

EMTALA

REMINER!

OBJECTIVES

- Provide a brief history of EMTALA
- List the requirements of EMTALA
- Differentiate between triage and medical screening exam (MSE)
- Define emergency medical condition (EMC)
- Describe what is an appropriate transfer
 - Identify the penalties that can occur with an EMTALA violation

HISTORY



EMTALA Requirements

EMTALA contains three basic requirements.

- Hospitals offering emergency services must:
 - Provide for an appropriate medical screening exam.
 - Provide necessary stabilizing treatment for emergency medical conditions and labor.
 - Provide for an appropriate transfer of the patient if the hospital does not have the capability or capacity to provide the treatment necessary to stabilize the emergency medical condition.

Additional Requirements

In addition to the basic requirements EMTALA states that hospitals providing emergency care must:

- Not delay examination and/or treatment in order to inquire about the patients insurance or payment status.
- Accept appropriate transfers of patients with emergency medical conditions if the hospital has the specialized capabilities not available at the transferring hospital
- Obtain or attempt to obtain written and informed refusal if the patient refuses examination treatment, or appropriate transfer.

No Delay in Screening

- EMTALA does not prohibit hospitals from inquiring about the patient's method of payment, insurance status or prior authorization from a managed care plan.
- Inquiries shall not delay the provision of a Medical Screening Examination and/or necessary stabilizing treatment.
- If a patient withdraws his or her request for examination or treatment, an appropriately trained individual from the emergency department will discuss the medical issues related to a voluntary withdrawal.

Left Without Being Seen/ Against Medical Advice

An appropriately trained individual from the emergency department will:

- Offer the patient further medical examination.
- Inform the patient of the benefits of the examination and treatment, and of the risks of withdrawal prior to receiving the examination and treatment.
- Ask the patient to sign an informed consent noting the refusal to consent to examination and treatment.
- If the patient refuses to sign the form, a description of risks discussed and of the examination and/or treatment that was refused shall be documented on the form and in the medical record.

Where Did My Patient Go?

If a patient leaves the hospital without notifying hospital personnel.

- Documentation must reflect that the patient had been at the hospital.
- Document the time the patient was discovered to have left the premises.
- Triage notes and additional records will be retained.

Triage vs MSE

- Triage is not equivalent to a medical screening examination.
- Triage merely determines the “order” in which patients will be seen, not the presence or absence of an emergency medical condition.
- The MSE is performed by a physician or qualified medical provider (QMP).

Who Can Perform MSE?

- Emergency Services

- Physician
- Nurse Practitioner
- Physician Assistant
- Resident on Call when the patient is known to be an ongoing patient of the Family Practice Residency.

- Labor & Delivery Services

- Physician
- Registered Nurse with clinical expertise/competency in Labor and Delivery in consultation with the attending physician

MSE

- 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 (EMC) or not.
- The medical screening exam is an ongoing process and the medical records must reflect continued monitoring based on the patient's needs and must continue until the patient is either stabilized or appropriately transferred.

MSE

Screening must be appropriate to the individual's presenting signs and symptoms, as well as the capacity and capability of the hospital.

Depending on the patient's presenting symptoms, the medical screening examination represents a spectrum ranging from:

- simple process- brief history and physical examination
- complex process- ancillary studies and procedures such as (but not limited to) lumbar punctures, clinical laboratory tests, CT scans, and/or diagnostic tests and procedures.

MSE

Elements for a proper medical screening examination:

- Log entry with disposition
- Triage record
- Ongoing record of vital signs
- Oral history
- Physical examination
- Use of all necessary available testing resources to evaluate for an EMC
- Discharge or transfer vital signs

“Comes to the Emergency Department”

There are several ways a patient could fulfill the “comes to” requirement of EMTALA

- Patient presents to a hospital’s dedicated emergency department and requests care for a medical condition.
- Patient is outside the dedicated emergency department but on hospital property within 250 yards of the main building and presents with an emergency medical condition.
- The patient is in a nonhospital-owned ambulance that has arrived on hospital property for examination and treatment of a medical condition.

EMTALA and Transfers

- EMTALA requires Emergency departments to provide an appropriate transfer of the patient if the hospital does not have the capability or capacity to provide the treatment necessary to stabilize the emergency medical condition.
- An “appropriate” transfer is based on four requirements that must be met before a patient can be transferred to a second facility.

Emergency Medical Condition Cont'd

With respect to a pregnant woman who is having contractions:

- That there is inadequate time to effect a safe transfer to another hospital before delivery, or
- That the transfer may pose a threat to the health or safety of the woman or the unborn child.

Other EMC Considerations

- Intoxicated individuals may meet the definition of "emergency medical condition" because the absence of medical treatment may place their health in serious jeopardy, result in serious impairment of bodily functions, or serious dysfunction of a bodily organ.
- It is not unusual for intoxicated individuals to have unrecognized trauma.
- An individual expressing suicidal or homicidal thoughts or gestures, if determined dangerous to self or others, could be considered to have an emergency medical condition.

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Four Requirements

- Stabilizing treatment
- Accepting facility
- Medical records
- Qualified transport team and equipment

Unstable Transfers

There are two instances in which an unstable patient may be transferred

- The hospital does not have the capacity or capability to stabilize the patient and the benefits to be received by transfer outweigh the risk of transfer.
- The patient or his/her representative insists on the transfer even after being informed of the risks of transfer and the hospital's obligations under EMTALA

Requirements of Unstable Transfer

If a patient has not been stabilized the following six conditions must be met before transferring the patient.

- Physician certification that benefits outweigh risks
- Patient consent (the patient must understand the reason for and risks of the transfer)
- Attempt made by the transferring hospital, within its capability, to stabilize the patient to minimize any risks during transfer
- Agreement by the receiving facility to the transfer, assuring its capacity and capability to treat the transferred patient
- Delivery of all medical records to the receiving hospital
- Transfer made with qualified personnel and transportation equipment

EMTALA Signage

- The law requires the emergency department to post signage specifying the rights of individuals with respect to examination and treatment for emergency medical conditions and women in labor.
- The signage should include information indicating whether or not the hospital participates in the Medicaid program.

Hospital-owned ambulance rule

Under this rule, hospital-owned and operated ambulances must transport the patient to the owner- hospital.

- Once ANY TYPE of ambulance has crossed onto hospital property, that patient has PRESENTED for EMTALA purposes and that hospital must provide care consistent with EMTALA.
- Even if a hospital is on formal diversion, a hospital-owned ambulance may not be diverted unless the diversion is based on “community wide” protocols .
- Even if a hospital is on formal diversion and diverts an ambulance or patient, if the ambulance or patient presents anyway, the hospital must provide care consistent with EMTALA.
- CMS is unlikely to accept the rationale of PATIENT CHOICE, regardless of a signed refusal form, if it appears the crew or online medical control suggested or attempted to influence patient choice of a different destination, much as their position on patient-requested transfers.
- The authority of EMS systems to limit their response zones and transport destinations varies by state and local laws.

EMTALA Investigations

The sources of complaints can include:

- A patient or any individual
- A hospital that receives an improper transfer
- A self report from the hospital
- A state surveyor performing a licensure or
- recertification survey

EMTALA Violation Penalties

If the hospital is found to have an EMTALA violation there are penalties such as:

- A hospital may be fined between \$25,000 and \$50,000 per violation
- A physician may be fined \$50,000 per violation
- A hospital may be terminated from its Medicare provider agreement.
- A physician may be excluded from Medicare and Medicaid programs.
- A patient who suffers personal injury from the violation may sue the hospital in civil court.
- A receiving facility, having suffered financial loss as a result of another hospital's violation of EMTALA, can bring suit to recover damages.

Questions?

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