FREQUENTLY ASKED QUESTIONS

Emergency Medical Treatment and Labor Act (EMTALA)

The Emergency Medical Treatment and Labor Act (EMTALA) is a federal law that requires all Medicare-participating hospitals with dedicated emergency departments to provide all individuals with equitable access to emergency services, regardless of ability to pay. EMTALA applies to all UW Medicine hospitals. Specifically, any individual who may be experiencing an Emergency Medical Condition (EMC) is entitled to receive a Medical Screening Exam (MSE) and the necessary stabilizing treatment prior to discharge or transfer to another facility. At its core, EMTALA is a human dignity law because its goal is to ensure no one suffers harm from a medical condition because they do not have health insurance or the financial means to pay for emergency health services. Therefore, compliance with EMTALA is central to UW Medicine fulfilling its mission to improve the health of the public, as our health system serves a vital public health and health equity role in our community: our patients are among the most vulnerable members of our community and are thus more likely to use emergency departments for a significant portion of their healthcare needs.

The intent of the following FAQs is to help UW Medicine workforce members, including faculty, staff and trainees, navigate the fundamental requirements of EMTALA, the corresponding UW Medicine Compliance EMTALA policy standards, as well as apply EMTALA to various patient care scenarios.

Please contact UW Medicine Compliance at **comply@uw.edu/206.543.3098** for assistance with the scenarios described in any of the Q&As below.

1. **Where can I find UW Medicine's EMTALA Compliance policy?**
   Read UW Medicine's EMTALA Compliance policy, COMP.301

2. **Where can I find information from UW Medicine about abortion and other reproductive care services for patients who may be experiencing a pregnancy-related emergency?**
   In Fall 2022, UW Medicine leadership provided a press release with substantial information and resources, including a Q&A on the 2022 US Supreme Court's overturning of *Roe v. Wade,* and was updated in June 2023.

   Click here to read the News Release

3. **Does EMTALA require specific elements to be completed for a Medical Screening Exam (MSE)?**
   There is no specific list of procedures/services that must be provided during the MSE; rather, the MSE is specific to the patient's presenting signs and symptoms. The purpose of the MSE is to determine whether a patient has an Emergency Medical Condition (EMC) and, if so, we are required to provide stabilizing treatment for the EMC within our capacity and capabilities; for pregnant patients in active labor, this includes delivering the child and placenta. If we are unable to stabilize the EMC, we must provide the patient with an appropriate transfer as described further in Q&A #10. In meeting its EMTALA obligations, including MSEs, UW Medicine does not discriminate against individuals based on 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.

4. **How extensive can a hospital's registration process be for patients seeking emergency medical care and still comply with EMTALA?**
   The registration process for patients seeking emergency medical care **can** include asking the patient for their name, date of birth, or other demographic information and identification cards. For example, you can ask if they have a Washington State ID card or Driver License, health insurance ID card, or other forms of identification for the purpose of trying to positively identify them. However, the registration process **cannot** include any inquiry about the patient's ability to pay for their medical care or any insurance authorization and **cannot** delay or discourage the patient from receiving an appropriate Medical Screening Exam (MSE) and any necessary stabilizing treatment. The basic EMTALA principle is a patient's emergency medical care needs are the **top priority**; the paperwork side of the patient's emergency medical care encounter can be initiated after the patient has begun receiving their MSE and any necessary stabilizing treatment.

5. **When a patient comes to our hospital's Emergency Department (ED), what does EMTALA require us to do to help them?**
   When a patient presents to our ED and complains of, or appears to have, **any symptoms of a medical condition**, they **must** be offered a Medical Screening Exam (MSE) to determine whether an Emergency Medical Condition (EMC) exists. Our EMTALA obligation is satisfied if the MSE determines the patient does not have an EMC, and the patient can then be discharged. However, if the patient is found to have an EMC, then we must provide the necessary stabilizing treatment for the EMC within our capacity and capabilities or, in rare situations when we lack the necessary capacity or capabilities (which is unusual for UW Medicine hospitals), we must arrange for an appropriate transfer to an outside hospital.

   For patients who come to our ED and request **nonemergency-related services**, such as preventive care services (e.g., immunizations, allergy shots, etc.), COVID-19 testing, assistance with locating a homeless shelter, food bank, and similar resources, etc. but **do not** have any complaints, symptoms or other medical needs for which they are requesting care, we can re-direct these patients to the appropriate UW Medicine outpatient clinic, social work or other areas/resources within our health system. EMTALA does not apply to patients in these nonemergency situations.

   Under EMTALA, an EMC is defined as:

   - A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances or symptoms of substance abuse) such that 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 patient, the health of the patient or the fetus) in serious jeopardy; (b) serious impairment to bodily functions; or (c) serious dysfunction of any bodily organ or part.
   - With respect to a pregnant patient who is having contractions, that there is inadequate time to affect a safe transfer to another hospital before delivery or the transfer may pose a threat to the health or safety of the patient or fetus.

6. **Can a minor present, request, or have a request made on their behalf for an examination or treatment for an Emergency Medical Condition (EMC)?**
   Yes. Hospital personnel should not delay a minor's Medical Screening Exam (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.

7. **Do UW Medicine hospitals limit the types of medical personnel allowed to perform a Medical Screening Exam (MSE)?**
   Yes. Physicians and Advanced Practice Professionals (Physician Assistants [PAs] and Advanced Registered Nurse Professionals [ARNPs]) are the only types of medical personnel who may perform MSEs at UW Medical Center, Harborview Medical Center and Valley Medical Center. Additionally, triage (which is typically performed by a nurse) is **not** equivalent to the MSE.

8. **How does EMTALA apply to patients who are experiencing a behavioral health condition?**
   For patients with behavioral health conditions, EMTALA specifies that patients expressing suicidal ideation (SI) and/or homicidal ideation (HI) are considered to have an Emergency Medical Condition (EMC). Therefore, we must provide the necessary evaluation and stabilizing treatment by a qualified behavioral health provider within our capacity and capabilities (per the applicable UW Medicine entity policy) to protect and prevent these patients from injuring themselves and/or others. Some of these patients' treatment needs may ultimately require the specialized capabilities of an inpatient psychiatric facility, so we must coordinate an appropriate transfer to those types of facilities in these situations.

9. **What is the best way for an outside hospital (OSH) to contact us if they need to request a patient transfer to one of our UW Medicine hospitals?**
   The OSH should contact our UW Medicine Transfer Center (TC) at **206.520.7575** or **877.520.7575**. The TC serves as a single point of contact for urgent and emergent transfer requests and physician-to-physician consultations. Specialty trained registered nurses are available 24 hours a day, seven days a week to coordinate inter-facility transfers to UW Medicine. The TC also assists with Airlift Northwest (Airlift) air transport as needed and facilitates the transfer of a patient's clinical documentation to ensure continuity of care. More information about the TC can be found here: Read more about the TC.

10. What are the EMTALA requirements for transferring emergency patients?

There are four (4) requirements for an "appropriate transfer" under EMTALA:

- The transferring hospital provides medical treatment within its capacity which minimizes the medical risks to the patient (and in the case of a pregnant patient in labor, the medical risks to the fetus as well).
- The receiving hospital has available space and qualified personnel for the treatment and agrees to accept the transfer.
- The transferring hospital sends the receiving hospital all medical records related to the emergency condition that are available at the time of the transfer and any other records not yet available as soon as practicable.
- The patient is transferred using appropriate personnel and transportation, including the use of necessary and medically appropriate life support measures during the transfer.[1]

11. Due to UW Medicine hospitals' specialized capabilities to treat patients with nearly any type of Emergency Medical Condition (EMC), are there any situations in which EMTALA allows us to decline an outside hospital's (OSH's) transfer request?

Depending on the specific facts of an OSH's emergency transfer request, UW Medicine **generally** would be obligated under EMTALA to accept the patient if the OSH does not have the capabilities (i.e., the services/technology to provide the specific type/level of emergency care needed) or the capacity at the time of their request, and we do have the capabilities and capacity to do so. This could include situations in which we do not have an available bed but we have procedures for accommodating additional patients by various means, such as moving patients from one unit to another, calling in additional staff, borrowing additional equipment from other departments, etc. In other words, our capacity is determined by the case-specific circumstances and our history of implementing various capacity management actions to accommodate patient overflow.

12. What are some examples which may indicate the possibility of an inappropriate transfer of an emergency patient from an outside hospital (OSH)?

- There is no arrangement/agreement by a UW Medicine hospital to accept the transfer.
- The transfer occurred against our recommendations or despite us declining the transfer request.
- The patient's condition indicates the OSH may not have provided stabilizing treatment within its capacity and capabilities.
- The patient arrives to us without the OSH sending us any of their medical records.
- The patient's condition arguably could have been handled by the OSH's on-call physician, but that physician did not personally see the patient.
- The patient (or their family member or friend) drove themself from the OSH to our ED.[2]

[1] The transferring hospital is required to arrange transport that minimizes the risk to the patient who is being transferred. Moreover, it is the responsibility of the transferring physician/hospital to determine the mode of transfer to be used, and the receiving physician/hospital **cannot** condition its acceptance of the patient on a particular mode of transfer. This means UW Medicine cannot require a transferring physician/hospital to use Airlift Northwest (Airlift) as a condition for our acceptance of a transfer request. However, we **can** recommend Airlift as UW Medicine's preferred air transport to the transferring physician/hospital, as long as we ultimately allow them to decide.

[2] If the patient (or their family member or friend) informs us they decided to drive themselves and that the OSH did not compel them to make that decision, then that should be considered. For example, there may not have been an ambulance (either ground or air transport, such as Airlift Northwest) available for several hours – which can sometimes be the case in rural communities, and/or the patient does not want to use an ambulance because they cannot afford it or do not want to pay the out-of-pocket costs, and therefore the patient/family member/friend decides to drive the patient themselves.

13. **What should I do if I encounter a situation that seems like a potential EMTALA violation – namely, a patient who may have been inappropriately transferred to us from an outside hospital?**
    Take the following steps:
    1. Contact Compliance directly by either emailing **comply@uw.edu** or calling **206.543.3098**.
    2. Notify your supervisor immediately and work with them to notify your facility's Emergency Department (ED) leadership as well as the Medical Director's office.
    3. Enter the information you have about the situation into your facility's patient safety system (e.g., SafetyNet or RL Datix).

14. **What should I do if I see a person fall in the hospital parking garage or other area on the hospital campus that is outside of the main hospital building, and it looks like the person may be hurt?**
    You should immediately assist the person and follow your hospital's policies/procedures for assisting people who may need emergency assistance while on campus outside of a hospital building (e.g., calling 911, even though the person is on the hospital campus). Once the ambulance arrives, they can assess the person and then safely move/transport them to the Emergency Department (ED). EMTALA applies to the entire hospital campus – including hospital-operated/maintained areas such as parking lots, as well as other areas which appear to a prudent layperson to be part of the campus.

15. **A patient has been in the Emergency Department (ED) waiting area for 30 minutes, and is getting anxious. They walk up to the triage window and tell you they want to leave and go to a different hospital where the wait time is shorter. What should you do?**
    You should ensure that the patient has been triaged, and then explain to them it is in their best interest to stay, and that UW Medicine wants to take care of them and they will be seen as soon as possible. However, if the patient refuses to wait any longer and insists on leaving, then we must allow them to do so. Our obligation is to communicate to the patient that we want to take care of them, just like any other UW Medicine patient.

16. **A patient just finished receiving emergency medical care, was discharged appropriately in stable condition and left the hospital, but then returned later with a similar medical complaint. What should we do in this situation?**
    In general, if an emergency patient is discharged appropriately after receiving the necessary stabilizing medical care but then returns later with a medical complaint (regardless of whether their medical complaint is similar or different than their previous encounter for which they received emergency care), they should be offered a Medical Screening Exam (MSE) to determine if, in fact, they have an Emergency Medical Condition (EMC). If the MSE reveals they have an EMC, EMTALA requires us to provide them with the necessary stabilizing treatment (within our capacity and capabilities). On the other hand, if the MSE determines they do not have an EMC, then we have met our EMTALA obligation and can discharge the patient accordingly. Also, we cannot deny patients access to either the ED or emergency medical care.

17. **A patient just finished receiving emergency medical care, has been cleared for discharge (i.e., they are in stable condition, and have an appropriate discharge plan) but is refusing to leave. What do we do?**
    You should immediately notify your supervisor and/or attending physician, and follow your hospital's normal procedures to de-escalate the situation, including paging Security/Public Safety personnel, etc. Then, if necessary, escort/remove the patient as safely as possible from the hospital building and redirect them accordingly. From an EMTALA standpoint, we have met our EMTALA obligation to provide the necessary emergency medical care to the patient.

18. Are there certain situations in which EMTALA does not apply?

Yes. The following are examples for which EMTALA does not apply:

- Patients who are "inpatient" status, including those who are inpatient at an outside hospital (OSH) which requests a transfer of that patient to UW Medicine. In these situations, the patient is protected by Medicare's overarching Conditions of Participation (CoP) from being inappropriately transferred or discharged. Therefore, because EMTALA does not apply here, the EMTALA requirements for an appropriate transfer as listed in Q&A #10 likewise do not apply.
- The transfer of **stable** patients (i.e., those whose Emergency Medical Conditions [EMCs] have been stabilized or who have been determined to not have an EMC) from one UW Medicine hospital to another UW Medicine hospital in order to provide the best access to all patients across the enterprise.
- Patients who are at an outpatient clinical appointment on the hospital campus and develop a potential EMC. In this situation, calling 911 and/or mounting a field response (e.g., initiating basic life support and other medical care to the patient, based on the nature of their condition and the applicable hospital policy/procedure – such as Code Blue, etc.) could both be appropriate responses.

19. I am the leader of a UW Medicine entity/department, and I think my team could benefit from an EMTALA training session and/or a general EMTALA Q&A session. Is this something I can request?

Absolutely! Contact UW Medicine Compliance directly at **comply@uw.edu** or **206.543.3098**, and a staff member will work with you to coordinate a session that meets your needs.

REFERENCES

Centers for Medicare and Medicaid Services (CMS), 42 Code of Regulations Section 489.24: Special responsibilities of Medicare hospitals in emergency cases

Centers for Medicare and Medicaid Services (CMS), State Operations Manual: Appendix V – Interpretive Guidelines – Responsibilities of Medicare Participating Hospitals in Emergency Cases, CMS Pub. 100-07, (Rev. 191, July 19, 2019)

Social Security Act, Title 18, Section 1866 (42 United States Code Section1395cc): Agreements with Providers of Services; Enrollment Processes

Social Security Act, Title 18, Section 1867 (42 United States Code Section1395dd): Examination and Treatment for Emergency Medical Conditions and Women in Labor

UW Medicine Compliance Glossary

UW Medicine EMTALA Compliance Policy (COMP.301)

Washington State Hospital Licensing Regulations, WAC 246-320-010: Definitions

Washington State Hospital Licensing Regulations, WAC 246-320-281: Emergency services

Washington State Hospital Licensing and Regulation, RCW 70.41.020: Definitions

Washington State Hospital Licensing and Regulation, RCW 70.41.570: Pregnant persons—Provision of emergency services

Washington State Hospital Licensing and Regulation, RCW 70.170.060: Charity care—Prohibited and required hospital practices and policies—Rules—Notice of charity care availability—Department to monitor and report