

EMTALA

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Disclosures

- None relevant to this Talk
- Thanks to Dr. Corey Slovis for slides

Emergency Medicine Treatment and Labor Act

EMTALA was created to prevent
“dumping” of patients onto another facility

To avoid women in labor being denied care

To ensure anyone who presents to an ED
with an emergency is evaluated for an
Emergency Medical Condition (EMC)

Hospital Responsibilities

- The hospital bears the burden of seeing that its emergency department has on-call coverage.
- EMTALA does not require physicians to serve on-call.
- Physician on-call service can only be mandated by medical staff bylaws and related documents, or by contract.

Responsibility of On-call Physician

- **MUST** respond to the hospital in a timely manner when requested to attend to patients and complete a medical screening examination or provide stabilizing care.
- **If transferring, MUST** discuss the case with the receiving hospital's authorized representative and obtain agreement to accept the patient in transfer.
- On-call physicians who are charged with the duty to accept patients transferred from other facilities, may not refuse any unstable transfer as long as their hospital has the capability and capacity to provide treatment

Penalties

- Termination of the hospital and/or physician Medicare provider agreement.
- Imposition of civil monetary penalties against a hospital of \$50,000, per violation.
- Civil monetary penalties for physicians can be up to \$50,000 per violation.
- On-call physicians responsible for examination, treatment, or transfer of an individual are subject to potential civil fines of up to \$50,000 per violation for failing to come to the hospital, and may be excluded from Medicare.

Malpractice Insurance does
NOT cover a \$50,000
EMTALA fine

How can you clearly and “legally” transfer a patient and not look like you tricked the patient, family or receiving hospital into doing your work or saving a consultant from doing his or her job

Can you reasonably prove that you didn't "dump" the patient on someone else?

Paint the picture with all required elements in an organized, well thought out, predetermined format

The 5 Documentation Requirements

1. Medical screening exam with attempt to stabilize
2. Reason transfer needs to occur
3. Agreement of patient and accepting facility
4. A listing of all tests/studies you are sending
5. The how and why of transfer mode

Preventing an EMTALA Violation

Document an appropriate
medical screening exam
and stabilization or
attempt to stabilize

The Medical Screening Exam

EDs must provide every patient an “appropriate medical screening exam” within the ED’s capability, including all routinely available ancillary services to determine whether or not an emergency medical condition (EMC) exists

Who Can Do the MSE

Triage by an RN is not an MSE

The MSE must be done by someone who is a qualified medical professional and who is formally designated by the hospital's governing board to perform MSEs

MSE

- Exam must be complete enough to “reasonably calculate” whether an EMC exists
- Screening must be uniform for all patients with similar complaints

Clearly state you did a Medical Screening Exam and what that entailed.

Clearly state that the patient did or did not have an EMC

Preventing an EMTALA Violation

Document clearly why
you need to transfer

After his **medical screening exam**, including a full H and P (in ED record), I knew we had to transfer this patient to a higher level of care because he has an **emergency medical condition**. We have stabilized his vital signs and relieved his pain but cannot provide definitive care as we do not have a *specific physician specialist* capable of treating him

Do This

I called our orthopedist who is in the OR and will not be out of surgery for many hours. His only back-up is not in town this weekend

This patient may deteriorate or become infected if not operated upon soon. For this reason, I am going to begin a transfer for an **Emergency Medical Condition**

Don't Do This

“I examined the patient and saw that the patient needed to be transferred as we have no orthopedist for this patient”

Know Your On-call List

- Document who you called
- Document what they said
- Document why they were not available
- Call Chief of Staff if in trouble

Always Say This

The benefits of transfer outweigh
the risks because...

Do This

The patient has been stabilized to the best of our ability but needs a higher level of care by a hand specialist. We do not have any hand surgeons and do not have the expertise to care for this critically injured patient.

Clearly the benefits of transfer outweigh the risks.

Preventing an EMTALA Violation

Document

- You have obtained agreement from the patient to be transferred
- The receiving hospital physician to accept and care for patient

I have discussed transfer with the patient and her husband. They are aware that a higher level of care is in their best interest. Dr. Joan Smith at University Hospital and I spoke. **She has agreed to accept the patient in transfer**

Preventing an EMTALA Violation

Document what you are sending

- Signed transfer agreement
- H & P, Lab Tests, CXRs, CTs, ECGs, notes, etc.

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