

Reducing EMTALA Risks in Hospitals

Hospitals participating in federal healthcare programs should have policies and procedures in place to ensure compliance with the Emergency Medical Treatment and Active Labor Act (EMTALA).¹

EMTALA ensures public access to emergency services regardless of a patient's insurance coverage or ability to pay. It was designed to protect patients from being “dumped” and/or refused treatment at hospitals participating in federal healthcare programs. It applies to all

persons, including noncitizens, who seek care at a hospital emergency department (ED).²

Lack of compliance with EMTALA creates potentially catastrophic consequences for patients and hospitals, including adverse outcomes, federal monetary fines and exclusion from Medicare programs, reputational damage, and possible liability exposure.³

The following strategies can help prevent EMTALA violations and increase compliance with the law.⁴

1

Ensure periodic review of the hospital's EMTALA-related policies and procedures to adequately address legal and regulatory requirements for any [dedicated emergency department](#), including obstetrics/labor and delivery as well as any urgent care centers affiliated with the hospital receiving federal funding. Routinely monitor all departments affected by EMTALA to ensure compliance and adherence to changing rules in the hospital's policies.

2

Implement a robust provider education program. Stress compliance and adherence to regulations as well as appropriate documentation. Ensure new ED staff, temporary staff, and all hospital employees understand EMTALA and what is required of them to comply.

3

Post signage in the ED in places visible to anyone entering the facility or waiting in an examination or treatment room. The signage should indicate, in [plain language](#), patient rights under EMTALA. See Page 22 of CMS' [State Operations Manual](#) for specific requirements related to signage.

4

Verify that appropriate medical screening examinations (MSEs) are in place, comply with EMTALA, and are applied uniformly to all people presenting to the ED with similar symptoms. (CMS' [Frequently Asked Questions for Hospitals and Critical Access Hospitals regarding EMTALA](#) provides more specifics about MSEs.) Ensure that the hospital's patient assessment process is consistent.

5

Ensure that only qualified medical professionals (QMPs) approved by the governing board conduct MSEs for every patient seeking emergency attention. If a QMP determines that an emergency medical condition exists, the patient must be treated and stabilized as the hospital's capability permits.

6

Maintain an on-call roster listing the names of physicians who are available to come to the hospital to provide further examination and stabilizing treatment for patients with emergency medical conditions.

7

Develop a rigorous documentation process that includes documenting (a) all patients that seek care in the ED (this information should be documented in a central log that is kept for a minimum of 5 years); (b) all MSEs; (c) whether each patient refused treatment, was denied treatment, or was treated, admitted, stabilized, and/or transferred or discharged; and (d) physician on-call lists.

8

Have a chain-of-command procedure in place to address on-call physicians who challenge the EMTALA process or refuse to appear bedside when consulted to stabilize a patient with an emergency medical condition. The hospital's on-call policies should define the responsibilities of on-call physicians, including always responding without unnecessary delay to requests to come and treat a patient. Policies also should state who has the final authority to call in a physician to provide stabilizing treatment.

9

Be sure that the hospital is able to validate with documentation that a QMP has completed an MSE and determined that the patient's condition has stabilized before releasing that patient from the ED to outpatient follow-up medical care. Keep in mind that an EMTALA reviewer will check for documentation of treatment, stabilization, and appropriateness of discharge and/or transfer.

10

Verify that QMPs arrange for EMTALA-compliant transfers if the hospital does not have an inpatient bed, an operating room available, or the capability or resources to stabilize the patient. For hospitals that will provide a higher level of care, ensure that transfer agreements are in place. These agreements should clearly state which personnel have authority to accept transfers.

11

Do not ask patients seeking emergency care for payment until after their emergency medical conditions have been stabilized per EMTALA or they have been admitted as inpatients to the hospital.

12

Carefully evaluate and strengthen policies and procedures related specifically to psychiatric screening examinations, stabilizing care of psychiatric patients boarding in the ED, and transfer policies.

Resource

For more information about EMTALA, see MedPro's [Risk Resources: Emergency Medical Treatment and Labor Act](#).

Endnotes

¹ Relias Media. (2016, July 1). *EMTALA still a risk, but some are letting down their guard*. Retrieved from www.reliasmedia.com/articles/138137-emtala-still-a-risk-but-some-are-letting-down-their-guard

² Zuabi, N., Weiss, L. D., & Langdorf, M. I. (2016). Emergency Medical Treatment and Labor Act (EMTALA) 2002-2015: Review of Office of Inspector General patient dumping settlements. *Western Journal of Emergency Medicine*, 17(3), 245–251; Centers for Medicare & Medicaid Services. (2024, November 25 [last updated]). *You have rights in an emergency room. It's the law*. Retrieved from www.cms.gov/priorities/your-patient-rights/emergency-room-rights

³ Stanford University Health Care. (n.d.). *Emergency Medical Treatment and Labor Act (EMTALA)*. Retrieved from <https://stanfordhealthcare.org/content/dam/SHC/health-care-professionals/medical-staff/annual-physician-education/emtala.08.2024.pdf>

⁴ The risk tips in this publication are based on the following sources: American College of Emergency Physicians. (n.d.). *Understanding EMTALA*. Retrieved from www.acep.org/life-as-a-physician/ethics--legal/emtala/emtala-fact-sheet/; Thornsberry, M. (2019, January 28). *EMTALA education: A way to mitigate risk*. American Association for Physician Leadership. Retrieved from www.physicianleaders.org/news/emtala-education-way-mitigate-risk; Irving, A. V. (2014, October 13). *Policies and procedures for healthcare organizations: A risk management perspective*. Patient Safety & Quality Healthcare. Retrieved from www.psqh.com/analysis/policies-and-procedures-for-healthcare-organizations-a-risk-management-perspective/; Kusserow, R. P. (2014, February). *EMTALA compliance high risk area*. Strategic Management Services. Retrieved from www.compliance.com/resources/emtala-compliance-high-risk-area/

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