

Health Law

Quality & Liability

8 EMTALA Duties



Duty 1



Screening



Who must screen

1. Hospitals
2. With a DED (licensed or held out or operate 1/3)
3. That participate in Medicare/Medicaid



When must they screen

1. When patient arrives on hospital property (see definitions)
2. And seeks or obviously needs medical attention



How must they screen

1. Same way they screen other patients presenting with same conditions
2. Usually determined by SOPs, protocols or custom and usage
3. Screen with QMP
4. Screening must be reasonably calculated to determine if EMC
5. Only need to screen for conditions aware patient has



Duty 2



Stabilization



Who must stabilize

1. Hospitals
2. With a DED (licensed or held out or operate 1/3)
3. That participate in Medicare/Medicaid



When must they stabilize

1. When screening identifies an EMC
2. Unless individual already inpatient or outpatient
3. Or unless then admit as inpatient to stabilize
4. Or unless transfer prior to stabilization with certification and follow rules



How must they stabilize

1. Get patient to condition where no imminent threat, so time to transfer
2. If active labor, then deliver if no time to transfer



Duty 3



Accept
transfers



Who must accept transfers

1. Hospitals
2. That participate in Medicare/Medicaid
3. And that have specialized resources



When must they accept transfers

1. When requested by hospital without those resources
2. And when they have capacity



Duty 4



Report violations



Who must report violations

1. Hospitals
2. That participate in Medicare/Medicaid



When must they report

1. When they get a pre-stabilization transfer
2. That is made without all of these: (1) certification, (2) prior permission, (3) records, (4) proper personnel & equipment, (5) stabilize to extent possible



Duty 5



Post signs



Who must post signs

1. Hospitals
2. With a DED (licensed or held out or operate 1/3)
3. That participate in Medicare/Medicaid



IT'S THE LAW

IF YOU HAVE A MEDICAL EMERGENCY OR ARE IN LABOR, 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 for an unborn child) and, if necessary,

An appropriate **TRANSFER** to another facility

Even if **YOU CANNOT PAY** or **DO NOT HAVE**

MEDICAL INSURANCE



Duty 6



Maintain
roster



Who must maintain roster

1. Hospitals
2. With a DED (licensed or held out or operate 1/3)
3. That participate in Medicare/Medicaid



List of physicians who are on-call for duty after the initial examination to provide treatment necessary to stabilize an individual with an emergency medical condition



Duty 7



Physician
duty



When staffing ED (as
hospital's agents),
physicians must
comply with EMTALA



Duty 8



On call physician must
come when ED calls



Enforcement



Penalties

Hospital	Physician
M/M termination (CMS)	M/M termination (CMS)
Civil monetary penalties (OIG)	Civil monetary penalties (OIG)
Private COA PI damages	
Dumped hospital recover costs	

