

BATES COUNTY MEMORIAL HOSPITAL
Butler, Missouri

TRAINING MODULE: EMTALA

The Emergency Medical Treatment and Labor Act (EMTALA), also known as the patient antidumping statute, was passed in 1986 as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Congress passed these antidumping requirements in the Social Security Act to ensure that individuals with emergency medical conditions are not denied essential lifesaving services. An individual's rights with respect to examination and treatment for emergency medical conditions and women in labor, must be posted in any emergency department or place likely to be noticed by all individuals entering the emergency department, as well as those waiting for examination and treatment in other areas. The hospital must also post information indicating whether or not it participates in the Medicaid program under a State plan approved under Title XIX.

MEDICAL SCREENING EXAMINATION

When an individual comes to the emergency department and requests an examination for a medical condition, the hospital, within its capabilities, must provide an appropriate medical screening examination by a qualified individual to determine, with reasonable clinical confidence, whether or not an emergency medical condition exists, regardless of the individual's ability to pay and whether or not they are eligible for Medicare benefits. This request may be made on the individual's behalf.

A medical screening examination is an ongoing process that usually begins with triage. Triage involves the clinical assessment of the individual's presenting signs and symptoms, in order to prioritize when the individual will be seen by a physician or other qualified medical personnel. The medical screening examination must be appropriate to the individual's signs and symptoms and may involve a wide spectrum of actions, from a simple examination to a more complex examination that involves elaborate diagnostic testing. The medical screening examination must be the same examination that the hospital would perform on any individual coming to the hospital's dedicated emergency department with those signs and symptoms, regardless of the individual's ability to pay for medical care. Once a medical screening examination has been performed and a physician or other qualified medical personnel has determined that the patient does not have an emergency medical condition, the hospital has no further obligations under EMTALA. The emergency department may then refer the patient to a fast track or non-emergent care facility, another hospital clinic, or the patient's own physician for further treatment.

TREATMENT AND TRANSFER

If an emergency medical condition is determined to exist, the hospital must provide stabilizing treatment within its capabilities to minimize the risk to the individual's health and, in the case of a woman in labor, the health of the unborn child; or transfer the individual to another medical facility. The receiving facility must have available space and qualified personnel for the treatment of the individual and agree to accept the transfer of the individual and provide appropriate medical treatment. The transferring hospital must send to the receiving facility all medical records (or copies thereof), related to the emergency condition, available at the time of the transfer. Other records not yet available or readily available must be sent as soon as possible after the transfer. The transfer must involve qualified personnel and transportation equipment, as required.

A hospital that has specialized capabilities or facilities may not refuse to accept from a referring hospital 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 applies to any hospital with specialized capabilities, regardless of whether the hospital has a dedicated emergency department.

A hospital may only transfer an individual with an unstable emergency medical condition when it is appropriate and the individual (or a legally responsible person acting on the individual's behalf) requests the transfer after being informed of the hospital's obligations and of the risk of transfer. The request must be in writing and indicate the reasons for the request as well as indicate that the individual is aware of the risks and benefits of the transfer. A physician must sign a certification indicating that the medical benefits expected from the receipt of treatment at another medical facility outweigh the risks from being transferred. If a physician is not physically present at the time an individual is transferred, a qualified medical person can sign the certification after consultation with a physician and the physician may then countersign the certification.

Special exceptions are given to transfers during a national emergency and the relocation or direction of individuals to an alternate location for medical screening in accordance with a State emergency or pandemic preparedness plan. If the hospital admits the individual as an inpatient for further treatment or stabilization its obligations under EMTALA end.

DELAY IN EXAMINATION OR TREATMENT

A hospital may not delay providing an appropriate medical screening examination or further medical examination and treatment in order to find out the individual's method of payment or insurance status. The hospital may not seek, or ask an individual to seek, authorization from their insurance company for screening or stabilization services to be furnished by a hospital, physician, or non-physician practitioner until after an appropriate medical screening examination has been provided and any further medical examination and treatment required for the stabilization of the emergency medical condition has been initiated. An emergency physician or nonphysician practitioner may contact the individual's physician to seek advice regarding the individual's medical history and needs as long as this consultation does not inappropriately delay services. Hospitals may follow reasonable registration processes as long as it does not delay examination or treatment.

REFUSAL TO CONSENT TO EXAMINATION, TREATMENT, OR TRANSFER

If an individual (or a person acting on the individual's behalf) does not consent to further examination, treatment, or the transfer to another medical facility, the medical record must contain a description of the examination, treatment, and/or the proposed transfer that was refused. The hospital must take all reasonable steps to secure the individual's written informed refusal. This document must indicate that the person had been informed of the risks and benefits of the examination, treatment, and/or transfer and indicate the reason for the individual's refusal.

AVAILABILITY OF ON-CALL PHYSICIANS

A hospital must maintain a list of physicians on its medical staff who are on-call for duty after the initial examination to provide treatment necessary to stabilize an individual with an emergency medical condition. This on-call list must meet the needs of the hospital's patients in accordance with the resources available to the hospital. Follow your organization's policies and procedures regarding situations in which a particular specialty is not available or the on-call physician cannot respond, the availability of emergency services if the hospital permits on-call physicians to schedule elective surgery during on-call time or have simultaneous on-call duties, and the hospital's participation in a formal community call plan.

TERMINATION OF PROVIDER AGREEMENT

The hospital is obligated to report the receipt of patients whom it has reason to believe may have been transferred inappropriately. In cases where a medical opinion is necessary to determine a physician's or hospital's liability under EMTALA, the Centers for Medicare and Medicaid Services (CMS) will request the appropriate Quality Improvement Organization to review the alleged violation. If it is determined that a hospital failed to fulfill its EMTALA obligations they may be subject to termination of its Medicare provider agreement, which would result in loss of all Medicare and Medicaid payments. The hospital may also face civil monetary penalties.