EMTALA
Medical Screening & Provider Responsibilities

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EMTALA

Emergency Medical Treatment and Labor Act

A federal law that requires anyone coming to an emergency department to be stabilized and treated, regardless of their insurance status or ability to pay.
3 Requirements

EMTALA contains 3 distinct requirements:

- The Medical Screening Exam
- The Stabilization Requirement
- The Transfer Requirements
The Medical Screening Exam (MSE)

- The purpose of the medical screening examination is to determine whether or not an emergency medical condition exists.

- Patient care usually involves a continuum of assessment, testing, and reassessment before a provider can reasonably be assured that a true medical emergency does not exist.
MSE

• The revised guidelines recognize that the MSE is usually an ongoing process rather than an isolated event and the medical record must reflect continued monitoring according to the individual’s needs until it is determined whether or not the individual has an emergency medical condition.

• The rules state that “the extent of the necessary examination is generally within the judgment and discretion of the qualified medical personnel performing the examination.”

• EMTALA does not specify what is to be included in screening procedures.
Elements of a MSE:

• Log entry with disposition
• Triage record
• Ongoing recording of vital signs
• Oral history
• Physical exam
• Use of all necessary available testing resources to check for an emergency medical condition
• Use of on-call physicians as needed
• Discharge or transfer vital signs
• Adequate documentation of all the above
MSE

- Emergency providers need to document not only actual tests and procedures but also their reasoning as to why certain tests are NOT indicated or specialist not required.

- The essence of the requirement is that there be some screening procedure, and that it be administered even-handedly and consistently across all patients with similar presenting clinical symptoms.

- An appropriate medical screening examination will vary according to the condition and past history of the individual and the capabilities of the hospital’s emergency department.
MSE

• To qualify as appropriate, a medical screening examination need only be uniform, reasonable, and made available to all similarly situated patients.

• EMTALA governs non-uniform treatment, not incorrect treatment.

• EMTALA screening requirements apply regardless of whether a request for examination or treatment is made for an emergency, as opposed to a nonemergency condition.
MSE

• Once the individual is screened and it is determined that the individual has only presented to the ED for a non-emergency purpose, the hospital’s EMTALA obligation ends.

• Hospitals are not obligated under EMTALA to provide screening services beyond those needed to determine that no emergency medical condition exists.

• A hospital may be exempted from its EMTALA obligations to screen individuals presenting to its dedicated emergency department if the individual has a previously scheduled appointment.
MSE

- The MSE examination must be performed by a qualified medical provider. However qualified personnel are not secretaries, greeters, volunteers, security guards, and other non-medical personnel.

- Triage involves the ranking of patients, who may or may not have an EMC, in the order in which they will be seen.
Federal law mandates that Medicare, managed care, and other health plans must pay for emergency services that are pursued by patients based on the “prudent layperson standard” which means that the need for emergency care is determined reasonable based on a patient’s perspective of the need for that care at the time symptoms are present.
Hospitals are not required by EMTALA to provide medication to individuals who do not have an emergency medical condition simply because the individual is unable to pay or does not wish to purchase the medication from a retail pharmacy or did not plan appropriately to secure prescription refills.
Call Provider Responsibilities

• EMTALA mandates hospitals to provide and enforce on-call schedules (section 1395dd).

• The hospital needs to ensure that specialists take a reasonable amount of call.

• All specialties and subspecialties represented by the active medical staff must be included on the daily on-call list for the emergency department.
• Physician’s EMTALA obligations are derived from their contractual relationship with the hospital.

• By accepting the hospital medical staff privileges and responsibilities under the hospital bylaws, physicians can be deemed agents of the hospital when they act under the on-call basis.

• Once the physicians assume on-call duty, they face EMTALA fines and risk being dropped from Medicare participation.
• On-call physicians have a legal responsibility to patients they never directly treated. (i.e. if the patient experiences an untoward outcome because the on-call physician failed to come in when requested, that on-call physician can be held legally responsible).

• The hospital policy should also define the actions the emergency department should take if the on-call physician refuses to come to the department when requested or fails to respond to a call.
• Transferring a patient to another hospital if an on-call physician fails his or her duty is an unquestionable violation of EMTALA.

• Unreasonable delays in response to call from the emergency department resulting in patient injury are EMTALA violations.

• Hospitals are responsible for ensuring that on-call physicians respond within a reasonable period of time.
• The expected response time should be stated in actual minutes in the hospital’s policies.

• A layered response time, such as 30 minutes for Stat response and 60 minutes for routine medical conditions may work.

• The hospital must be diligent in enforcing its response time policies when a staff physician abuses them.
• On-call physicians **CANNOT** engage in delay tactics such as:
  
  ➢ Debating with the emergency department physician on the necessity of coming to the hospital,
  
  ➢ Ordering that the patient be transferred to another hospital because of severity or scope of condition,
  
  ➢ Offering only office follow-up,
  
  ➢ Insisting on another specialist consult before coming to the hospital.
• If the on-call physician refuses to come to the hospital and the emergency physician is forced to transfer the patient for emergency care, EMTALA mandates that the name and phone number of the refusing on-call physician be documented on the chart.

• Failure to report the on-call physician subjects the emergency physician as well as the receiving hospital to EMTALA penalties.

• Elective surgeries cannot be stacked to render the physician continuously unavailable during call.
For more information on EMTALA, please visit:

- www.cms.gov/emtala
- www.acep.org/emtala