

# Effects of emtala on healthcare essay



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### Executive Summary:

On August 29, 2003, the Center for Medicare & Medicaid Services (CMS) published the revised EMTALA obligations for the perusal of hospitals and doctors. In summary, these regulations try to define the cases where EMTALA is applicable, and also the circumstances and situations that warrant its application. The statutes framed therein define the obligations of various parties in a variety of emergency situations and conditions. In effect, the statutes

Address prior authorization obligations on delivery of healthcare; Clarify what is expected of “Dedicated Emergency Departments” Makes clear the application of EMTALA to inpatient, outpatient, provider based, and other hospital facilities Re-defines on-call obligations and the responsibility of on-call physicians Explains its applicability to hospital owned ambulances And finally, elucidates requirements during national emergencies and other contingencies.

### Effects of EMTALA on Healthcare

The Emergency Medical Treatment and Active Labor Act (EMTALA) is an important legislation that governs a healthcare professional's code of conduct in dealing with a patient in an Emergency Room. It defines the conditions and circumstances under which a patient may be denied treatment or transferred to another hospital.

The EMTALA is part of the Consolidated Omnibus Budget Reconciliation Act (COBRA) that was passed in 1986. EMTALA has a broad range of implications

that determines the provisions of emergency care treatment for patients, including the ones who are registered under Medicare. It has to be remembered that EMTALA is applicable only to hospitals and other medical centers that have entered into “ provider agreements” with the Federal government. The Federal government agency The Department of Health and Human Services provides payment to these hospitals for treatment provided to patients enrolled with their program. Since a majority of the American demography are beneficiaries of one program or the other offered by this government agency, hospital managements don't have an option other than adopting EMTALA rules and regulations in dealing with patients (Rosenbaum, 2003). So, when hospitals are bound by the EMTALA, they cannot overlook patient needs in favor of monetary gains. In other words, patients needing critical care and immediate attention cannot be turned away or directed to other hospitals just because they are not in a position to pay for the services. In this sense, the Act can also be interpreted as a “ non-discrimination statute”. The Act ensures that patients who are subscribed to government insurance programs get all the benefits that are afforded by private insurance programs (Westfall, 2003).

Some of the essential provisions under EMTALA are as follows:

All patients who are brought to a hospital under an emergency situation should be properly screened so as to determine the exact nature and intensity of their medical condition. If the condition is deemed an emergency, then the patient “ should” be provided with all necessary care that is required at that moment. Only when the patient recovers to a state of stability can the hospital management delve into such matters as his/her

health insurance, etc. If the results of the screening examination don't term the condition as an emergency, then the hospital is allowed to act as per its internal policies. In case the patient being brought in is a woman in active labor, then it is imperative on part of the hospital to cater to all the needs of the patient till she delivers (Bristol, 2006).

There are some other technical qualifiers attached with EMTALA. One such is that the screening examination must be carried out only by a qualified medical officer as recognized by the government. This means that the medical officer should meet all the requirements of 42 CFR 482. 55. Another requirement imposed on the hospital is to display signs within the hospital premises where patients can learn about their rights under EMTALA (Westfall, 2003).

Some clear criteria are set under the Act to determine if a medical condition is an emergency or not. Although the process of arriving at a conclusion is a medical one based on scientific facts, the criteria under the statute provides a legal framework. For example, the statute explicates the criteria to determine an emergency condition thus:

“ 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 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, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part, etc... 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 her unborn child.” (Bristol, 2006)

The criteria for “ stability” are different for patients suffering from psychiatric illnesses when compared to those brought in for organic traumas. For psychiatric cases, a patient is declared “ Stable for discharge” when he/she is not regarded as a threat to self and others. Similarly, the emergency physician can declare a patient “ Stable for transfer”, when the patient is sufficiently protected from injuries during transfer. In other words,

“ 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 from or occur during the transfer of the individual from a facility, or . . . with respect to a pregnant women who is having contractions, to deliver (including the placenta).” (Rosenbaum, 2003)

The key words in the provisions for women in active labor are “ safe transfer”, “ inadequate time” and “ threat to health or safety”. With such clear framing of sentences, the statute leaves no room for ambiguity or misinterpretation. EMTALA is equally explicit about patient transfers. The following are the conditions stated by the statute for patient transfer:

1. (For emergency medical conditions) “ that no material deterioration of the patient’s condition is likely to result from the transfer or is likely to occur during the transfer”,

2. (For patients in active labor) “ the infant and the placenta have been delivered” (Hampers, 2002).

It is important to note that while EMTALA is applicable to the hospitals and the hospital administrators, physicians are also liable for incidents of noncompliance. Since all private hospitals are also business corporations, the laws applicable to the latter are also applicable to the former. Some of the clauses in the Act do specifically mention the conduct expected of physicians. For example, Section 1395dd (d)(1)(C) mentions that penalties could be imposed on the physician who has failed to respond to the emergency situation according to the statute. Physicians who transfer patients even if the situation does not warrant it can be made accountable for their actions (Hampers, 2002).

Physicians can also be held liable for negligence and incorrect diagnoses. Physicians are also covered under the State malpractice law for negligence and wrong diagnoses. Since the scope for the State law is broader than EMTALA, medical personnel who meet EMTALA requirements can still face punitive action under the State malpractice law. Summers v. Baptist Medical Center of Arkadelphia case is a classic example of punitive action against emergency healthcare personnel for an inadequate process of screening examination. In this case,

“...an examination of a patient who had fallen from a tree stand while hunting was allegedly incomplete because a chest x-ray had not been included when a set of spinal x-rays was ordered. The physician did not believe that the patient had any fractures, and discharged him home, with

instructions. There was no transfer to another facility involved. The patient presented at another hospital two days later, and he was diagnosed with an acute comminuted vertebral fracture, a sternal fracture, and bilateral hemopneumothoraces secondary to untreated rib fractures.” (www. emtala. com, 2003)