

SUBJECT: EMTALA GUIDELINES FOR EMERGENCY DEPARTMENT SERVICES	REFERENCE #8310.021
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DEPARTMENT: ORGANIZATIONWIDE	EFFECTIVE: 12/21/2015
APPROVED BY: BMHD Board of Directors	REVISED: 06/28/17

**DEFINITIONS:**

- Hospital with an Emergency Department: A hospital with a dedicated emergency department. (§489.24(b))
  - A critical access hospital (CAH) that operates a dedicated Emergency Department is subject to the requirements of EMTALA.
- Hospital Property: The entire main hospital campus including the parking lot, sidewalk and driveway or hospital departments, including any building owned by the hospital that is within 250 yards of the hospital. (§413.65(a))
- Providers: A doctor of medicine, doctor of osteopathy, or nurse practitioner legally authorized to practice medicine and surgery by the state in which he/she performs such function or action. (This definition is not to be construed to limit the authority of a doctor of medicine or osteopathy to delegate tasks to other qualified healthcare staff to the extent recognized under state law or a state’s regulatory mechanism). (§1861(r)(i))
- Emergency Medical Condition: A medical condition with sufficient severity (including severe pain, psychiatric disturbances, symptoms of substance abuse, pregnancy/active labor) such that the absence of immediate medical attention could place the individual's health at risk. (§489.24)
- Medical Screening Exam: The process required to reach, with reasonable clinical confidence, the point at which it can be determined whether the individual has an emergency medical condition or not.
- Labor: The process of childbirth, beginning with the latent or early phase of labor and continuing through the delivery of the placenta. A woman experiencing contractions is in true labor unless a physician, certified nurse-midwife or other qualified medical person acting within his or her scope of practice as defined in hospital medical staff bylaws and state law, certifies that, after a reasonable time of observation, the woman is in false labor. (§489.24(b))

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- **Stabilize:** No material deterioration of the condition is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility, or with respect to an emergency medical condition. (§489.24(b))
- **Transfer:** The movement (including the discharge) of an individual outside a hospital’s facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital, but does not include such a movement of an individual who (i) has been declared dead, or (ii) leaves the facility without the permission of any such person. (§489.24(b))

**POLICY:**

- The hospital shall post a sign in a conspicuous area(s) of the Emergency Department, entrance, admitting areas, waiting room, treatment areas, etc., specifying the rights of the individual with respect to examination and treatment of medical conditions and women in labor.
  - Information shall also indicate whether or not the hospital/critical access hospital participates in the Medicaid program under a State-approved plan.
- All patients presenting to Blue Mountain Hospital District’s Emergency or Labor and Delivery Departments or Campus Medical Clinic and seeking care, or presenting elsewhere on the hospital’s main campus and requesting emergency care, must be accepted and evaluated regardless of the patient’s ability to pay without delay in examination or treatment.
  - In the absence of an actual request for services, if a “prudent layperson” observer would believe, based on the individual’s appearance or behavior, that the individual needs an examination or treatment for a medical condition, EMTALA still applies and the person must be accepted and evaluated for treatment.
  - **No Discrimination in Examination or Treatment.** The Hospital will provide the emergency care described without regard to an individual’s age, sex, race, color, national origin, handicap, diagnosis, or financial status, except to the extent that a circumstance is medically significant to the provision of appropriate medical care.
  - In the event that the hospital’s Emergency Operations Plan is activated, persons may be transferred prior to being stabilized if, based upon the circumstances of the emergency, the hospital is unable to provide proper care, treatment or services. (Section 1135(b) of the Social Security Act §489.24(a)(2)).

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- Healthcare practitioners who may certify false labor include physicians, certified nurse-midwives, or other qualified medical person acting within his or her scope of practice as defined in hospital medical staff bylaws and state law.
- All patients shall receive a medical screening exam (MSE) that includes providing all necessary testing and on-call services within the capability of the hospital to reach a diagnosis. Federal law requires that all necessary definitive treatment will be given to the patient and only maintenance care can be referred to a medical office or clinic.
  - Individuals may be redirected or relocated for an MSE in the event that the hospital's Emergency Operations Plan is activated. (Section 1135(b) of the Social Security Act §489.24(a)(2)).
- The triage of a patient for managed care contracts without a medical screening exam is not acceptable under EMTALA. Prior authorization may be obtained after medical screening and stabilization services are completed. This does not preclude qualified medical staff from consulting with the patient's private provider as long as the consultation does not inappropriately delay required medical services.
- Blue Mountain Hospital District shall provide an on-call provider specialty list which includes all specialties privileged at this facility. The on-call list will be openly posted in the Emergency Department and a record of all on-call lists shall be maintained for five (5) years.

Note: There is no EMTALA prohibition against the treating provider consulting on a case with another provider, who may or may not be on the hospital's on-call list, by telephone, video conferencing, transmission of test results, or any other means of communication.

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- Blue Mountain Hospital District may not transfer or discharge a patient who may be reasonably at risk to deteriorate from, during or after said transfer or discharge. If the patient is at reasonable risk to deteriorate due to the natural process of his/her medical condition, he/she is legally unstable as per EMTALA. This standard also states that a pregnant woman is not legally stable until the baby and placenta have been delivered.
- Blue Mountain Hospital District may not transfer patients who are potentially unstable as long as the hospital has the capabilities to provide treatment and care to the patient. A transfer of a potentially unstable patient to another facility may only be for reason of medical necessity.
- If a patient is to be transferred for medical necessity, the following guidelines must be followed:
  - The transferring hospital provides medical treatment within its capacity that minimizes the risks to the individual’s health and in the case of a woman in labor, the health of the unborn child.
  - A provider certification that the risks of transferring the patient are outweighed by the potential benefits. The individual risks and benefits must be documented and the patient's medical record must support these, *or*
  - The patient requests a transfer in writing, or other authorized person.
  - In addition to the following:
    - The receiving hospital has available space and qualified staff for the treatment of the patient.
    - The receiving hospital must give acceptance in advance. The acceptance must be documented in the medical record.
    - Patient gives written consent for transfer, or other authorized person.

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- The patient must be transferred by an appropriate medical transfer vehicle. A patient may not be transferred in a private passenger vehicle unless the patient refuses to be transported by ambulance. The patient's refusal must be in writing.

Note: Participating hospitals that have specialized capabilities or facilities (including, but not limited to, facilities such as burn units, shocktrauma units, neonatal intensive care units, or [with respect to rural areas] regional referral centers), may not refuse to accept from a referring hospital within the boundaries of the United States an appropriate transfer of an individual who requires such specialized capabilities or facilities if the receiving hospital has the capacity to treat the individual. This requirement applies to any participating hospital with specialized capabilities, regardless of whether the hospital has a dedicated emergency department. (42 CFR § 412.96)

- The provider will order appropriate medical staff to attend the patient, maintain and/or initiate treatment or medications and manage known potential adverse affects.
- Appropriate life support equipment will be ordered.
- Appropriate transport shall be arranged.
- Copies of the medical record, x-rays and laboratory tests will accompany the patient when transferred. In the event copying the records could jeopardize the patient, the records may be sent on a STAT basis to the receiving facility as soon as completed.
- The patient's RN shall give the report to the RN in the receiving patient care unit.
- The Emergency Department shall maintain a central log documenting the following information:

  - Each individual presenting to the ED for assistance
  - If the individual refused treatment
  - If the individual was refused treatment
  - If the individual was transferred, admitted and treated, stabilized and transferred or discharged

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- The central log shall also include whether directly or by reference patient logs from other areas of the hospital that may be considered dedicated emergency rooms, i.e., Pediatrics, Labor and Delivery.
- Medical records of those patients to or from the hospital must be retained in their original or legally reproduced form for five (5) years from the date of transfer.

**MEDICAL SCREENING EXAMS:**

- Medical Screening Exams (MSEs) should include at a minimum the following:
  - Emergency Department Log entry, including disposition of patient
  - Patient's triage record
  - Vital signs
  - History
  - Physical exam of affected systems and potentially affected systems
  - Exam of known chronic conditions
  - Necessary testing to rule out emergency medical conditions
  - Notification and use of on-call staff to complete previously mentioned guidelines
  - Notification and use of on-call providers to diagnose and/or stabilize the patient as necessary
  - Vital signs upon discharge or transfer
  - Complete documentation of the medical screening exam

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**EMERGENCY MEDICAL CONDITIONS:**

- Emergency medical conditions include:
  - Undiagnosed, acute pain which is sufficient to impair the normal functioning
  - Pregnancy with contractions (defined as unstable)
  - Substance abuse symptoms, i.e., alcohol ingestion
  - Psychiatric disturbances including severe depression, insomnia, suicide ideation or attempt, dissociative state, inability to comprehend danger or care for self

**MEDICAL RECORDS:**

The medical records transferred to or from this hospital shall be retained in their original or legally reproduced form in hard copy, microfilm, microfiche, optical disks, computer disks or computer memory for a period of ten (10) years from the date of transfer.

**REFERENCE:**

Centers for Medicare and Medicaid Services (CMS), State Operations Manual, Appendix V - Interpretive Guidelines - Responsibilities of Medicare Participating Hospitals in Emergency Cases, Rev. 60, 07-16-2010, [https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap\\_v\\_emerg.pdf](https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_v_emerg.pdf)