



## ADMINISTRATIVE POLICY MANUAL

Subject: EMTALA

**Effective Date:** October 2, 1996  
**Approved by:** Executive Vice President/COO  
**Responsible Parties:** Director, Risk Management  
**Revised Date:** 7/01, 1/02; 9/6/10; 4/14/16  
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The following policy is in compliance with the Emergency Medical Treatment and Active Labor Act ("EMTALA"), 42 USC Section 1395dd and 42 CFR Section 489.24.

### PURPOSE

Delineation of procedure for the provision of **medical screening examination** and treatment to any individual who presents to Peninsula Regional Medical Center, hereinafter referred to as "Hospital" and requests examination or treatment for a medical condition, including a psychiatric condition, in compliance with EMTALA.

#### A. **RIGHT OF INDIVIDUALS UNDER EMTALA:**

Under EMTALA, an individual will receive, regardless of the patient's ability to pay, within the capabilities of the Hospital's staff and facilities:

1. An appropriate medical screening examination by qualified medical personnel, including ancillary services routinely available to the Hospital to determine whether or not an **emergency medical condition** exists;
2. Necessary stabilizing treatment for **emergency medical condition** (including treatment for an unborn child); and
3. If necessary, an **appropriate transfer** to another facility.

#### B. **PATIENT REFUSAL UNDER EMTALA:**

The Hospital will take reasonable steps to secure the written consent of the patient or the legally qualified individual acting on behalf of the patient ("the patient's representative"), in the following situations:

1. If the patient or the patient's representative is offered further medical examination and treatment and, after being advised of the risks and benefits of such examination and treatment, the patient or the patient's representative refuses to consent to the examination and treatment; or
2. If the patient's medical condition is such or circumstances are such, that further medical examination and treatment cannot be provided by the Hospital, and after being advised of the risks and benefits of an appropriate transfer, the patient or the patient's representative refuses to consent to the appropriate transfer.

The Hospital will take all reasonable steps to secure the patient's written informed consent to a refusal as defined above.

## DEFINITIONS

- A. **Capacity** means the Hospital's ability to accommodate the patient's request for examination or treatment. Factors used to determine **capacity** include but are not limited to number and availability of qualified staff, availability of beds, equipment, supplies and the System's past practices of accommodating additional patients in excess of its occupancy limits.
- B. **"Comes to the Emergency Department"** or "Comes to Peninsula Regional Medical Center" requesting an examination or treatment for a medical condition means coming to the entire Hospital premises, including the parking lots, sidewalks, and driveways, as well as any facility or organization that is located off the main Hospital campus, that has been determined to be a Hospital department. The request may be made by the patient or by another on behalf of the patient.

A patient in a non-hospital owned ambulance/helicopter who has arrived on hospital property is considered to have **come to the Emergency Department**. If a member of the ambulance staff contacts the Hospital's Emergency Department by telephone or telemetry communications prior to arrival onto the Hospital property and informs the Hospital's Emergency Department that it has a patient to transport to the Emergency Department for examination and treatment, Hospital may divert the ambulance/helicopter prior to arrival as set forth in the Admission Restriction/Diversionary/Fly By status; that is, it does not have the staff or facilities to accept any additional patients at that time. If the ambulance staff disregards the Hospital's instructions and transports the patient to the Hospital's property, the patient is considered to have come to the Emergency Department.

250 Yard Rule – If an individual who is not a hospital patient comes elsewhere on **hospital property** (that is, the individuals comes to the hospital but not to the dedicated Emergency Department), an EMTALA obligation on the part of the hospital may be triggered if either the individual requests examination or treatment for an **emergency** medical condition or if a prudent layperson observe would believe that the individual is suffering from an **emergency** medical condition. The term "hospital property" means the entire main hospital campus, including the parking lot, sidewalk and driveway or hospital departments, **including any building owned by the hospital that are within 250 yards of the hospital**.

- C. An **emergency medical condition** is defined by federal statute as follows:
1. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain), such that the absence of immediate medical attention could reasonably be expected to result in:
    - a. placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
    - b. serious impairment of bodily functions; or
    - c. serious dysfunction of any bodily organ or part; or
  2. In case of a pregnant woman who is having contractions:
    - a. that there is inadequate time to effect a safe transfer to another hospital before delivery; or
    - b. that the transfer may pose a threat to the health or safety of the woman or the unborn child.

If a determination is made that the patient has an **emergency medical condition**, Hospital shall take the appropriate steps **to stabilize** the medical condition and/or

arrange for an **appropriate transfer** of the patient to another medical facility in accordance with EMTALA.

- D. **Medical Screening Examination** means the process required to reach with reasonable clinical confidence, the point at which it can be determined whether an **emergency medical condition** as defined herein does or does not exist. The **medical screening** process shall be conducted in a nondiscriminatory manner.

With regard to a medical screening examination of a **minor** who is not accompanied to the Hospital by his/her parent or legal guardian, EMTALA is a federal law, and under the United States Constitution Supremacy Clause, federal law preempts or supercedes state law. Therefore, a **medical screening examination** must be completed on any minor who requests examination or treatment of a medical condition. Hospital should attempt to contact the minor child's parents or legal guardian but should never delay the **medical screening examination** to obtain parental consent. If the **medical screening exam** reveals no **emergency medical condition**, then attempts should be made to obtain the appropriate consent before proceeding with further evaluation and treatment. If an **emergency medical condition** is found to exist, the condition should be treated and stabilized without delay.

- E. **Qualified Medical Personnel (QMP)** means those individuals who are designated to perform the **medical screening examination** by the Hospital's Board of Trustees through the Medical Staff Bylaws.
- F. **"To Stabilize"** means to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result or occur during from the transfer of the patient from the Hospital, with respect to an **"emergency medical condition"** or with respect to an **emergency medical condition** in the case of a pregnant woman, the patient will not deliver the child and the placenta.
- G. **Transfer** means to move (including the discharge) a patient outside Hospital facilities at the direction of any person employed by (or affiliated or associated, directly, indirectly, with) the Hospital, but does not include such a movement of a patient who has been declared dead, or a patient who leaves the Hospital against medical advice.
- H. An **appropriate transfer** is a transfer to another medical facility in which:
1. The transferring facility provides the medical treatment within its capacity which minimized the risks to the patient's health and, in the case of a woman in labor, including the health of the unborn child;
  2. The receiving facility has available space and qualified personnel for the treatment of the patient and has agreed to accept transfer of the patient and to provide appropriate medical treatment;
  3. The transferring facility sends to the receiving facility copies of all medical records, related to the **emergency medical condition** for which the individual has presented, copies of medical records available at the time of the transfer, including records related to the patient's emergency medical condition, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of any tests, the informed written consent of the patient to the transfer, the name of the accepting and transferring physicians and the name, if any, and address of any on-call physician who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment; and

4. The transfer is effected utilizing qualified personnel and transportation equipment, as required including the use of necessary medically appropriate life support measures during the transfer.
5. A Transfer Form must be completed, signed by the transferring physician, the transferring nurse and the patient or the patient's representative prior to transport. The patient or the patient's representative must consent to the release of the medical records to the receiving hospital. A copy of the transfer form and the consent for release of the medical records must accompany the medical records described herein.

The **transfer** process must be completed in compliance with the Patient Transfer to Another Acute Health Care Facility policy and procedure (Administrative Policy Manual, page 170).

#### DIVERSION (ADMISSION RESTRICTION/FLY BY)

- A. Diversion by the Hospital shall mean closure of the Hospital's Emergency Department for ambulance/helicopter traffic prior to the arrival on the Hospital premises due to lack of staff or facilities to accept any additional patient as set forth herein. If the ambulance/helicopter disregards the Hospital's instruction to divert, and transports the patient onto the Hospital's premises, the patient may not be diverted, but must be provided an appropriate **medical screening examination** for purposes of identifying an **emergency medical condition** and appropriate transfer in compliance with EMTALA.
- B. Diversion **shall not occur except as set forth herein**. A decision to divert ambulance/helicopter traffic will be made by the Emergency Room Physician and the Administrator on call, and shall be made only under the following situations:
  1. Where the Hospital has no **capacity** to accommodate the ambulance patient's request for examination or treatment and/or;
  2. Where services are likely to be necessary in ancillary department (CT scanning, MRI, or surgical rooms) are not available.

Hospital **may not refuse** to accept an **appropriate transfer** of a patient who requires the specialized care available through the Hospital's trauma services and in Hospital's neonatal intensive care unit including an unborn child, if the Hospital's neonatal intensive care unit has the **capacity** to treat the patient.

If a patient **comes to the Emergency Department**, either by means of ambulance/helicopter or otherwise, once a diversionary status has been established, an appropriate **medical screening examination** within the **capacity** of the Hospital, including ancillary services routinely available to the Emergency Department will be completed to determine whether or not an **emergency medical condition** exists.

- C. Maximum Capacity Plan

For policy and procedure when patient census reaches 227 or higher, please See Maximum Capacity Plan, Nursing Policy and Procedure, page number G-11.

#### TRANSFER OF AN UNSTABLE PATIENT

The Hospital may not transfer a patient with an **emergency medical condition** who has not been **stabilized** unless the transfer complies with the requirements set forth above and:

- A. Medically indicated transfer: A physician signs a certification that, based upon the information available at the time of the transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another facility

- outweigh the increased risks to the patient and, in the case of labor, to the unborn child from effecting the transfer; or
- B. Non-medically indicated transfer: The patient or legally qualified individual acting on behalf of the patient, after being informed of the Hospital's obligation under EMTALA and the risk of transfer, makes a written request for transfer to another medical facility setting forth the reason(s) for the request as well as indicating he/she is aware of the risks and benefits of the transfer; or
  - C. If a physician is not physically present in the Emergency Department at the time an individual is transferred, a qualified medical personnel has signed a certification after a physician in consultation with that individual, has made the determination described herein and subsequently countersigns the certification.

The certification shall contain a summary of the risks and benefits upon which the certification was based.

## PROCEDURE

### A. PATIENT EVALUATION AND TREATMENT

When an individual comes to the Emergency Department seeking medical treatment, the Hospital will prepare a central log which will include a list of all persons seeking treatment. The Hospital will provide a triage assessment and a **medical screening examination** to determine whether the individual has an **emergency medical condition**. Hospital shall not delay providing the **medical screening examination** or **stabilizing** treatment to inquire about the patient's method of payment or insurance status. The Hospital **will not send away** any patient from the Emergency Department without triage, a **medical screening examination** and/or further **stabilization** which may be required under EMTALA. Should the patient refuse such treatment, the Hospital will make every effort to obtain the patient's signature on a Refusal of Medical Treatment form. The event will be documented in an appropriate medical record.

1. A **qualified medical personnel (QMP)** that has been designed as a **QMP** in accordance with the Hospital's Medical Staff Bylaws will perform the **medical screening examination**.
2. If the **QMP** determines that the patient does not have an **emergency medical condition**, this policy ceases to apply.
3. If the **QMP** determines that the patient has an **emergency medical condition**, the Hospital must provide either:
  - a. Such additional medical treatment that is within the capabilities of the available staff and facilities, and that is necessary to stabilize the medical condition, or
  - b. Appropriate transfer of the individual to another medical facility.
4. If the **emergency medical condition** is stabilized, this policy and EMTALA cease to apply.

### B. NOTICE WITHIN THE HOSPITAL

It is the responsibility of a relevant ancillary service related to trauma or patient care of the critically ill, to notify the Nursing Service Supervisor when services are unavailable, including the estimated time when such services shall become available. The Nursing Service Supervisor will then notify the Emergency Department Charge Nurse and other hospital staff as necessary.

## C. COMMUNITY NOTICE

If a decision is made to divert ambulance traffic as set forth in this policy, the Hospital's Nursing Service Supervisor shall provide notice of this diversionary status to the following entities:

1. SYSCOM (1-800-648-3001);
2. Delaware Trooper 2 (1-302-856-6306);
3. The hospital's on-call trauma surgeons;
4. The Administrator on-call; and
5. Other area ambulance services and hospitals as appropriate

If an ambulance contacts the Hospital while enroute while the Hospital is in diversionary status, the ambulance is to be diverted to another appropriate facility based upon the patient's need at that time; however if an ambulance contacts the Hospital after arriving on the Hospital's premises, the patient will not be diverted and will be seen in the Hospital's Emergency Department in accordance with this policy and the policy entitled "Patient Transfers to Another Health Care Facility other Than from Emergency Department", page 170 of the Administrative Policy Manual.

An appropriate **medical screening examination** will be conducted as set forth herein in order to determine if the patient has an **emergency medical condition**. If it is determined that the patient has an **emergency medical condition** and if the additional examination and treatment necessary to treat the **emergency medical condition** cannot be provided by the Hospital, the patient will be **stabilized** within the **capacity** of the Hospital and arrangements will be made by the transferring physician, supported by the nursing and administrative staff, for an **appropriate transfer** to another medical facility.

## CENTRAL LOG

A central log is kept by the hospital on each individual who – comes to the Emergency Department seeking assistance and whether he or she refused treatment, was refused treatment, or whether he or she was transferred, admitted and treated, stabilized and transferred, or discharged. The purpose of the central log is to track the care provided to each individual who comes to the hospital seeking care for an emergency medical condition.

The central log includes, directly or by reference, patient logs from other areas of the hospital that may be considered dedicated emergency departments, such as Pediatrics and Labor and Delivery where a patient might present for emergency services or receive a medical screening examination instead of in the "traditional" Emergency Department.

## POSTING OF SIGNS

Appropriate EMTALA signs will be posted in the hospital. These signs will specify the rights of individuals with EMCs and women in labor.

To comply with the requirements Hospital signage must at a minimum:

- Specify the rights of individuals with EMCs and women in labor who come to the Emergency Department for health care services;
- Indicate whether the facility participates in the Medicaid program;
- The wording of the sign(s) must be clear and in simple terms and language(s) that are understandable by the population served by the Hospital; and
- The sign(2) must be posted in a place or places likely to be noticed by all individuals entering the Emergency Department, as well as those individuals

waiting for examination and treatment (e.g., entrance, admitting area, waiting room, treatment area).

#### OTHER RELEVANT POLICIES

- A. ADMISSION RESTRICTION POLICY  
Administrative Policy Manual
- B. MAXIMUM CAPACITY PLAN  
Nursing Policy and Procedure Manual
- C. PATIENT TRANSFERS TO ANOTHER ACUTE CARE FACILITY  
Administrative Policy Manual
- D. INTENSIVE CARE UNIT ADMISSION RESTRICTION POLICY  
Intensive Care Unit Policy and Procedure Manual
- E. MARYLAND REGION ALERT STATUS SYSTEM  
Emergency Department Policy and Procedure Manual
- F. CODE OF ETHICAL CONDUCT  
Employee Handbook
- G. DISCHARGE AGAINST MEDICAL ADVICE
- H. BLOOD ALCOHOLS LEVELS

#### PENALTIES FOR NON-COMPLIANCE

Potential violations of the EMTALA and other state and federal regulations may subject the Hospital to civil money penalties up to \$50,000.00 for each violation. Violations by any physician who is responsible for the examination, treatment, or transfer of a patient, including an on-call physician, who negligently violates the statute is subject to a civil money penalty up to \$50,000.00 for each violation and, if the violation is gross and flagrant or is repeated, to exclusion from participation as a Medicare Provider.

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