SUBJECT: EMTALA GUIDELINES FOR EMERGENCY DEPARTMENT SERVICES	REFERENCE #1000
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DEPARTMENT: EMERGENCY DEPARTMENT	EFFECTIVE: 7/16/14
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DEFINITIONS:

- Hospital with an Emergency Department: A hospital with a dedicated emergency department. (§489.24(b))
- 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))
- Physicians: A doctor of medicine or osteopathy 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 by qualified medical personnel (physician or mid-level)
- 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))
- 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:

- All patients presenting to Hood Memorial Hospital's Emergency Department 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.

- 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.
- 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)).

- Healthcare practitioners who may perform a Medical Screening Exam (MSE) at Hood Memorial Hospital are physicians and mid-level practitioners (P.A.'s and APN's) with approved credentials in their respective professional capacity by the hospital medical staff.
- If the ER Physician diverts an ambulance and the ambulance brings the patient here they cannot be turned away by any Emergency Department personnel. They must be given a medical screening and follow EMTALA guidelines. Any patient on our property must have EMTALA guidelines followed.
- 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 physician 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 <u>after</u> medical screening and stabilization services are completed. This does not preclude qualified medical staff from consulting with the patient's private physician as long as the consultation does not inappropriately delay required medical services.
- Hood Memorial Hospital ED has departmental on-call lists as well as a schedule for ED physicians. HMH transfers patients to a facility with a higher level of care as clinically indicated. HMH maintains consideration of patient's preference or a facility in which patients specialist are located first. LERN may be accessed to locate the specialist that the patient may need (such as neuro-surgeon). If

  <u>Note</u>: There is no EMTALA prohibition against the treating physician consulting on a case with another physician, 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.

- Hood Memorial Hospital 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 their medical condition, they are 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.
- Hood Memorial Hospital 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 physician 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.
    - 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.
        - 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, shock trauma 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 physician 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.
- 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
  - Complete previously mentioned guidelines
  - Consultation with a specialist at another facility.
  - Vital signs upon discharge or transfer
  - Complete documentation of the medical screening exam

EMERGENCY MEDICAL CONDITIONS:

- Emergency medical conditions may include, but are not limited to:

  - Undiagnosed, acute pain which is sufficient to impair the normal functioning
  - Pregnancy with contractions (defined as unstable)
  - Substance abuse symptoms, i.e., alcohol/drug overdose
  - 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 are retained in their original or legally reproduced form in hard copy, microfilm, microfiche, optical disks, computer disks or computer memory for a period of five (5) years from the date of transfer.

ADDITIONAL INFORMATION AND EXAMPLES:

It is extremely important that any staff working in or around the ED understand the nature of EMTALA, particularly Nursing, Security and Clerks.

AT NO TIME can hospital staff tell anyone that we do not have a particular service here and that they need to go to another facility

EMTALA violations/compliance is not unique to nursing or ED. It is a hospital-wide issue. A violation can be incurred by any staff member at this facility (housekeeping, maintenance, medical records, etc.) For instance: (just examples)

1. A person comes into the hospital and first encounters the security guard. The man states, "I think I broke my arm, do you have orthopedics here?" The answer to that person is no and he leaves without checking in…..that is considered an EMTALA violation.

BETTER: "I'm sorry to hear that, let me help you to the Emergency Room where the Doctor can check you out."

2. A man comes into the ED and speaks to the ED clerk. He tells the clerk his shoulder hurts. The man, noticing the ED was busy, continues to talk with the clerk and he said I probably pulled a muscle and can take Motrin. The ED clerk told the patient, yes sir, Motrin helps when my muscles hurt. The gentleman left and later had a heart attack at a different facility. Not only was it an EMTALA violation, but the clerk was charged with prescribing a medicine without a license.

BETTER: "I'm sorry to hear you are hurting, Let me quickly register you and get a nurse to see you."

3. At the end of a work day, a medical records clerk is in the parking lot to get to her car to leave for the day when she noticed a person trip and fall in the parking lot. The medical records clerk goes to assist the person and the person gets up with a scrap on their knee. This person laughs and said don't worry it's just a scraped knee. The Medical record clerk, said yes mam, you did scrap it pretty good. The medical records clerk went home and the

person left. Later the person was admitted to another facility with a hip fracture. This is an EMTALA violation. The medical records clerk was cited for performing a medical screening exam without a proper medical license.

BETTER: "Let me help you to the Emergency Room to get that checked out" (Assist her to the emergency room and complete an incident report. If the patient refuses to get checked out, get her name and complete an incident report. Even if the person will not give their name, you can complete an incident report with description of person, time and event)

4. A patient, well known to the ED, comes to ED clerk's window complaining of a migraine. She inquires if "Dr. Miller" is working stating she doesn't like him because he doesn't prescribe pain medicine and she will go somewhere else if he is working. The clerk said yes Dr. Miller is working and the patient leaves the facility. Later, the patient was admitted to another facility with a brain hemorrhage. This is an EMTALA violation.

BETTER: "I'm sorry your head is hurting, but for security reasons, I can't disclose if a particular person is working. We do have an emergency physician here that can examine and treat you. Let me get you registered and get a nurse to see you." (if the patient observes Dr. Miller and wants to leave, attempt to get a LWBS paper signed. It is best to not get into discussions prior to getting registration information to at least stat register someone. It gives the facility a means to document the event, left without signing, etc. when the patient is adamant about leaving despite our best efforts to provide a MSE).

5. A male companion and female pulls up to the ED and reports to the nurse that she thinks she may be in labor. She asks if we have OB services at the facility and she is unsure if she should stay or go to another facility. The nurse tells her no we don't but North Oaks does." The couple leaves to go to another facility and is required to pull over to deliver the baby. This is an EMTALA violation. This female came to the Emergency Department and did not get an MSE to rule out an emergent condition.

The above are examples of possible incidences to reinforce that EMTALA is not just a payment issue. Remember, a negative outcome is not what constitutes an EMTALA violation although; it may lead to potential litigation. In that litigation, it would probably be surmised that the hospital staff operated outside their scope of responsibility by performing a MSE. The EMTALA violation was the patient leaving the ED without an MSE by a qualified physician or mid-level practitioner to determine if an emergent condition exists and if so, stabilization of that emergent condition with transfer to an appropriate facility with an accepting physician.

Oftentimes the ED clerks or security is the first contact in the ED. A simple innocent answering of a question can lead to an EMTALA violation, if that answer causes someone to leave without having a medical screening exam (MSE). EMTALA regulations mandate that anyone entering this

facility or on the facilities property seeking/needing emergency treatment shall have a medical screening exam by a physician to rule out an emergent condition. No, we cannot force someone to stay at this facility. The patient does have a choice. However, we, as employees of a hospital, must exhibit diligence in encouraging a patient to be screened for an emergent condition by a physician or mid-level practitioner. Don't assume the liability of providing a MSE outside your scope of practice. If, despite our best efforts, the person chooses to leave, document the incident either on a LWBS form in the ED, an incident report, or a written report and give it/report it to your supervisor. Be detailed in the description of the incident and the refusal of an MSE if this should occur.

An EMTALA violation can carry severe penalties from Hood Memorial Hospital losing the Medicare certification to a $50,000 dollar fine. Most importantly, as a hospital, patient care and safety should take priority.

All employees need to understand that if someone comes into the ED with a medical complaint and subsequently inquires about a particular service, if a particular physician is here, if they should stay here or go somewhere else the safest answer should be: "Give me just a moment and I will get a nurse to assist you." The nurse's safest answer is "we're going to get you registered and get your vitals so the ED doctor can examine you"

Compliance to EMTALA is a hospital-wide issue.

REFERENCE:

Department of Health and Human Services, CMS, State Operations Manual Appendix V - Interpretive Guidelines - Responsibilities of Medicare Participating Hospitals in Emergency Cases, Rev. 60, 07-16-2010, http://www.cms.gov/manuals/downloads/som107ap_v_emerg.pdf
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