

<b>Applicability:</b>	UW Medicine hospitals
<b>Policy Title:</b>	Application of and Compliance with the Emergency Medical Treatment and Labor Act (EMTALA)
<b>Policy Number:</b>	COMP.301
<b>Date Established:</b>	January 1, 2014
<b>Date Effective:</b>	April 16, 2021
<b>Next Review Date:</b>	April 16, 2024

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### **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 and accompanying laws and regulations.

This policy applies to all UW Medicine hospitals with Dedicated Emergency Departments (DED), including areas of hospital property located outside of the DED in which the public may be found, such as other hospital departments, as well as hospital-maintained sidewalks, driveways, parking lots and any building owned by the hospital that are within 250 yards of the hospital. This excludes other areas or structures of the hospital's main building that are not part of the hospital, such other entities that participate separately under Medicare or other nonmedical facilities.

### **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 Medicare 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 as follows:

- 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 in the [UW Medicine Compliance Glossary](#). 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**

- Social Security Act, Title 18, Section 1866 (42 United States Code Section 1395cc): Agreements with Providers of Services; available at [https://www.ssa.gov/OP\\_Home/ssact/title18/1866.htm](https://www.ssa.gov/OP_Home/ssact/title18/1866.htm)
- Social Security Act, Title 18, Section 1867 (42 United States Code Section 1395dd): Examination and Treatment for Emergency Medical Conditions and Women in Labor; available at [https://www.ssa.gov/OP\\_Home/ssact/title18/1867.htm](https://www.ssa.gov/OP_Home/ssact/title18/1867.htm)
- Centers for Medicare and Medicaid Services (CMS), 42 Code of Regulations Section 489.24: Special responsibilities of Medicare hospitals in emergency cases; available at <https://www.govinfo.gov/content/pkg/CFR-2018-title42-vol5/pdf/CFR-2018-title42-vol5-sec489-24.pdf>
- 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); available at [http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107ap\\_v\\_emerg.pdf](http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107ap_v_emerg.pdf)

#### **PROCEDURE ADDENDUM(S)/REFERENCES/LINKS**

- [UW Medicine Compliance Glossary](#)
- [UW Medicine Informed Consent Manual](#)
- HMC, APOP 45.9 Advance Beneficiary Notice
- HMC, APOP 5.47 Hospital Plan for the Provision of Patient Care
- HMC APOP 5.24 Patient Transfers
- HMC, APOP 5.33A Restraint Management
- HMC, Emergency Services, Triage and Registering Patients
- HMC, Emergency Services, Discharging Patients from the ED
- HMC, APOP 85.8 Pregnant Patients at Harborview
- VMC, Patient Care Division, Inter-Facility Trauma Transfer IN Guidelines
- VMC, Patient Care Division, Inter-Facility Trauma Transfer OUT Guidelines
- VMC, Patient Care Services, Triage & Emergency Department, Care of the Patient in the Birth Center, OB ED
- UWMC, Ambulatory Care Division, Care of Non-Established Patients/Patients Outside of Scheduled Appointments
- UWMC, Ambulatory Care Division, Transport of Patients from Off-Site Locations to UWMC
- UWMC, Emergency Department, Assault prevention and After Care for Emergency Department Staff (Safe Approach)
- UWMC Emergency Department, Nursing – Triage in the ED
- UWMC, Medical Staff, Transfer of Patients from an Outside Hospital Emergency Department to the UWMC Emergency Department

## **Related Procedures**

1. **Medical Screening Examination:** Any individual who comes to the hospital emergency department 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 therefore tailored to the individual's presenting complaint and medical history, and therefore may or may not involve various diagnostic tests/procedures (e.g., labs, imaging, etc.) and other ancillary services. 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 Emergency Medical Services (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 (i.e., within reasonable medical probability, either of the following: no material deterioration of the individual's condition is likely to result from or occur during the transfer, or the treating provider has determined that the EMC is resolved), appropriately transferred or admitted as an inpatient for further treatment.
  - The hospital does not delay an MSE or necessary stabilizing treatment of an EMC 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.
2. **Transfer:** A transfer of an unstable patient with an EMC (e.g., uncontrollable bleeding; shortness of breath; potential symptoms of a heart attack, stroke, seizure, or drug overdose; severe digestive symptoms; other major trauma or burns, etc.) to another medical facility capable of providing the patient with the necessary stabilizing treatment 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 the necessary medical and/or staffing resources to properly stabilize the patient, and one of the following occurs:

- 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.
- 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.
- Transfers of stable patients (i.e., those whose EMCs have been stabilized or who have been determined to not have an EMC) as well as transfer of patients who are “inpatient” status at the time of transfer are not subject to EMTALA requirements. Accordingly, UW Medicine hospitals are not restricted by this policy if they wish to transfer stable patients or inpatients to another UW Medicine hospital in order to provide the best access to all patients across the enterprise.

### 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 patient’s Electronic Medical Record (EMR) and the central log, where available, and shall take reasonable steps to secure a written informed refusal by the patient or their representative. A central log may be kept in either electronic or paper format. Additional requirements related to tracking ED patient information (including transfers) in a central log can be found in the “**Centralized Log - Records and Retention.**” paragraph on the following page.
- If a patient or their representative refuses to be transferred, the physician or QMP shall note in the EMR the proposed transfer and the risks and benefits of the refusal thereof. If the patient’s medical record is not available, the physician or QMP shall note the refusal of transfer in a central 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 from 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, one sign must be posted in every treatment room in both the DED and labor and deliver area (or comparable area), and the signs must specify the rights of individuals with emergency conditions and patients in labor who come to a DED or to other areas of the hospital 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 central logs in either electronic or paper format, 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 for a survey or 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 (i.e., an unstable patient with an EMC who was not provided an appropriate transfer), it is required by law to report that to CMS or the Washington State Department of Health (WA DOH). Accordingly, if any UW Medicine workforce member or volunteer becomes aware of an inappropriate transfer of an unstable patient with an EMC, that person should immediately notify their supervisor, who will then help ensure that UW Medicine Compliance is also notified, and that a formal quality improvement/patient safety report is completed. UW Medicine Compliance will then investigate the concern, and notify hospital executive leadership, as well as the Chair of the School of Medicine Department of Emergency Medicine if the recipient hospital is either UW Medical Center (Montlake or Northwest) or Harborview, and will also involve Health Sciences & UW Medicine Risk Management as needed. The necessary notifications will be completed prior to any report to CMS or WA DOH. However, every effort should be made to report within 72 hours of the hospital's receipt of the patient.

7. **Non-Retaliation.** UW Medicine 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 hospital 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 QMP’s 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 Management and UW Medicine Compliance. UW Medicine maintains a monitoring program to evaluate EMTALA compliance 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/ Beth DeLair  
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6/12/2023  
Date