Applicability: UW Medicine hospitals

Policy Title: Application of and Compliance with the Emergency Medical Treatment and Labor Act (EMTALA)

Policy Number: COMP.301

Entity Policies: Harborview Medical Center (HMC), Application of and Compliance with the Emergency Medical Treatment and Active Labor Act (EMTALA)
Northwest Hospital and Medical Center (NWH), Administration, EMTALA Compliance Policy
Valley Medical Center (VMC), Administrative Policies, EMTALA Compliance
University of Washington Medical Center (UWMC), Application of and Compliance with the Emergency Medical Treatment and Labor Act (EMTALA)

Date Established: January 1, 2014

Date Effective: January 3, 2017

Next Review Date: January 3, 2020

PURPOSE
To establish guidelines at UW Medicine hospitals for providing medical screening examinations, stabilizing treatment and an appropriate transfer where indicated, as required by the Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C., Section 1395dd.

All UW Medicine hospitals and provider-based urgent care centers qualifying as Dedicated Emergency Departments (DED), as defined in this policy.

DEFINITIONS
See UW Medicine Compliance Glossary.

POLICY
Congress enacted EMTALA as part of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) to ensure public access to emergency services regardless of ability to pay. EMTALA is a federal law that guarantees individuals—who present to a hospital’s emergency department for examination or treatment—receive a medical screening exam and stabilizing treatment prior to discharge or transfer to another facility.

UW Medicine hospitals comply with all EMTALA obligations.
Each UW Medicine hospital provides an appropriate Medical Screening Examination (MSE) to determine whether an Emergency Medical Condition (EMC) exists to any patient who “comes to the emergency department (ED)” as defined herein. Patients with an EMC are provided stabilizing treatment within the hospital’s capacity and capability and/or transferred in accordance with EMTALA.

UW Medicine hospitals also accept emergency patient transfers from other facilities when: (a) the individual being transferred requires specialized capabilities that are not offered or not immediately available at the transferring hospital (for example: higher level of care); and (b) the UW Medicine hospital has the capacity to treat the individual.

In meeting its EMTALA obligations, UW Medicine does not discriminate against individuals on the basis of financial status, ability to pay, diagnosis, age, race, color, creed, ethnicity, religion, national origin, marital status, sex, sexual orientation, gender identity or expression, disability, veteran or military status or any other basis prohibited by federal, state, or local law.

REGULATORY/LEGISLATION/REFERENCES

PROCEDURE ADDENDUM(s)/REFERENCES/LINKS
• UW Medicine Compliance Glossary.
• HMC, APOP 45.9 Advanced Beneficiary Notice
• HMC, APOP 5.47 Hospital Plan for the Provision of Patient Care
• HMC, Emergency Services, Triaging and Registering Patients
• NWH, High Patient Census Policy
• NWH, ED, Delivery of Care Methodology
• NWH, Transfer Process, Transfer/Transport of Patients to Other Medical Facilities
• NWH, Transfer Process, Trauma Patient Transfer Guidelines
• NWH, Transfer Process, Aero-medical Services Transport
• NWH, Transfer Process, Trauma Care and Transfer Guidelines: Pediatric
• NWH, Transfer Process, Trauma: Stabilization for Transfer
• VMC, Clinic Network 4010.00 EMTALA Screening in Urgent Care
• VMC, Clinic Network 7004.00 Emergency Medical Treatment and Active Labor Act (EMTALA)
• VMC, Patient Care Services, Trauma Transfer (in) Guidelines,
• VMC, Patient Care Services, Triage & Emergency Department, Care of the Patient in the Birth Center, OB ED
• UWMC, Ambulatory Care Division, Care of Family Members/Non-Patient Visitors Accompanying Patients
Medical Screening Examination: Any individual who comes to the hospital emergency department (see definitions) is offered an MSE regardless of the individual’s ability to pay for medical care. The MSE determines the presence or absence of an EMC in patients and is provided within the capabilities and capacity of the hospital, including the availability of on-call physicians. The scope of the examination is tailored to the individual’s presenting complaint and medical history. Triage is not equivalent to the MSE.

- If the individual presents on hospital property that is located outside of the DED and appears to be suffering from an EMC, the patient shall be triaged and transported to the DED or another area in the hospital that is capable of providing an MSE and delivering emergency services appropriate to the patient’s condition. The triage and transport can be accomplished by MEDIC 1 or other qualified EMS, as necessary given the patient’s location and the facts and circumstances surrounding the individual’s apparent EMC.

- A minor (child) can request an examination or treatment for an EMC. Hospital personnel should not delay the MSE by waiting for parental consent. If after screening the minor, it is determined that no EMC is present, the staff can wait for parental consent before proceeding with further examination and treatment.

- The hospital provides an appropriate MSE and treatment until the individual with an EMC is stabilized or appropriately transferred.

- The hospital does not delay an MSE or necessary stabilizing treatment of an EMC solely to inquire about an individual’s method of payment or to verify insurance status, and does not request prior authorization for emergency services before it conducts the MSE. An MSE will not be conditioned on an individual’s completion of a financial responsibility form, an advance beneficiary notification form or payment of a co-payment for services rendered.

Transfer: A transfer of the patient to another appropriate medical facility may be made in the following circumstances:

- Following the MSE, a patient may be transferred to another facility if the patient or their representative requests the transfer, after being notified of the hospital’s obligations and the risks of the transfer.
• The patient may be transferred to another facility if the hospital determines that it does not have appropriate medical and/or staffing resources to properly stabilize the patient, and one of the following occurs:
  
  o A physician has signed a certification that the medical benefits of the transfer are expected to outweigh the risks of transfer. The certification will state the reason for transfer, patient condition, benefit/risks of transfer, receiving hospital, mode of transportation, and patient consent.

  o If a physician is not physically present in the emergency department at the time an individual is transferred, a Qualified Medical Person (QMP) has signed a certification that the benefits of transfer are expected to outweigh the risks of transfer, after consulting with a physician who agrees with the transfer. The physician must thereafter countersign the certification as soon as practical.

• When a patient is transferred the consent of the receiving hospital to accept the transfer must first be obtained and documented in the medical record. In the case of transfer from another UW Medicine facility the hospital shall send to the receiving facility, copies of all pertinent medical records available at the time of transfer, and affect the transfer through qualified personnel and transportation equipment.

3. Refusal to Consent to Treatment or Transfer

• If the patient or their representative refuses a medical examination and/or treatment, the physician or other designated professional staff shall note the type of examination and/or treatment refused in the ED log and the medical record, where available, and shall take reasonable steps to secure a written informed refusal by the patient or their representative.

• If a patient or their representative refuses to be transferred, the physician or QMP shall note in the medical record the proposed transfer and the risks and benefit of the refusal thereof. If the patient’s medical record is not available, the physician or QMP shall note the refusal of transfer in the ED log. In either case, the physician or QMP shall take reasonable steps to secure a written acknowledgement of refusal by the patient or their representative.

Related Guidelines
1. Financial Inquiries. Individuals who inquire about financial responsibility for emergency care should receive a response by a staff member who has been well trained to provide information regarding potential financial liability. The staff member who provides information on potential financial liability should clearly inform the individual that the hospital will provide an MSE and any necessary stabilizing treatment regardless of his or her ability to pay. Individuals who believe that they have an EMC should be encouraged to remain for the MSE.
2. **Signage.** UW Medicine hospitals and all facilities covered by this policy shall post signs in conspicuous locations likely to be noticed by individuals entering the DED, labor and delivery areas and other areas where patients are screened (including areas such as entrances, admitting areas, waiting rooms, treatment areas). At a minimum, the signs must specify the rights of individuals with emergency conditions and women in labor who come to a DED or to other areas of the Medical Center for healthcare services. The signs shall be posted in the top three languages of each facility.

3. **Centralized Log - Records and Retention.** All hospital departments where a patient might present for emergency services or receive an MSE, including the DED, shall maintain EMTALA Central Logs, which identify the patients who have presented for such services, along with a description of the outcome of their presentation. Central Logs must be maintained in a manner that makes them readily available to a surveyor in the event of an EMTALA survey and shall be retained for at least five (5) years.

4. **On-call Response.** Each hospital shall maintain a list of physicians who are on-call to come to its DED to consult or provide treatment necessary to stabilize a patient with an EMC. Notification of an on-call physician by the ED is documented in the medical record.

   • On-call physician responsibilities to respond, examine and treat emergency patients, including provision of appropriate outpatient follow up care prescribed by the emergency physician, are defined in the medical staff bylaws and policies.

5. **Transfer Agreements.** A hospital may enter into transfer agreements with other facilities from whom requests for transfers may be received that facilitate the consideration and acceptance of transfers, and which may establish additional conditions for the transfer that do not violate the requirements of EMTALA.

6. **Reporting Requirements.** If the hospital has reason to believe that it may have received a patient who was inappropriately transferred from another hospital, it is required by law to report that to U.S. Department of Health and Human Services (DHHS) and CMS. If an employee, physician or volunteer becomes aware of an inappropriate transfer of an unstable patient with an EMC, that person should immediately notify the Medical Director’s office who will involve UW Medicine Compliance or UW Health Sciences Risk Management as needed. A formal quality improvement/patient safety report should be completed.

7. **Non-Retaliation.** Hospitals will not take adverse action against a physician or other QMP because such person has refused to authorize the transfer of an individual with a non-stabilized EMC from the medical center to another facility nor will it retaliate against a physician or such emergency personnel for reporting in good faith an apparent EMTALA violation.

**ROLES AND RESPONSIBILITIES**
1. The on-site attending physician(s), on-call physician(s) or other QMP will perform the MSE, subject to the following requirements:

   - The MSE is within the QMPs scope of practice or is provided under the direction of a qualified member of the medical staff;

   - The categories of QMPs authorized to perform and/or supervise MSEs are determined by each hospital’s medical staff bylaws or rules and regulations. These categories are reviewed and approved by the medical executive committee and the hospital’s Board of Directors.

2. UW Medicine hospital compliance with EMTALA is monitored by applicable clinical managers, directors, administrators, department medical directors and medical staff members and also by quality improvement, risk and compliance services. UW Medicine maintains a monitoring program to evaluate the MSE and patient transfers and to initiate in-service training and corrective action when appropriate.

3. CMS and the Office of Inspector General (OIG) of the DHHS are the federal government agencies responsible for EMTALA enforcement.

**APPROVALS**

/s/ Sue Clausen  12/22/2016  
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