

EMTALA



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Objective

To educate on EMTALA using practical scenarios

Disclosure



**EMERGENCY
EXCELLENCE**

EMTALA

The Emergency Medical Treatment and Active Labor Act

- Passed in 1986, significant updates every few years
- Initial goal was to prevent hospitals from refusing to treat patients or transferring them to "charity hospitals" because they are unable to pay or are covered under the Medicare or Medicaid programs
- Up to \$50,000/violation fine for noncompliance (civil penalty) and potential to be barred from government payer programs

Unfunded Mandate

Emergency Physicians provide \$138,300 a year in EMTALA-related charity care (May 2003 study-higher now)

Average physician provides ~ \$25,000 a year in EMTALA-related charity care

Hospital costs are higher but they receive some reimbursement for charity care

Public's understanding of "free care" under EMTALA has likely contributed to ED overcrowding



EMTALA Trends

- EMTALA claims are increasingly being filed along with standard medical malpractice lawsuits
- Hospital screen-out practices are becoming common, raising EMTALA exposure to emergency physicians
- The current federal leadership may be open to pie-in-the-sky ideas such as offering medical malpractice immunity or even writing off bad debt for EMTALA-mandated care



EMTALA

Any patient who "comes to the ED" requesting "examination or treatment for a medical condition" must be provided with "an appropriate medical screening examination" to determine if he/she is suffering from an "emergency medical condition".

If so, then the hospital is obligated to either provide treatment until the patient is "stable" or transfer the patient to another hospital with a higher "capability."

Hospitals with a higher "capability" are required to accept unstable patients for transfer.



Emergency Medical Condition

"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, or

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."



EMTALA Questions

What can the emergency physician do when a needed on-call physician is not available?



EMTALA Questions

Under EMTALA, all physicians or “approved” providers are required to evaluate every patient if they are contacted by the emergency physician. However, an on-call physician with approval of their hospital, may take simultaneous call with other hospitals, and schedule elective surgeries. This may lead to a lack of on-call support to the ED, as specialists may be responding to consults in other hospital EDs or in the middle of an operation.

The emergency physician must do whatever they can to stabilize and treat the patient within their scope of practice. If the on-call specialist will not be available, the emergency physician must decide whether a transfer to another hospital would be appropriate. Another alternative would be to admit the patient to the hospital. When a patient is admitted to the hospital, the emergency physician’s obligation under EMTALA ceases to exist. The best course of action will depend on the urgency and importance of the needed interventions; a critical patient with an epidural hematoma needs a transfer to a facility with an available neurosurgeon, while it would likely be appropriate to admit a patient with a closed hip fracture to the hospital even if they may not be seen by an orthopedist until the next day.



EMTALA Questions

You have diagnosed a patient with appendicitis. You have an on-call surgeon who is available to take the patient to the OR. The patient requests transfer to another hospital. If you transfer this patient, are you committing an EMTALA violation?



EMTALA Questions

No. If the transfer is done at patient request, EMTALA does not apply.

EMTALA Questions

You have diagnosed a patient with appendicitis. You have an on-call surgeon who is available to take the patient to the OR. The patient requests transfer to another hospital. You attempt to transfer the patient to another hospital. The other hospital refuses the transfer. Is the other hospital committing an EMTALA violation?



EMTALA Questions

No. The receiving hospital has no obligation to accept a transfer based on patient request/preference, if the transferring hospital has the capability to care for the patient.

EMTALA Questions

You have evaluated a patient for an ankle injury. Xrays are performed and are negative. You apply a splint and provide a prescription for NSAIDs. The patient is unhappy with your care and demands transfer to another hospital. Under EMTALA, should you transfer this patient?



EMTALA Questions

No. The patient has had an appropriate medical screening examination and no emergency medical condition has been identified. Your obligations under EMTALA have been satisfied. You have no obligation to transfer the patient, and any receiving hospital would have no obligation to accept the patient.



EMTALA Questions

Can a non-physician accept or reject transfers on the hospital's behalf?



EMTALA Questions

Under EMTALA, it is the hospital, not the physician, who has the obligation to accept all appropriate transfers. The hospital can delegate this responsibility to whomever it chooses but is liable for their decision. The person designated to accept or reject transfers may be the emergency physician, the on-call physician, an administrator, a nursing supervisor, an admitting office, or a transfer team. Since the hospital must have the capacity and resources to care for the patient, it is recommended that whomever is designated to accept transfer has a up-to-date awareness of the hospital's status at that time. In addition, we strongly recommend that the hospital designate in writing who can accept or reject transfers on its behalf, and also who CANNOT accept or reject transfers, and communicate this information to the sending hospitals.



EMTALA Questions

Your patient is vomiting massive amounts of blood from suspected esophageal varices. His blood pressure is 70/40. You have no GI doc on-call. Under EMTALA, can you transfer this unstable patient?

EMTALA Questions

Yes. EMTALA permits the transfer of unstable patients to a facility that offers additional needed capability that your hospital does not have (i.e. GI doc on-call) if the anticipated benefits of transfer outweigh the risks. However, you still have an obligation to attempt to stabilize the patient to the best of your capability (IVFs, transfusion, etc.)



EMTALA Questions

Does EMTALA apply to an admitted patient who has an emergency medical condition?



EMTALA Questions

EMTALA does not apply to a patient in the ED or anywhere else, who is currently admitted to the hospital.

However, EMTALA DOES apply to patients admitted via the ED as "observation" status, as these patients are not technically considered admitted by CMS.



EMTALA Questions

A 15 year old presents to the ED with abdominal pain. Their parent is not with them. Should you perform a MSE or wait until the parent can give permission?



EMTALA Questions

Under EMTALA, an emergency physician should conduct a MSE on any unaccompanied minor who requests examination. The MSE should not be delayed while attempting to contact a child's parents, no matter how trivial the complaint. If the MSE identified an emergency medical condition (EMC), then the physician should begin evaluation and treatment, without waiting for parental consent. If the MSE reveals no EMC, then the physician can wait to obtain proper consent from the minor's parents before proceeding with further evaluation and treatment.



EMTALA Questions

Does EMTALA apply if a patient is in the ED for “outpatient” laboratory testing or imaging, or hospital services such as blood pressure screening or sexual assault evidence collection?



EMTALA Questions

EMTALA does not apply unless the patient or any other person requests a medical evaluation. In situations where the patient is unable to voice a request, EMTALA applies if a prudent layperson would believe the person needs examination or treatment of a medical condition. If a patient presents for hospital services such as blood pressure screening or sexual assault evidence collection, EMTALA does not apply, as the patient is not seeking medical evaluation. However, if the patient also voices a medical complaint (ie. pelvic pain or STD prophylaxis) EMTALA will then apply, obligating a medical screening examination.

In today's litigious climate, it is recommended that the hospital document that the patient is not requesting a medical screening exam. This can be accomplished by having the patient sign a separate consent to treatment form that states that the patient understands his or her rights under EMTALA, is not requesting a medical screening exam to evaluate for an emergency medical condition, may change their mind at any time, and is requesting a specific hospital service distinct from a medical screening exam.



EMTALA Questions

Are all individuals (including special populations such as undocumented aliens, prisoners, minors) seeking treatment in the ED covered by EMTALA?



EMTALA Questions

Yes. EMTALA applies to ALL individuals, regardless of insurance status. EMTALA applies to all patient populations, including undocumented aliens, prisoners, and minors.

EMTALA Questions

Is patient presentation to any hospital location covered by EMTALA? Do certain non-hospital locations apply?

EMTALA Questions

EMTALA defines a dedicated emergency department (DED) as any hospital facility (on-campus or off-campus) that is held out to the public as a place that offers emergency care or which routinely treats EMCs. Therefore, EMTALA applies to the ED, labor and delivery units, psychiatric intake centers, and may apply to certain urgent care centers.

Outside of a DED, patients must request an evaluation for an emergency medical condition for EMTALA to apply (or have an obvious EMC), while in a DED requests for evaluation for any medical condition triggers EMTALA. Hospital property is defined as the entire main hospital campus, including the parking lot, sidewalk, and driveway, and areas up to 250 feet from the main hospital, as well as non-patient care areas (cafeteria, waiting areas). Exemptions from EMTALA exist for certain facilities such as physicians' offices, skilled nursing facilities, and restaurants. EMTALA's requirements apply to the hospital as a whole, so protocols may be in place where an EMC outside the ED can be met by expediently moving the patient to the hospital's ED for stabilization.



EMTALA Questions

Does EMTALA apply to hospital owned ambulances, not on hospital property?

EMTALA Questions

EMTALA does not apply to a hospital owned and operated ambulance or helicopter if directed by community EMS protocols or by physicians independent from the hospital (unless it arrives on hospital property). A hospital may attempt to direct an ambulance to another hospital if it is on diversionary status, but must assume care of the patient if the ambulance still ends up arriving on its property.



EMTALA Questions

Does EMTALA apply to patients who call the emergency department phone number and note symptoms consistent with an emergency medical condition?



EMTALA Questions

EMTALA does not apply to telephone contact with a patient if they do not present to the hospital.

EMTALA Questions

If a visitor is in the ED has an obvious injury (i.e. bleeding from laceration to his hand), but does not request to be evaluated, does the ED staff still need to perform a medical screening examination?



EMTALA Questions

EMTALA only applies if a patient seeks medical evaluation at the hospital or other covered locations. If a patient does not seek medical evaluation, EMTALA does not apply, as long as the patient has decision-making capability. Therefore, if a patient with an injury walks through the ED, but does not request evaluation, EMTALA does not apply. However, if any person, including a bystander, requests the patient receive medical evaluation, EMTALA will then apply. EMTALA also applies if a prudent layperson would believe the patient needs care by virtue of their presentation (ie. knife in the back) or their behavior.

EMTALA Questions

Does EMTALA apply to private patients of a member of the hospital staff that are to be directly seen by their personal physician?



EMTALA Questions

Yes. These patients still need to be triaged similar to other emergency patients, and the hospital is obligated to provide stabilizing care under EMTALA if an emergency medical condition exists.

The hospital should have protocols in place to guide this process, which may entail the emergency physician performing the medical screening exam if the patient's private physician is unable to perform it in a timely manner. If there is no emergency medical condition, the patient can then wait for care by the private physician. Some emergency physicians may choose to bill for this examination, especially if the patient encounter is lengthy or complex.



EMTALA Questions

Does EMTALA apply to patients presenting to the ED for minor treatment such as suture removal?

EMTALA Questions

EMTALA does apply to patients presenting to the ED for minor treatment such as suture removal, tetanus toxoid, or to receive medications prearranged by their primary physician. The exception to this is if the patient is to return to the ED for a scheduled outpatient visit that does not require any evaluation, such as repeat visits for a rabies vaccine series.



EMTALA Questions

Does EMTALA apply during federally declared national emergencies?



EMTALA Questions

EMTALA may not apply during federally declared national emergencies.

