

 HAWAII HEALTH SYSTEMS CORPORATION <i>Quality Healthcare for All</i> POLICY	Department: Legal	Policy No. PAT 0003A
		Supersedes Policy No.
Subject: Emergency Medical Treatment and Labor Act (EMTALA)	Approved By: <i>Donna McCleary</i> HHSC Board of Directors By: Donna McCleary, M.D. Its: Secretary/Treasurer	Approved Date: May 26, 2022
		Last Reviewed: March 4, 2022

I. PURPOSE:

To outline the responsibilities of Hawaii Health Systems Corporation (HHSC) Hospitals with Dedicated Emergency Departments (DED) as defined by the Emergency Medical Treatment and Labor Act (EMTALA), regarding Medical Screening Examinations, Stabilizing Treatment, and an appropriate Transfer where indicated, as required by EMTALA.

II. DEFINITIONS:

“**Capabilities**” of a Hospital means the physical space, equipment, supplies and services, including ancillary services available at the Hospital. The capabilities of the Hospital’s staff mean the level of care that the Hospital’s personnel can provide within the training and scope of their professional licenses, including coverage available through the Hospital’s on-call roster. The Hospital is responsible for treating the individual within the capabilities of the Hospital as a whole, not necessarily in terms of the particular department at which the individual presented. The Hospital is not required to locate additional personnel or require staff at off-campus departments to be on call for possible emergencies.

“**Capacity**” means, the ability of the Hospital to accommodate the individual requesting examination or treatment of the Transferred individual. Capacity encompasses such things as numbers and availability of qualified staff, beds and equipment and the Hospital’s past practices of accommodating additional Patients in excess of its occupancy limits.

“**Dedicated Emergency Department (DED)**” means, any department or facility of the Hospital, regardless of whether it is located on or off the main Hospital campus that meets at least one of the following requirements:

1. It is licensed by the State in which it is located under applicable State law as an emergency room or emergency department;
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 calendar year immediately preceding the calendar year during which a determination is being made, it provides at least one-third of all of its outpatient visits for the treatment of Emergency Medical Conditions on an urgent basis without requiring a previously scheduled appointment.

“Diversionary Status” means that the Hospital has made a request of EMS to consider an alternate hospital destination due to Hospital’s temporary lack of Capacity and Capability to promptly care for additional patients in the DED. If an individual presents to the Hospital’s DED by EMS or other mode of arrival, while the Hospital is in Diversionary Status, that encounter is subject to EMTALA rules and regulations and the Hospital may not refuse care for that individual.

“Emergency Medical Condition (EMC)” means:

1. A 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:
 - 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; or
2. With 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.
3. With respect to an individual with psychiatric symptoms:
 - a. That acute psychiatric or acute substance abuse symptoms are manifested; or
 - b. That the individual is expressing suicidal or homicidal thoughts or gestures and is determined to be a danger to self or others

“Emergency Medical Treatment and Labor Act (EMTALA)” means, the statute codified at §1867 of the Social Security Act, the accompanying regulations in 42 CFR §489.24 and the related requirements at 42 CFR 489.20(l), (m), (q), and (r). EMTALA requires Hospitals with DEDs to provide a medical screening examination (MSE) to any individual who comes to the DED and requests such an examination, and prohibits Hospitals with DEDs from refusing to examine or treat individuals with an EMC.

“Hospital” means, a Medicare participating Hospital, and includes a critical access Hospital (CAH).

“Hospital Property” means, the entire main Hospital campus, including the parking lot, sidewalk, and driveway, including any buildings owned by the Hospital that are within 250 yards of the Hospital. Excluded are other areas or structures of the Hospital's main building that are not part of the Hospital, such as physician offices, rural health centers, skilled nursing facilities, or other entities that participate separately under Medicare, or restaurants, shops, or other nonmedical facilities.

“Inpatient” means, an individual who is admitted to a Hospital by a physician’s order with the expectation that the individual will remain at least overnight and occupy a bed even though the situation later develops that the individual can be discharged or Transferred to another Hospital and does not actually use a Hospital bed overnight.

“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 experiencing contractions is in true Labor unless a physician or other QMP, certified that, after a reasonable time of observation, the woman is in false Labor.

“Medical Screening Examination (MSE)” means, the process required to reach, with reasonable clinical confidence, the point at which it can be determined whether the individual has an EMC or not. The MSE must be conducted by physicians or other QMP, as defined herein. The MSE provided must be appropriate to the individuals’ presenting signs and symptoms, as well as the Capability and Capacity of the Hospital. The MSE must be the same MSE that the Hospital would perform on any individual coming to the Hospital’s dedicated emergency department with those signs and symptoms, regardless of the individual’s ability to pay for medical care.

“Patient” means:

1. An individual who has begun to receive outpatient services as part of an encounter, other than an encounter that the Hospital is obligated by EMTALA to provide;
2. An individual who has been admitted as an Inpatient as defined in this section.

“Receiving Hospital” means, the Hospital that accepts a Transfer from another Hospital.

“Qualified Medical Personnel (QMP)” means, the individuals determined qualified to conduct an MSE by Hospital bylaws or rules and regulations, and approved by the Hospital’s governing body.

“Stabilized” means, with respect to an EMC that:

1. No material deterioration of the condition of the individual is likely, within reasonable medical probability, to result from or occur during the Transfer of the individual from a Hospital; or
2. The woman has delivered the child and the placenta.

“To Stabilize” or “Stabilizing Treatment” means, with respect to an EMC:

1. To provide such medical treatment of the condition 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 Hospital or;
2. The woman has delivered the child and the placenta.

“Transfer” means, the movement (including the discharge) of an individual outside a Hospital’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

1. Has been declared dead; or
2. Leaves the Hospital without the permission of any such person.

“Triage” means, a sorting process to determine the order in which individuals will be provided an MSE by a physician or QMP. Triage is not the equivalent of an MSE and does not determine the presence or absence of an EMC.

III. **POLICY:**

It is the policy of HHSC that HHSC hospitals with DED, as defined by EMTALA, comply with the statutory requirements of EMTALA. Those responsibilities include the following:

1. **Medical Screening Examination.** If an individual comes to the Hospital and requests emergency care, or if the person is unable to communicate and a reasonable person would believe that the person needs emergency care, then Hospital’s qualified medical personnel will perform within the Hospital’s capability and capacity, a medical screening

examination (MSE) on the individual, and will not delay or refuse to examine or treat such individuals to inquire about methods of payment or insurance coverage.

2. **Stabilization.** If an individual comes to the Hospital with an Emergency Medical Condition, the Hospital will stabilize the patient within the Capabilities of the staff and facilities available at the Hospital, prior to discharge or transfer. Pregnant women with contractions are considered unstable until delivery of baby and placenta.
3. **No Delay.** Hospitals will not delay MSE or Stabilization or discourage an individual from further treatment for the purposes of inquiring about methods of payment or insurance coverage. The Hospital will not require registration or preauthorization before MSE or commencing Stabilizing Treatment.
4. **Transfers.** Hospital will not Transfer unstable individuals unless the Transfer benefits outweigh the risks, and the Transfer is in the best medical interest of the individual.
 - a. When Transferring an individual, the Hospital must send the name and address of any on-call physician who refused to respond or failed to make a timely response without good cause along with the Transfer records of any individual Transferred as a result of that refusal or lack of timely response.
 - b. Hospitals with specialized capabilities must accept a transfer unless that acceptance would exceed its Capability and Capacity for providing care.
 - c. Hospitals receiving Transfers that are suspected to have been Transferred inappropriately, will report the suspected violation within 72 hours to CMS or the State licensing agency.
5. **On-Call Physicians.** Hospital must ensure that physicians on-call to the DED respond within a reasonable period of time. Hospitals must maintain 24-hour/7day on-call schedules of physicians taking call for the DED.
6. **Signage.** Hospital must post conspicuous signage in the DED stating the rights of individuals under EMTALA and whether the Hospital participates in the Medicaid program.
7. **Record Keeping.** Hospital must maintain a central log that records each individual who comes to the DED seeking assistance and whether each individual refused Treatment, or whether each individual was Transferred, admitted and treated, Stabilized and Transferred or discharged.

IV. **AUTHORITY:**

- U.S. Code, Title 42, Chapter 7, Subchapter XVIII, Part D, Sec. 1395dd (42 U.S. Code §1395dd)
- Title 42, Chapter IV, Subchapter G, Part 489

V. **RELATED PROCEDURE(S):**

PAT 0003B Emergency Medical Treatment and Labor Act (EMTALA)

VI. **REFERENCE(S):**

- U.S. Code, Title 42, Chapter 7, Subchapter XVIII, Part D, Sec. 1395dd (42 U.S. Code §1395dd)

- 42 CFR §489.20 Basic Section 1866 Commitments Relevant to Section 1867 Responsibilities
- 42 CFR §489.20(l)
- 42 CFR §489.20(m)
- 42 CFR §489.20(q)
- 42 CFR §489.20(r)
- 42 CFR §489.24 Special Responsibilities of Medicare Hospitals in Emergency Cases
- 42 CFR §489.24(a) Applicability of Provisions of this Section
- 42 CFR §489.24(c) Use of Dedicated Emergency Department for Nonemergency Services
- 42 CFR §489.24(d) Necessary Stabilizing Treatment for Emergency Medical Conditions
- 42 CFR §489.24(e) Restricting Transfer Until the Individual is Stabilized
- 42 CFR §489.24(f) Recipient Hospital Responsibilities
- 42 CFR §489.24(j) Availability of On-Call Physicians