

LOS ANGELES GENERAL MEDICAL CENTER POLICY

Subject: EMTALA COMPLIANCE	Original Issue Date: 10/31/00	Policy # 706
	Supersedes: 09/22/22	Effective Date: 3/7/24
Policy Owner(s): Associate Chief Medical Officer Executive Sponsor(s): Chief Medical Officer		
Departments Consulted: Quality Improvement Office of Regulatory Affairs Department of Emergency Medicine Office of Risk Management Nursing Executive Committee	Reviewed & approved by: Attending Staff Association Executive Committee Senior Officer	Approved by: Chief Medical Officer
		Chief Executive Officer

PURPOSE

To describe and comply with the Emergency Medical Treatment and Active Labor Act (EMTALA) for the physicians and employees and its application to Los Angeles General Medical Center facilities, (hereinafter "Medical Center") and to define policies for compliance.

I. POLICY

- A. Compliance.** It is the policy of the Medical Center to comply with the EMTALA obligations. These policies are mandated by Section 1867 of the Social Security Act, as amended, and regulations adopted by the Centers for Medicare and Medicaid Services (CMS), and applicable state laws governing the provision of emergency services and care.
- B. Non-Discrimination.** The Medical Center will provide emergency services and care without regard to an individual's race, ethnicity, national origin, citizenship, age, sex, sexual orientation, preexisting medical condition, physical or mental disability, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental disability is medically significant to the provision of appropriate medical care to the patient.

II. Procedures

- A. Signage.** The Medical Center will post signage conspicuously in lobbies, waiting rooms, admitting areas where examination and treatment occurs in the form required by CMS that specifies the rights of individuals to examination and treatment for emergency medical conditions and indicating the Medical Center participates in the Medi-Cal program. Signage will be posted in each dedicated emergency department.
- B. Central Log.** Each dedicated emergency department of the Hospital will maintain a central log recording the names of individuals who come for emergency services and whether the person refused treatment, was refused treatment by the Medical Center or whether the individual was transferred, admitted and treated, stabilized and transferred or discharged.

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Each dedicated emergency department will establish its own central log policy and procedures.

- C. On-Call Coverage.** The Medical Center will maintain a list of physicians who are on-call to come to the Hospital to consult or provide treatment necessary to stabilize an individual with an emergency medical condition. The on-call list will be maintained in a manner that best meets the needs of the individuals who are receiving services in accordance with the resources available to the Medical Center, including the availability of on-call physicians. On-call physician responsibilities to respond, examine and treat emergency patients will be defined in the medical staff bylaws, rules and regulations. Each dedicated emergency department will be prospectively aware of physicians who are on-call to the department. The notification of an on-call physician will be documented in the medical record and any failure or refusal of an on-call physician to respond to a call will be reported to the Medical Staff.
- D. Maintenance of Records.** Medical and other records (such as transfer logs, on-call lists, and changes to the on-call list and central logs) will be maintained in accordance with Medical Center record-retention policies, but not less than five years.
- E. Disputes.** In the event of any concern over emergency services to a patient, or a dispute with another hospital regarding a patient transfer or a concern about the Medical Center's compliance with EMTALA, will notify appropriate Administrative Staff including the Chief Medical Officer or his/her designee.
- F. Over Capacity.** When an area of the Medical Center is substantially over capacity (see Appendix, Section D), such that the safety of patients and staff in the area are felt to be at risk, the Medical Center may take active steps to reduce or slow the receipt of additional patients. Activities that may be considered include closing to EMS transfers, diverting patients to other external facilities, or notifying first responders that additional time may be required to complete an MSE and that the first responders may need to wait with the patient for longer than normal time, until such time as the patient can be safely evaluated.
- G. Reporting EMTALA Violations.** The Medical Center will report to CMO or the state survey agency if it has a reason to believe that it has received an individual who has been transferred in an unstabilized emergency medical condition from another facility. All Hospital personnel who believe that an EMTALA violation has occurred will report the violation to Quality Management Department.
- H. Retaliation.** The Medical Center will not retaliate, penalize, or take adverse action against any physician or qualified medical person for refusing to transfer an individual with an emergency medical condition that has not been stabilized, or against any hospital employee for reporting a violation of EMTALA or state laws to a governmental enforcement agency.
- I. Medical Screening Examination (MSE)**

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1. **Performance.** A medical screening examination will be offered to any individual who comes to the emergency department. The medical screening examination must be provided within the capability of the dedicated emergency department, including ancillary services routinely available to the dedicated emergency department (including the availability of on-call physicians). The medical screening examination must be the same appropriate examination that the Hospital would perform on any individual with similar signs and symptoms, regardless of the individual's ability to pay for medical care.
2. **Scope.** The scope of the medical screening examination must be tailored to the presenting complaint and the medical history of the individual. The process may range from a simple examination (such as a brief history and physical) to a complex examination that may include laboratory tests, MRI or diagnostic imaging, lumbar punctures, other diagnostic tests and procedures, and the use of on-call physicians.
3. **Comparison with Triage.** Triage is not equivalent to a medical screening examination. Triage merely determines the "order" in which individuals will be seen, not the presence or absence of an emergency medical condition.
4. **Continuous Monitoring.** The medical screening examination is a continuous process reflecting ongoing monitoring in accordance with an individual's needs. Monitoring will continue until the individual is stabilized or appropriately transferred. Reevaluation of the patient must occur prior to discharge or transfer.
5. **Personnel Qualified to Perform Medical Screening Examinations.** The categories of persons qualified to perform emergency medical screening examinations are limited to physicians and qualified medical professionals. A qualified medical professional may include:
 - a. Registered nurses using a standardized MSE protocol approved by the Medical Executive Committee, and
 - b. Nurse Practitioners, Nurse Midwives, and Physician Assistants who have been credentialed and privileged by the medical staff to perform a MSE.

J. Patient Registration. The Medical Center will not delay providing a medical screening examination or necessary stabilizing treatment in order to inquire about an individual's method of payment or insurance status. The Medical Center may follow reasonable registration processes for individuals for whom examination or treatment is required under EMTALA. Routine registration information may be obtained prior to the medical screening examination as long as it does not delay the screening examination or necessary treatment. Under California law, the hospital may not inquire as to the patient's ability to pay prior to providing the medical screening examination and necessary stabilizing treatment. The hospital has provided the medical screening examination and initiated any further examination and treatment that may be required to stabilize the emergency medical condition.

K. Transfer of Individuals with an Emergency Medical Condition

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- 1. Requirements for an Appropriate Transfer.** An individual with an unstabilized emergency medical condition may be transferred only if the Hospital complies with **all** of the following standards:
 - a)** A physician certifies that the medical benefits reasonably expected from the provision of treatment at the receiving facility outweigh the risks to the individual from the transfer. The Hospital must provide additional examination and treatment as may be required to stabilize the emergency medical condition until the individual leaves the Hospital;
 - b)** The Medical Center provides medical treatment within its capacity to minimize the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child; the medical record will reflect the vital signs and condition of the individual at the time of the transfer;
 - c)** The receiving facility has available space and qualified personnel for treatment of the individual; and the receiving hospital and physician have agreed to accept the patient and provide appropriate medical treatment;
 - d)** The Medical Center sends to the receiving facility all medical records (or copies thereof) available at the time of transfer related to the emergency condition of the individual, including (i) records related to the individual's emergency condition; and (ii) the patient's informed written consent to transfer or the physician's certification (or copy thereof);
 - e)** The transfer is conducted with proper personnel and equipment as necessary to ensure safe and appropriate transport including medically appropriate life-support measures.
 - f)** Psychiatric patients may be transferred via gurney with safety straps in place if the sending physician deems it required. Safety straps will be removed once the receiving facility assumes responsibility of the patient. In the case of a psychiatric patient in restraints where a pre-transfer assessment by the treating physician identifies a need for behavioral restraint, this will be documented on the Psychiatric Physician Transfer Certification by the physician and the individual will be transported in restraints provided by the transportation service. Restraints will be removed once the receiving facility assumes responsibility of the patient;
 - g)** The sending physician writes an order for transfer in the medical record that includes the name of the accepting physician and facility, and specifies the required mode of transportation and any necessary equipment to enable a safe transfer.
- 2. Transfers for Off-Site Tests.** If any individual who has or may have an emergency medical condition is transferred to another facility for a test with the intention of the

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individual returning to the Hospital after the test, the Hospital will conduct an appropriate transfer.

3. **Disputes:** The treating physician is responsible to determine whether an individual is stabilized or stable for transfer, and the mode of transportation for the transfer.

L. Refusal of Emergency Services or Transfer

1. **Individual Right.** An individual retains the right to refuse necessary stabilizing treatment and further medical examination, as well as a transfer to another facility.
2. **Refusal of Medical Screening Examination.** If an individual leaves the Hospital before receiving a medical screening examination, either with or without notice to staff of his/her departure, staff should document the circumstances and reasons (if known) for the individual's departure and the time of departure.
3. **Refusal of Further Examination or Stabilizing Treatment.** If an individual who has received a medical screening examination refuses to consent to further examination or stabilizing treatment, the Medical Center must offer the examination and treatment to the individual, inform the individual of the risks and benefits of the examination and treatment and request that the individual sign a form that he/she has refused further examination or treatment.
4. **Refusal of a Transfer.** If an individual refuses to consent to a transfer, the Hospital must inform the patient of the risks and benefits to the individual of the transfer and request that the individual sign a form that he/she refused the transfer.

M. Acceptance of Transfers

1. **Obligation if Capacity.** The Hospital has the obligation to accept an appropriate transfer of an individual with an unstabilized emergency medical condition who requires specialized capabilities or facilities if the Hospital has the capacity to treat the individual.
2. **Disputes.** The treating physician is responsible to determine whether an individual is stabilized and the mode of transportation for the transfer.

- N. **Quality Improvement.** Monitoring EMTALA compliance is a responsibility of the Medical Center Administration, the Attending Staff, Department Heads, Quality Management, and Risk Management. The Medical Center shall adopt a monitoring program to evaluate the conduct of medical screening examinations, patient transfers, and compliance with on-call obligations, and initiate corrective action and in-service training when appropriate.

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RESPONSIBILITY

Administration
Attending Staff
Quality Management
Nursing Staff

REVISION DATES

April 16, 2002; March 11, 2008; October 20, 2008; January 11, 2011; December 9, 2014;
July 19, 2019, September 22, 2022; March 7, 2024

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- A. Appropriate Transfer** means a transfer of an emergency medical condition that is implemented in accordance with EMTALA standards.
- B. Campus** means the building, structures and public areas of the Medical Center that are licensed as being components of the Medical Center.
- C. Capability** means the physical space, equipment, staff, supplies and services (e.g., surgery, intensive care, pediatrics, obstetrics and psychiatry), including ancillary services available at the Medical Center.
- D. Capacity** means the ability of the Medical Center to safely accommodate an individual requesting or needing examination or the treatment of the transferred individual. Capacity is determined by an integration of current patient volume and acuity, compared to space, staff, beds, and equipment available. Caring for patients when the Medical Center, or individual components thereof (e.g., Psychiatric Emergency Department), are over capacity places patients and staff at risk for serious harm, and should trigger efforts by the Medical Center to slow down influx of patients (see II. Procedure, Section F).
- E. Central Log** means a log maintained by the Hospital on each individual who comes to its dedicated emergency department(s) or any location on the Hospital property seeking emergency assistance and the disposition of each individual.
- F. Comes to the Emergency Department** means an individual who-
- (1) Presents at the Medical Center's dedicated emergency department and requests or has a request made on his/her behalf for examination or treatment for a medical condition, or a prudent layperson observer would believe, based on the individual's appearance or behavior, that the individual needs examination or treatment for a medical condition:
 - (2) Presents on Medical Center property other than a dedicated emergency department, and requests or has a request made on his/her behalf for examination or treatment for what may be an emergency medical condition, or a prudent layperson/observer would believe, based on the individual's appearance or behavior, that the individual needs emergency examination or treatment;
 - (3) Is in the ground or air ambulance owned and operated by the Medical Center for the purposes of examination or treatment for a medical condition at the Hospital's dedicated emergency department, unless the ambulance is operated (i) under communitywide EMS protocols that direct the ambulance to transport the individual to another facility (e.g., the closest available facility); or (ii) at the direction of a physician is not employed or affiliated with the Hospital; or

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- (4) Is in a non-Medical Center owned ground or air ambulance that is on Medical Center property for presentation for examination or treatment for a medical condition at the Medical Center's dedicated emergency department.

G. Dedicated Emergency Department means any department of the Medical Center (whether located on the Medical Center property or off-campus) that meets at least one of the following requirements:

- (1) It is licensed under applicable state law as an emergency room or emergency department; or
- (2) It is held out to the public (by name, posted signs, advertising or other means) as a place that provides care for emergency medical conditions on an urgent basis without requiring a previously scheduled appointment; or
- (3) During the immediately preceding calendar year, it provided (based on a representative sample) at least one-third of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis without requiring a previously scheduled appointment.

H. Department of the Hospital means a Medical Center facility or department that provides services under the name, ownership, provider number and financial and administrative control of the Medical Center. For the purposes of EMTALA, a department of the Medical Center does not include a skilled nursing facility, home health agency, rural health clinic, free-standing ambulatory center, private physician office or any other provider or entity that participates in the Medicare program under a separate provider number.

I. EMTALA means the Emergency Medical Treatment and Active Labor Act codified in §§ 1866 and 1867 of the Social Security Act (42 U.S. C. §1395dd), and the regulations and interpretive guidelines adopted by CMS thereunder. EMTALA is also referred to as the "patient anti-dumping" law or COBRA. EMTALA is applicable to any individual who comes to the emergency department (See definition in II. F above).

1. **Authority.** CMS and the Office of the Inspector General (OIG) of the U.S. Department of Health and Human Services are responsible for the enforcement of EMTALA. Violations of EMTALA may be reported to other federal and state agencies and to the Joint Commission (JC).
2. **Failure to Comply.** Failure to comply with EMTALA may result in termination by CMS of the Medical Center's participation in the Medicare and Medicaid programs, as well as civil monetary penalties imposed by the OIG for both the Hospital and physicians of up to \$50,000 and possible exclusion from Medicare/Medicaid. Failure to comply with state laws on emergency services is subject to a licensing enforcement action. A violation of EMTALA is also subject to a licensing enforcement action. A violation of EMTALA is also subject to civil lawsuits for damages.

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- a. An outpatient during the course of his/her encounter (even if the outpatient develops an emergency medical condition while receiving outpatient services and is taken to the dedicated emergency department for further examination and treatment);
- b. An inpatient (including inpatients who are “boarded” in the dedicated emergency department waiting for an available bed);
- c. An individual who presents to any off-campus department of the Medical Center that is not a dedicated emergency department;
- d. An individual who presents to a rural health clinic, skilled nursing facility or home health agency owned and operated by the Medical Center whether located on-campus or off-campus, or private physician’s office or other ambulatory care clinic that participate separately in the Medicare program;
- e. Restaurants, private residencies, shops or other non-medical facilities that are not part of the hospital.

4. Application to Physicians. EMTALA is applicable to any physician who is responsible for the examination, treatment or transfer of an individual on the main Hospital/Medical Center Campus to whom EMTALA applies, including an on-call physician and other members of the medical staff who provide for the care of such an individual.

- a. **Dedicated Emergency Departments.** The hospital has determined that the following locations of the Hospital are dedicated emergency departments.
 - 1) Medical Center Emergency Departments
 - 2) Labor and Delivery
 - 3) Specialty Evaluation Areas
 - a) Ophthalmology/ENT/Dental Evaluation Area: Room C7G100
 - b) Burn Services Evaluation Area: Room C5D100

J. Emergency Medical Condition means:

- (1) Medical condition manifesting itself by acute symptoms of 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:

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- i. placing the health of the individual (or, with respect to a pregnant woman, the health of the woman and her unborn child) in serious jeopardy;
- ii. Serious impairment to bodily functions; or
- iii. Serious dysfunction of any bodily organ or part; or

(2) With respect to a pregnant woman who is having contractions:

- i. When there is inadequate time to effect a safe transfer to another hospital before delivery; or
- ii. The transfer may pose a threat to the health or safety of the woman or the unborn child.

K. Medical Center/Hospital means a hospital that has entered into a Medicare provider agreement, including a critical access or rural primary care hospital.

L. Medical Center/Hospital Property means the entire main Hospital campus, including areas and structures that are located within 250 yards of the main buildings, and any other areas determined on an individual cases basis by the CMS regional office, to be part of the main Hospital's campus. Hospital property includes the parking lots, sidewalks, and driveways on the main Hospital campus.

M. Inpatient means an individual who is admitted to the Hospital for bed occupancy for purposes of receiving inpatient services with the expectation that he/she will remain at least overnight and occupy a bed, even though the individual may be later discharged or transferred to another facility and does not actually use a Hospital bed overnight.

N. 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 certifies that, after a reasonable period of observation, the woman is in false labor.

O. Medical Screening Examination means the process required to reach, within reasonable clinical confidence, the point at which it can be determined whether or not an emergency medical condition exists or a woman is in labor. The medical screening examination is an ongoing process, including monitoring of the individual, until the individual is either stabilized or transferred.

P. On-Call List means the list of physicians who are "on-call" after the initial medical screening examination to provide further evaluation and/or treatment necessary to stabilize an individual with an emergency medical condition.

Q. Outpatient means an individual who has begun to receive outpatient services as part of an encounter, other than an encounter that triggers the EMTALA obligations. An "encounter" is a direct personal contact between an outpatient and a physician or qualified medical person who is authorized by state law to order or furnish Hospital services for the diagnosis or treatment of the outpatient.

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- R. Physician** means: (i) a Doctor of Medicine or osteopathy; (ii) a Doctor of Dental Surgery or dental medicine; (iii) a doctor of podiatric medicine; or (iv) a Doctor of Optometry, each acting within the scope of his/her respective licensure and clinical privileges.
- S. Physician Certification** means the written certification by the treating physician ordering a transfer, and setting forth, based on the information available at the at the time of transfer, that the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual and, in the case of a woman in labor, to the unborn child, from affecting the transfer.
- T. Qualified Medical Personnel** means an individual other than a licensed physician who (i) is licensed or certified by the state in which the Hospital is located; (ii) practices in a category of health professionals that has been designated by the Medical Center and the medical staff bylaws, rules and regulations, to perform medical screening examinations; (iii) has demonstrated current competence in the performance of medical screening examinations within his/her health profession; and (iv) as applicable, performs the medical screening examination in accordance with protocols, standardized procedures or other policies as may require by law or Medical Center policy. A qualified person may include registered nurses, nurse practitioners, nurse midwives, and physician assistants who have been credentialed and privileged by the medical staff to perform MSE.
- U. Signage** means the signs posted by the Medical Center in its dedicated emergency department(s) and in a place or placed likely to be noticed by all individuals entering the dedicated emergency department(s) (including waiting room, admitting area, entrance and treatment areas), that inform individuals of their rights under EMTALA.
- V. Stabilized** means, with respect to an emergency medical condition, that no material deterioration of the condition is likely within reasonable medical probability, to result from or occur during the transfer of the individual from the Hospital or in the case of a woman in labor, that the woman delivered the child and the placenta. An individual will be deemed stabilized if the treating physician has determined, within reasonable clinical confidence, that the emergency medical condition has been resolved.
- W. To Stabilize** means, with respect to an emergency medical condition, to either 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 the Hospital or, in the case of a woman in labor, that the woman has delivered the child and the placenta.
- X. Stable for Discharge** means a determination by the treating physician, within reasonable clinical confidence, that an individual has reached the point where his/her continued care, including diagnostic work-up and/or treatment, could reasonably be performed as an outpatient or later as an inpatient, provided the individual is given a plan for appropriate follow-up care with the discharge instructions. For the purpose of discharging an individual

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with psychiatric condition(s), the individual is not considered to be stable for discharge until he/she is no longer considered to be gravely disabled, a threat to himself/herself or others.

- Y. Stable for Transfer** means an individual has an emergency medical condition that is not resolved, but (i) the treating physician has determined, within reasonable clinical confidence, that the individual is expected to leave the Hospital and be received at the second facility, with no material deterioration in his/her condition; and (ii) the treating physician reasonably believes that the receiving facility has the capability to manage the individual's medical condition and any reasonably foreseeable complication of that condition. In the case of an individual who has a psychiatric condition(s), the individual is stable for transfer when he/she is protected and prevented from injuring himself/herself or others. A Hospital must make an appropriate transfer of an individual who is stable for transfer.

- Z. Transfer** means the movement (including the discharge) of an individual outside the Medical Center's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the Hospital, but does not include such a movement of an individual who has been declared dead or who leaves against medical advice or without being seen.

- AA. Triage** means a process to determine the order in which individuals will be provided a medical screening examination by a physician or qualified medical person. Triage is not the equivalent of a medical screening examination and does not determine the presence or absence of an emergency medical condition.