

# SAMPLE EMTALA POLICY

## Patient Transfer and Emergency Medical Treatment & Active Labor Act (EMTALA) Compliance

### PURPOSE:

- To identify guidelines for providing the appropriate setting (department) for conducting medical screening
- To identify requirements for the emergency medical screening
- To identify providers eligible to perform the emergency medical screening
- To comply with Emergency Medical Treatment & Active Labor Act (EMTALA), 42 U.S.C. § 1395 and subsequent federal interpretive guidelines and state regulations

### POLICY:

- Any person who comes to a hospital facility requesting assistance for a potential emergency medical condition/emergency services will receive a medical screening performed by a qualified provider to determine whether an emergency medical condition exists.
- Persons with emergency conditions will be treated and their condition stabilized without regard to ability to pay for services.

### DEPARTMENTS/LOCATIONS THAT CONDUCT MEDICAL SCREENING:

- Trauma and Emergency Center, XXX Campus – triages patients (per written criteria and severity of chief complaint) to the most appropriate area within the Department for medical screening or based on medical/age based criteria to another department for the medical screening
- Expresscare, XXX Campus– a fast track emergency care department
- Labor & Delivery Triage, XXX Campus – an evaluation and screening area for determination of active labor
- Labor & Delivery Triage, XXXXXXXX Birthplace at XXXXXXXX – an evaluation and screening area for determination of active labor

### DEFINITIONS:

1. Capability means that an organization provides the requested medical service.
2. Capacity means that the organization has available space and resources to provide the medically necessary emergency care.
3. Comes to Hospital refers to any individual requesting emergent examination and treatment arriving on any hospital property or premises. This includes sidewalks, driveways, parking lots and parking garages for the locations listed above.
4. Continuous means any area within the hospital or on land that touches XXXXXXXX Hospital main campus.

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5. Emergency which requires a medical screening is defined as a condition which the "lay person" requesting emergency treatment defines as an emergency.
6. Emergency Medical Condition as defined by the qualified medical personnel after conducting the medical screening is defined as a medical condition manifesting itself by acute symptoms or sufficient severity (including severe pain, psychiatric disturbances and/or symptoms of substance abuse) 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 to bodily functions; or
  - c. Serious dysfunction of any bodily organ or part; orWith respect to 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 transfer may pose a threat to the health or safety of the woman or the unborn child.
7. Emergency Medical Care Log is a record maintained of all individuals who come to a department seeking emergency care. The log shall be kept for five years and shall contain specific patient information including:
  - a. patient identification
  - b. medical record and encounter number
  - c. patient type (emergency or express care)
  - d. presentation time
  - e. triage time
  - f. medical screening examination time
  - g. discharge time
  - h. Disposition categorized as:
    - i. treated and released
    - ii. admitted
    - iii. stabilized and transferred
    - iv. discharged or
    - v. refusal of treatment

The purpose of the log is to track the care provided to each individual who comes to XXXXXXXX seeking emergency medical care. If a patient presents for emergency medical treatment and does not have a scheduled appointment he/she is entered onto the log. If a patient presents with a scheduled appointment, they are not entered onto the log.

Patients who present in labor will be transferred to the Labor and Delivery Department for medical screening. The OB Medical Care Log will contain:

- a) Patient identification
- b) Patient room/location
- c) Physician name
- d) Reason for presentation
- e) Presentation time
- f) Medical screening examination time
- g) Disposition
- h) Discharge time

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8. Emergency Medical Treatment and Active Labor Act (EMTALA) refers to Sections 1866 and 1867 of the Social Security Act, 42 U.S.C. § 1395dd, which obligates hospitals to provide medical screening, treatment and transfer of individuals with emergency medical conditions or women in labor. It is also referred to as the “anti-dumping” statute and COBRA (Consolidated, Omnibus Budget & Reconciliation Act).
9. Hospital includes any facility that the hospital covers with its unique Medicare provider number.
10. Hospital Property or Premises includes the entire main hospital campus, including the parking lot, sidewalk, driveway, as well as any facility that is located off the main hospital campus but has been determined to be a department of the hospital and/or operates under the hospital Medicare Provider Number or locations that qualify for provider based status and are located on the hospital’s main campus.
11. Labor means the process of childbirth beginning with the latent or early phase of labor and continuing through the delivery of the placenta. A woman is in true labor unless a physician or qualified medical personnel certifies that, after a reasonable time of observation, the woman is in false labor.
12. Medical Screening Examination is the process requiring determining, with reasonable clinical confidence, whether or not an emergency medical condition exists or a woman is in labor. This is documented in the patient’s medical record.
13. Qualified Provider to perform a medical screen at XXXXXXXX is location sensitive and includes:
  - a. doctor of medicine or osteopathy;
  - b. certified nurse midwife with staff privileges at XXXXXXXX that include obstetrical care
  - c. Registered nurse with 2 or more years experience as a Labor and Delivery nurse at XXXXXXXX or equivalent hospital, with BLS and NRP certification.
14. Screening within the off-campus locations shall be within the location’s capabilities and available personnel. If the patient’s condition is outside the scope of services available, the off-campus location shall arrange patient transportation utilizing the mechanism [Emergency Medical Service (EMS), private ambulance or personal vehicle] that is most appropriate based upon the patient’s condition. Patients shall be routinely transferred to XXXXXXXX . In the event that the patient’s condition is unstable, they will be transferred to the closest, appropriate medical facility with transfer documents completed. In the event that EMS is operating in an overload situation, local EMS transportation guidelines will take precedence.
15. Stable for Transfer: A patient is stable for transfer if the treating physician attending to the patient has determined, within reasonable clinical probability, that the patient is expected to leave the hospital and be received at the second facility, with no material deterioration in his/her medical condition; and the treating physician reasonably believes the receiving facility has the capability to manage the patient’s medical condition and any reasonably foreseeable complication of that condition.
16. Stabilize refers to providing medical treatment of the patient’s condition necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during a transfer of the individual from a facility or in the case of a woman in labor, that the woman has delivered the child and the placenta.
17. Triage is a sorting process to determine the order in which patients will be provided a medical screening examination by a qualified medical person. Triage is not the

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equivalent of a medical screening examination and does not determine the presence or absence of an emergency medical condition.

18. Transfer means the movement of a living patient to another facility at the direction of any person employed by the clinic or hospital, but does not include such a movement of an individual who has been declared dead or who leaves the facility against medical advice (AMA) or without being seen (LWBS).

### **WHEN IS A MEDICAL SCREENING EXAMINATION REQUIRED?**

A medical screening examination is required when an individual:

- seeks care at the hospital Emergency Department
- arrives anywhere on the hospital premises and states that he or she has an emergency
- when a patient arrives at an off-campus facility and requests emergency care

### **WHERE CAN THE MEDICAL SCREENING EXAMINATION OCCUR?**

Medical Screening examination may be performed in locations other than the Emergency Department. For example, a pregnant woman may be moved to the Labor and Delivery Triage for the medical screening. The screening may also be performed in other outpatient or inpatient departments. The qualifying factors for medical screening to be conducted in a department other than the emergency department are:

- all patients with the same chief complaint are moved to this location regardless of their ability to pay;
- there is a medical or age related reason for the patient to be seen in another location;
- as the patient's condition warrants, qualified medical personnel accompany the patient to the area; and
- an equivalent, appropriate (for the patient's chief complaint) medical screening is performed in all locations.

### **WHAT ARE THE REQUIREMENTS OF A MEDICAL SCREENING?**

- The medical screening consists of an assessment and any ancillary tests or focused assessment based on the patient's chief complaint necessary to determine the presence or absence of an emergency medical condition. This may be a brief history and physical examination or may require complex ancillary studies and procedures such as (but not limited to) lab tests, fetal monitoring, EKG or radiology procedures.
- The medical screening examination is the process a provider must use to reach with reasonable clinical confidence whether a medical emergency does or does not exist.
- The medical screening must provide evaluation and stabilizing treatment within the scope of the hospital or facilities abilities and not consider a patient's ability to pay.

### **WHO MAY PERFORM THE MEDICAL SCREENING?**

The Medical Screening must be performed by:

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- Physicians, midwives and obstetrical RN's, as defined in the Definition section of this policy, point 13. These professionals will function within the scope of their license and certification with approval by the Board. Non-physician qualified personnel who perform the Medical Screening utilize protocols approved by the Medical Staff.

### **WHAT IS REQUIRED FOR DOCUMENTATION OF THE MEDICAL SCREENING?**

- The medical record shall reflect the findings of the medical screening including results of any tests performed and analysis including the determination that a medical emergency does or does not exist.
- Disposition of the patient shall be documented with any patient education provided and a follow-up plan of care if discharge is appropriate.
- Each department where medical screening occurs shall maintain an Emergency Medical Care Log, which includes patient identification, date of service, medical complaint, provider name, and patient disposition. This log is not to contain patients seeking elective outpatient care.
- The Emergency Medical Care log(s) shall be maintained for five years and will be monitored quarterly by the respective department where medical screening occurs.

### **WHAT EMTALA SIGNAGE IS REQUIRED**

Each department that provides Emergency or Clinic Services shall post a sign (English and Spanish) in a place or places likely to be noticed by all individuals entering the department that includes:

- A statement that XXXXXXXX participates in Medicaid;
- The rights of patients with emergency conditions and women in labor.

The sign shall state:

#### **If You Have an Emergency**

You have the right to receive, within the capabilities of this hospital's staff and facilities:

- An appropriate medical screening examination
- Necessary stabilizing treatment (including treatment of an unborn child)
- An appropriate transfer to another facility, even if you cannot pay or do not have medical insurance or you are not entitled to Medicare or Medicaid.

### **WHEN CAN ROUTINE BUSINESS OFFICE REGISTRATION TAKE PLACE?**

The Medical Screening of a patient seeking emergency care cannot be delayed for financial inquiry including managed care authorization. However, routine registration should take place to facilitate the patient flow through the department. Registration information should be taken to expedite patient flow through the department.

The guidelines to observe while registering the patient are:

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- do not interfere with the timeliness of the medical screen;
- do not call the managed care organization for permission to do a medical screen;
- do not say or imply anything to the patient that might discourage them from seeking the medical screen; and
- do not give the patient any information about advance beneficiary notice prior to the medical screen.

### **WHAT IF A PATIENT SEEKING EMERGENCY CARE DECIDES TO LEAVE (AMA/LWBS)?**

If a patient waiting for medical screening decides to leave without examination the following steps should be taken if at all possible:

- explain to the patient it is important to have the medical screening to rule out whether or not they have a medical condition that needs treatment;
- use an interpreter if the patient has limited English proficiency, or use an alternate means of communication;
- inform the patient of the risks of not having the medical screening;
- ask the patient to sign the AMA form acknowledging they understand the risks of leaving without the medical screening;
- document on the medical record the above information and if they refuse to sign the AMA, document that on the record as well.

### **PATIENT TRANSFERS**

If an inpatient becomes emergent during their hospital stay, then the EMTALA guidelines regarding transfer apply. A physician shall evaluate patients being transferred.

The hospital will accept transfers from other facilities to provide the specialized services when the requesting facility does not have the capability to provide such specialized service and the hospital has the “capability and capacity” to provide the needed emergency care. To refuse an appropriate transfer is considered “Reverse Dumping”. Certain conditions apply:

- When there is a community wide emergency diversion activation, the hospital shall accept transfers that require a higher level of care regardless of bed availability.

### **MONITORING OF EMTALA COMPLIANCE**

Any concern with compliance with these guidelines should be reported to Risk Management.

- Risk Manager or designee will conduct investigation of the alleged violation.

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- If after investigation the hospital finds substantial reason to believe that (another) hospital violated EMTALA with an inappropriate transfer, that hospital will be contacted and clarification will be pursued. If a valid violation is identified, a report may be made to CMS. Reporting will be initiated by the Risk Management Department.
- If after investigation, it is found that XXXXXXXX has breached the EMTALA procedure, action plans to correct and prevent other occurrences will be documented, implemented and the practice monitored by the respective department.

### **QUALITY OF CARE REVIEW**

1. The XXXXXXXX Trauma and Emergency Center Performance Improvement Committee will review appropriate records of patients transferred to and from the hospital. A quarterly report of ER transfers to include volume, transfer reasons and transfer denials is communicated to the Continuum of Care Committee.
2. The XXXXXXXX Labor and Delivery service will review appropriate records of patients transferred to or from the unit and discharged from the unit. A quarterly report will be communicated to the OB Clinical Practice Group.
3. The XXXXXXXX Birthplace at XXXXXXXXX will review appropriate records of patients transferred to and from the unit. A quarterly report will be communicated to the Quality Improvement Committee.

Approvals: XXXXXXXXXXXXXXXXXXXX