Section 53123.1.5 of the Government Code is amended to read:

#### **53123.1.5.**

For purposes of this article, the following definitions shall apply:

- a) "988" means the three-digit telephone number designated by the Federal Communications Commission for the purpose of connecting individuals experiencing a behavioral health crisis with the national suicide prevention and mental health crisis hotline system in accordance with Section 52.200 of Title 47 of the Code of Federal Regulations.
- b) "988 center" means a center operating on a county or regional basis in California and participating in the National Suicide Prevention Lifeline network to respond to statewide or regional 988 calls.
- c) "Agency" means the California Health and Human Services Agency.
- d) "Behavioral health crisis services" means the continuum of services to address crisis intervention, crisis stabilization, and crisis residential treatment needs of those with a mental health or substance use disorder crisis that are wellness, resiliency, and recovery oriented. These include, but are not limited to, crisis intervention, including counseling provided by 988 centers, mobile crisis teams, and crisis stabilization services.
- e) "National Suicide Prevention Lifeline" or "988 Suicide & Crisis Lifeline" means the national network of local crisis hotline centers that provide free and confidential support to people in suicidal crisis or other behavioral health crisis 24 hours per day, seven days per week via a toll-free telephone hotline number that receives calls made through the 988 system. The toll-free telephone number is maintained by the Assistant Secretary for Mental Health and Substance Use under Section 520E-3 of the Public Health Service Act, Section 290bb-36c of Title 42 of the United States Code.
- f) "Office" means the Office of Emergency Services.
- g) "Substance Abuse and Mental Health Services Administration" means that agency of the United States Department of Health and Human Services.

### **SEC. 5.**

Section 53123.3 of the Government Code is amended to read:

#### **53123.3.**

- a)
  - 1. No later than December 31, 2024, the California Health and Human Services Agency shall create a set of recommendations to support a five-year implementation plan for a comprehensive 988 system.
  - 2. The California Health and Human Services Agency shall convene a state 988 advisory group for purposes of advising the California Health and Human Services Agency on

the set of recommendations to support the five-year implementation plan. The recommendations shall specify what can be accomplished pursuant to existing administrative authority and what will require additional legislation for implementation.

3. The advisory group shall include, but is not limited to, the State Department of Health Care Services, the office, the State Department of Public Health, representatives of counties, representatives of employees working for county behavioral health agencies and agencies who subcontract with county behavioral health agencies who provide these services, health plans, emergency medical services, law enforcement, consumers, families, peers, 988 centers, and other local and statewide public agencies.
  4. The advisory group shall meet at least once per quarter until December 31, 2024.
  5. The advisory group may be disbanded at the discretion of the California Health and Human Services Agency, but shall not be disbanded before January 1, 2025.
- b) The California Health and Human Services Agency and the advisory group shall make recommendations on all of the following:
1. Federal Substance Abuse and Mental Health Services Administration requirements and national best practices guidelines for operational and clinical standards, including training requirements and policies for transferring callers to an appropriate specialized center, or subnetworks, within or external to, the National Suicide Prevention Lifeline network.
  2. Maintenance of an active agreement with the administrator of the National Suicide Prevention Lifeline for participation within the network.
  3. Compliance with state technology requirements or guidelines for the operation of 988.
  4. A state governance structure to support the implementation and administration of behavioral health crisis services accessed through 988.
  5. 988 infrastructure, staffing, and training standards that will support statewide access to crisis counselors through telephone call, text, and chat, 24 hours per day, seven days per week.
  6. Access to crisis stabilization services and triage and response to warm handoffs from 911 and 988 call centers.
  7. Resources and policy changes to address statewide and regional needs in order to meet population needs for behavioral health crisis services.
  8. Statewide and regional public communications strategies informed by the National Suicide Prevention Lifeline and the Substance Abuse and Mental Health Services Administration to support public awareness and consistent messaging regarding 988 and behavioral health crisis services.
  9. Recommendations to achieve coordination between 988 and the continuum of behavioral health crisis services. Recommendations shall address strategies for verifying that behavioral health crisis services are coordinated for a timely response to clearly articulated suicidal or behavioral health contacts made or routed to 988 services as an alternative to a response from law enforcement, except in high-risk situations that cannot be safely managed without law enforcement response and achieving statewide provision of connection to mobile crisis services, when appropriate, to respond to individuals in crisis in a timely manner.

10. Quantifiable goals for the provision of statewide and regional behavioral health crisis services, which consider factors such as reported rates of suicide attempts and deaths.
  11. A process for establishing outcome measures, benchmarks, and improvement targets for 988 centers and the behavioral health crisis services system. This may include recommendations regarding how to measure, the feasibility of measuring 988 system performance, including capacity, wait time, and the ability to meet demand for services for 988 State Suicide and Behavioral Health Crisis Services Fund fund recipients. This may also include recommendations for how to determine and report the amount billed to and reimbursed by Medi-Cal or other public and private health care service plans or insurers related to 988 services.
  12. Findings from a comprehensive assessment of the behavioral health crisis services system that takes into account infrastructure projects that are planned and funded. These findings shall include an inventory of the infrastructure, capacity, and needs for all of the following:
    - A. Statewide and regional 988 centers.
    - B. Mobile crisis team services, including mobile crisis access and dispatch call centers.
    - C. Other existing behavioral health crisis services and warm lines.
    - D. Crisis stabilization services.
  13. Procedures for determining the annual operating budget for the purposes of establishing the rate of the 988 surcharge and how revenue will be dispersed to fund the 988 system consistent with Section 53123.4 and Section 251a of Title 47 of the United States Code.
  14. Strategies to support the behavioral health crisis service system is adequately funded, including mechanisms for reimbursement of behavioral health crisis response pursuant to Sections 1374.72 and 1374.721 of the Health and Safety Code, including, but not limited to:
    - A. To the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized, seeking to maximize all available federal funding sources for the purposes of behavioral health crisis services and administrative activities related to 988 implementation, including federal Medicaid reimbursement for services; federal Medicaid reimbursement for administrative expenses, including the development and maintenance of information technology; and federal grants.
    - B. Coordinating with the Department of Insurance and Department of Managed Health Care to verify reimbursement to 988 centers for behavioral health crisis services by health care service plans and disability insurers, pursuant to Section 1374.72 of the Health and Safety Code and Section 10144.5 of the Insurance Code and consistent with the requirements of the federal Mental Health Parity and Addiction Equity Act of 2008 (29 U.S.C. Sec. 1185a).
- c) Until December 31, 2029, the California Health and Human Services Agency shall post regular updates, no less than annually, regarding the implementation of 988 on its public internet website.

## **SEC. 6.**

Section 53123.4 of the Government Code is amended to read:

### **53123.4.**

- a) The 988 State Suicide and Behavioral Health Crisis Services Fund is hereby established in the State Treasury.
- b)
  - 1. The fund shall consist of the revenue generated by the 988 surcharge assessed on users under Section 41020 of the Revenue and Taxation Code, which revenue shall be used solely for the operations of the 988 center and mobile crisis teams, as defined in the American Rescue Plan Act of 2021 (Section 1947(b)(2) of Public Law 117-2). The fund shall also consist of any other appropriations made to it by the Legislature. The Legislature may consider additional uses for the revenue generated by the 988 surcharge based on recommendations made by the California Health and Human Services Agency and the advisory group pursuant to subdivision (b) of Section 53123.3.
  - 2. The revenue generated by the 988 surcharge shall, to the extent not prohibited by Section 251a of Title 47 of the United States Code and any applicable rules or regulations adopted by the Federal Communications Commission and in compliance with subdivision (b) of Section 41136 of the Revenue and Taxation Code, be prioritized to fund the following:
    - A. First, the 988 centers, including the efficient and effective routing of telephone calls, personnel, and the provision of acute behavioral health services through telephone call, text, and chat to the 988 number.
    - B. Second, the operation of mobile crisis teams accessed via telephone calls, texts, or chats made to or routed through 988, as specified under Section 4(a)(2)(B) of Public Law 116-172.
  - 3. Money in the fund shall not be subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose outside of those specified in this article.
  - 4. 988 surcharge revenue in the fund shall be available, upon appropriation by the Legislature, for the purposes specified in this article.
  - 5. The revenue generated by the 988 surcharge shall be used to supplement and not supplant federal, state, and local funding for 988 centers and behavioral health crisis services.
  - 6. The revenue generated by the 988 surcharge may only be used to fund service and operation expenses that are not reimbursable through Medicaid federal financial participation, Medicare, health care service plans, or disability insurers.
- c) The office, in consultation with the State Department of Health Care Services, may adopt regulations regarding how funds received shall be disseminated to support the operations of the 988 system and related behavioral health crisis services.
- d) The office shall require an entity seeking funds available through the 988 Suicide and Behavioral Health Crisis Services Fund to annually file an expenditure and outcomes report in a form and manner as determined by the office and the State Department of Health

Care Services. The expenditure and outcomes report shall include, but is not limited to, the following:

1. The total budget.
  2. Number and job classification of personnel.
  3. The number of individuals served.
  4. The outcomes for individuals served, if known.
  5. The health coverage status of individuals served, if known.
  6. Beginning July 1, 2025, to the extent feasible and consistent with paragraph (11) of subdivision (b) of Section 52123.3, measures of system performance, including capacity, wait times, and the ability to meet demand for services.
  7. Beginning January 1, 2030, to the extent feasible and consistent with paragraph (11) of subdivision (b) of Section 52123.3, the amount billed to and reimbursed by Medi-Cal or other public and private health care service plans or insurers.
- e) The State Treasurer shall report annually to the office on fund deposits and expenditures.

## **SEC. 7.**

Section 53123.5 of the Government Code is amended to read:

### **53123.5.**

Notwithstanding any law, including Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the office and the State Department of Health Care Services may implement, interpret, or make specific this article, in whole or in part, by means of all-county letters, plan letters, provider bulletins, information notices, regulations, or other similar instructions, without taking any further regulatory action.

## **SEC. 8.**

Section 53123.6 is added to the Government Code, immediately following Section 53123.5, to read:

### **53123.6.**

For purposes of implementing this article, the State Department of Health Care Services may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis, and may implement changes to existing information technology systems. Notwithstanding any law, contracts entered into or amended, or changes to existing information technology systems, pursuant to this section shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2, Section 19130, and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services.

## **SEC. 17.**

Section 1374.724 of the Health and Safety Code is amended to read:

### **1374.724.**

- a) Coverage of mental health and substance use disorder treatment pursuant to Section 1374.72 includes behavioral health crisis services that are provided to an enrollee by a 988 center, mobile crisis team, or other provider of behavioral health crisis services, as set forth

in Chapter 1 (commencing with Section 53000) of Part 1 of Division 2 of Title 5 of the Government Code, regardless of whether the service is provided by an in-network or out-of-network provider or facility. With respect to behavioral health crisis services provided to an enrollee by a 988 center or mobile crisis team, a health care service plan shall cover, at a minimum, all items and services that are eligible for coverage under the Medi-Cal program.

b)

1. A health care service plan shall not require prior authorization for behavioral health crisis stabilization services and care provided by a 988 center, mobile crisis team, or other provider of behavioral health crisis services to an enrollee pursuant to Chapter 1 (commencing with Section 53000) of Part 1 of Division 2 of Title 5 of the Government Code.
2. Notwithstanding any other law, payment for behavioral health crisis stabilization services and care pursuant to this section shall not be denied unless the health care service plan, or its contracting medical provider, reasonably determines that the services were never performed.
3. If its prior authorization requirements comply with Section 1374.721, a health care service plan may require prior authorization as a prerequisite for payment for medically necessary mental health or substance use disorder services following stabilization from a behavioral health crisis addressed by services provided through the 988 system. If there is a disagreement between the health care service plan and the behavioral health crisis service provider or facility regarding the need for medically necessary mental health or substance use disorder services following stabilization of the enrollee, the plan shall assume responsibility for the care of the enrollee by arranging for services for the enrollee pursuant to Section 1374.72 at a level of care consistent with utilization review criteria pursuant to Section 1374.721.
4. A health care service plan shall not require, under any circumstances, a behavioral health crisis services provider or facility to discharge or transfer an enrollee before stabilization has occurred or before utilization review consistent with Section 1374.721.

c)

1. A health care service plan that is contacted by a 988 center, mobile crisis team, or other provider of behavioral health crisis services shall, within 30 minutes of the time the provider makes the initial telephone call requesting information, either authorize poststabilization care or inform the provider that it will arrange for the prompt transfer of the enrollee's care to another provider.
2. A health care service plan that is contacted by a 988 center, mobile crisis team, or other provider of behavioral health crisis services shall reimburse the provider for poststabilization care rendered to the enrollee if any of the following occur:
  - A. The health care service plan authorized the 988 center, mobile crisis team, or other provider of behavioral health crisis services to provide poststabilization care.
  - B. The health care service plan did not respond to the provider's initial contact or did not make a decision regarding whether to authorize poststabilization care

or to promptly transfer the enrollee's care within the timeframe set forth in paragraph (1).

- C. There is an unreasonable delay in the transfer of the enrollee's care to another provider, and the provider determines that the enrollee requires poststabilization care.
  - 3. A health care service plan shall prominently display on its internet website the specific telephone number for noncontracting providers to obtain prompt authorization for the transfer of a stabilized enrollee's care to another provider or authorization to provide poststabilization care. The health care service plan shall ensure the telephone number published on its internet website is the correct telephone number for purposes of this paragraph. The health care service plan shall update the telephone number on the plan's internet website within one business day if the telephone number changes. A health care service plan shall provide the telephone number to the department, and the department shall post the telephone number on its internet website.
  - 4. To the extent permissible under federal law, a health care service plan shall not require a 988 center, mobile crisis team, or other provider of behavioral health crisis services to make more than one telephone call to the number provided in advance by the health care service plan. The representative of the 988 center, mobile crisis team, or other provider of behavioral health crisis services that makes the telephone call may be, but is not required to be, a physician or surgeon.
  - 5. A 988 center, mobile crisis team, or other provider of behavioral health crisis services shall not bill a patient who is an enrollee of a health care service plan for poststabilization care, except for the in-network cost-sharing amount as defined in paragraph (2) of subdivision (d). An enrollee who is billed in violation of this section may report receipt of the bill to the health care service plan and the department. The department shall forward that report to the State Department of Public Health.
- d)
- 1. Notwithstanding subdivision (f) of Section 1371.4, a health care service plan shall reimburse a 988 center, mobile crisis team, or other provider of behavioral health crisis services for emergency and nonemergency behavioral health crisis services and care pursuant to this section, consistent with the requirements of Section 1371.4 and any other applicable requirement of this chapter.
  - 2. If an enrollee receives services and care pursuant to this section from a 988 center, mobile crisis team, or other provider of behavioral health crisis services outside the plan network, the enrollee shall pay no more than the same cost sharing that the enrollee would pay for the same services received from an in-network provider. This amount shall be referred to as the "in-network cost-sharing amount." An out-of-network 988 center, mobile crisis team, or other provider of behavioral health crisis services shall not bill or collect an amount from the enrollee for services subject to this section except for the in-network cost-sharing amount.
- e) For purposes of this section:
- 1. "Behavioral health crisis services" has the same meaning as set forth in Section 53123.1.5 of the Government Code.

2. "Behavioral health crisis stabilization services" means the services necessary to determine if a behavioral health crisis exists and, if a behavioral health crisis does exist, the care and treatment that is necessary to stabilize the behavioral health crisis within the capability of the 988 center, mobile crisis team, or other provider of behavioral health crisis services.
3. "Poststabilization care" means medically necessary care provided after a behavioral health crisis has been stabilized.
4. An enrollee is "stabilized" or "stabilization" has occurred when, in the opinion of the treating provider or facility, the enrollee's condition is such that, within reasonable medical probability, both of the following criteria are satisfied:
  - A. Material deterioration of the enrollee's condition is unlikely to result from, or occur during, the discharge or transfer of the enrollee to the care of another provider.
  - B. The enrollee is able to safely travel from the site of care using nonmedical transportation or nonemergency medical transportation. The health care service plan shall continue to cover all services and care as behavioral health crisis stabilization services and care until the enrollee is discharged or transferred.
- f) This section does not excuse a health care service plan from complying with Section 1374.72 or any other requirement of this chapter.
- g) This section does not apply to Medi-Cal managed care contracts entered pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), or Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code between the State Department of Health Care Services and a health care service plan for enrolled Medi-Cal beneficiaries.