

EMTALA Education
JANUARY 2019



What is EMTALA?
Emergency Medical Treatment and Labor Act

- All team members **MUST** understand this law!

EMTALA Requirements

- Hospitals with an emergency department (like ours) **MUST** provide:
 - An emergency medical screening exam (MSE) to all patients requesting emergency care.
 - Stabilizing treatment for emergency conditions or appropriate transfer of an unstable person.
 - Post EMTALA signs and keep appropriate on call lists and patient logs.
- Remember: We **can not** delay the medical screening exam or treatment to inquire about payment.

(42 USC 1395dd; 42 CFR 489.20(j) and 489.24)

EMTALA Penalties

- If we violate EMTALA we could face Civil penalties, which could include:
 - Physicians
 - Hospitals
- Physicians and Hospitals may also be subject to additional lawsuits on top of the Civil Penalties.
- Physician and/or Hospital may lose it's ability to participate in the Medicare and Medicaid programs.

(42 USC 1395dd(d); 42 CFR 1003.103(e))

Where does EMTALA apply?

- On our main campus of the hospital, including parking lots, sidewalks, and driveways.
- Any area within 250 yards of the hospital
- Remember: We cannot divert inbound ambulances unless we are on diversionary status. (*Arrington v. Wong* (9th Cir. 2001))

Does EMTALA apply in our Hospital-Owned Clinics?

YES!!!

- If Patient comes to our hospital-owned Clinics requesting Emergency Medical Care, Staff **MUST IMMEDIATELY** call 911 for patient transport to the Emergency Department.

When does EMTALA not apply?

- When the request is clearly for non-emergent care. For example:
 - Preventative care (immunization, flu shots, community outreach, etc.)
 - Requests to perform non-emergency test (blood pressure or routine x-ray).
 - Gather evidence (sexual assault, etc.)
 - Prescheduled appointment by physician.

(Interpretive Interpretive Guidelines 489.24(c))

Medical Screening Exam (MSE)



When is a Medical Screening Exam Required?

- A patient arrives anywhere on the hospital or clinic premises and states that he or she has an emergency condition.

OR

- Another hospital guest observes an individual is suffering from an emergency medical condition.

Where can the Medical Screening Occur?

- A medical screening exam may be performed in locations other than the Emergency Department. For example, a pregnant woman may be moved to the Labor and Delivery unit for the medical screening exam. The screening may also be performed in other outpatient or inpatient departments.

Who can perform the Medical Screening Exam?

ONLY a “qualified medical personnel” (QMP).

- At NHSC a QMP is identified as an MD, DO, NP, PA and specially trained RNs in Labor and Delivery who have privileges to perform the exam.
- Remember: The medical screening exam does not differ based on payment status, condition, race, national origin, disability, etc.

(Interpretive Guidelines 489.24(a), (e))

What does the Medical Screening Exam include?

- The medical screening exam is a process which includes:
 - Vital signs and history
 - Documented physical exam of involved area or system
 - If needed, lab or radiology testing and even consultations by specialists

(Interpretive Guidelines 489.24(a))

Medical Screening Exam

*If it's not
documented
it wasn't
done!!!*



What is considered an Emergency Medical Condition?

- A medical condition, where if not treated could reasonably be expected to result in:
 - Placing the individual's health in serious jeopardy
 - Serious/permanent impairment to bodily functions
 - A threat to life or limb
- A pregnant woman who is having contractions:
 - And there is not enough time for a safe transfer to another hospital before delivery
 - A transfer may pose a threat to the health or safety of the woman or the unborn child.

(42 CFR 489.24(b))

What does it mean to Stabilize a patient?

- Treatment necessary to assure, within reasonable medical probability, that no material deterioration of condition is likely to result during a transfer.
- For pregnant woman, “stabilize” means:
 - The delivery of the child and placenta, or
 - An appropriate transfer to another facility.
- Remember: EMTALA ends once the patient is stabilized or admitted.

(42 CFR 489.24(d))

What is “stable” for discharge?

- Reasonable clinical confidence that the patient has reached a point where their continued care (including diagnostics or treatment) could be performed as an outpatient or later as an inpatient provided the patient is given a plan for appropriate follow-up care as part of discharge instructions.
- For psychiatric conditions, that the patient is no longer a threat to themselves or others.

(Interpretive Guidelines 489.24(d))

What is an appropriate transfer?



Appropriate Transfer

- Transferring hospital provides treatment within its capability to minimize risk of harm to patient.
- Transferring hospital contacts receiving facility and facility agrees to accept the transfer. (document who accepted the transfer)
- Transferring hospital sends:
 - Relevant records available at the time, and additional records when available
- Transfer is performed by qualified personnel (EMS) with proper equipment, including life support measures.

(42 CFR 489.24(e)(2))

Appropriate Transfer

- If the patient is **not** yet stabilized, hospital may still transfer the patient if:
 - Patient or representative requests transfer
 - Physician certifies that the benefits outweigh risks and transfer is to a facility with a higher level of care.
 - Remember to Document, Document, Document!!!

(42 CFR 489.24(b), (d)(e); Interpretive Guidelines 489.24(a))

What if a patient refuses?

- Hospital/Clinic must:
 - Document the exam, treatment or transfer that was refused.
 - Document that risks and benefits were explained to patient.
 - Document basis for refusal of transfer.
 - Take reasonable steps to secure written refusal.
 - If patient refuses to sign, document refusal to sign.

(42 CFR 489.24(d)(3), (5))

How about registering or asking for payments?

- We cannot delay the medical screening exam or treatment to inquire about payment.
- We cannot seek preauthorization from insurer until after you have conducted exam and initiated stabilizing treatment.

(42 CFR 489.24(d)(4); Interpretive Guidelines 489.24(a), (d)(4))

- Remember: do not encourage patients to leave, seek lower cost care elsewhere or state “their insurance may not cover the treatment”

(Interpretive Guidelines 489.24(a), (d)(4))

EMTALA Compliance

- Remember: The “Emergency Medical Treatment and Labor Act” is a very serious law because:
 - It’s the right thing to do in order to provide appropriate life saving care
 - There are significant personal and financial penalties for EMTALA violations
- If you suspect an EMTALA violation you should:
 - Gather and confirm facts, including documents and witness statements.
 - Report your suspicions to your immediate supervisor and/or the compliance officer

PLEASE COMPLETE THE POST TEST