

**Applicability:** UW Medicine hospitals

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

**Policy Number:** COM-007

**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 Policy Manual, [EMTALA Compliance](#)  
University of Washington Medical Center (UWMC), [APOP 15-16 Application of and Compliance with the Emergency Medical Treatment and Active Labor Act \(EMTALA\)](#)

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**Next Review Date:** July 1, 2016

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### **PURPOSE AND SCOPE**

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.

### **POLICY PRINCIPLES/STATEMENT**

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.

## DEFINITIONS

1. **Campus** means the physical area immediately adjacent to a hospital's main buildings, as well as other areas and structures that are not strictly contiguous to the main buildings but are located within 250 yards of the main buildings, and any other areas determined on an individual case basis by the Centers for Medicaid and Medicare Services (CMS) regional office to be part of the hospitals' campuses. "Campus" does not include private physician offices or other businesses that may be located on hospital property but do not house hospital functions or services and which are not hospital owned or operated.
2. **Capacity** means the ability of the hospital to accommodate the individual requesting a medical screening examination or to provide necessary stabilizing treatment of an individual who is diagnosed with an emergency medical condition. 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.
3. **Comes to the emergency department (ED)** means that the individual:
  - Has presented at the dedicated emergency department and requested examination or treatment for a medical condition, or has such a request made on his or her behalf. If a prudent layperson observer would believe based on the individual's appearance or behavior that the individual needs examination or treatment for an emergent medical condition, staff should proceed in accordance with this policy regardless of whether a request for examination or treatment has been made by or on behalf of the individual.
  - Has presented on hospital property, other than the dedicated emergency department and requests examination or treatment for what may be an emergency medical condition, or has such a request made on his or her behalf. If a prudent layperson observer would believe, based on the individual's appearance or behavior, that the individual needs emergency examination or treatment, staff should proceed in accordance with this policy regardless of whether a request for examination or treatment has been made by or on behalf of the individual.
  - Is in a ground or air nonhospital-owned ambulance on hospital property for presentation for examination and treatment for a medical condition at the hospital's dedicated emergency department.
4. **Dedicated Emergency Department** means any department or facility of the medical center, whether on or off the main hospital campus that: (a) is licensed by the state as an ED; or (b) is held out to the public as a place that provides care for emergency medical conditions without an appointment; or (c) based on a representative sample of patient visits during the previous calendar year, provides at least one-third (1/3) of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis without requiring a previously scheduled appointment.

5. **Emergency Medical Condition (EMC)** means:
  - 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, the health of a pregnant woman's unborn child) in serious jeopardy; (b) serious impairment to bodily function; or (c) serious dysfunction of any bodily organ or part.
  - With respect to a pregnant woman who is having contractions, if 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 woman or her unborn child.
6. **Hospital property** means the hospital campus, including the parking lots, sidewalk and driveways that access hospital facilities but excluding other areas or structures of the hospital's campus that are not part of the hospital, such as public streets, restaurants, shops or other non-medical facilities.
7. **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 certifies that, after a reasonable time of observation, the woman is in false labor.
8. **Medical Screening Examination (MSE)** means the process required to reach the point at which it can be determined whether an emergency medical condition exists, as a matter of reasonable medical probability. The process may range from a simple examination (such as a brief history and physical) to a more detailed examination that may include laboratory tests, diagnostic imaging, or other diagnostic tests or procedures, and/or use of on-call physician specialists. The MSE is a continuous process reflecting appropriate monitoring in accordance with a patient's needs.
9. **Qualified Medical Person (QMP)** means the person who performs the MSE and who signs the written certification for any transfers. Each hospital determines its QMPs in the hospital bylaws, rules and regulations.
10. **Stabilized** means that no material deterioration of the condition is likely, within reasonable medical probability, to result from or occur during transfer or that the treating provider has determined, within reasonable medical probability, that the EMC is resolved. A laboring patient is stabilized when the child and the placenta are delivered.
11. **Stable for discharge** means that the hospital has provided medical services necessary to assure that no material deterioration of the condition is likely to result from discharge, as a matter of reasonable medical probability. Further, the physician has determined that the patient's continued care, including further diagnostic workup and/or treatment, can be reasonably

performed as an outpatient or later as an inpatient, and the patient is provided a plan for appropriate follow-up care with discharge instructions.

- A psychiatric patient is considered “stable for discharge” if the patient is not considered to be a threat to self or others.

12. **Stable for transfer** means the hospital has, within its capability and capacity, provided medical services necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during transfer, and that the transferring physician reasonably believes that the receiving facility has the capability to manage the patient’s medical condition and any reasonably foreseeable complications.

- A psychiatric patient is considered “stable for transfer” if the medical screening examiner has determined the patient has no underlying organic basis for the presenting psychiatric symptoms; initial treatment has been provided as indicated; and the patient has been treated sufficiently so that he/she is not a threat to self or others.

13. **Stabilizing treatment** is medical treatment necessary to assure, within reasonable medical probability that no material deterioration of the condition is likely to result or occur from/during a transfer.

14. **Transfer** means the movement of an individual outside of a hospital’s facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital. Transfer does not include movement of an individual who leaves the facility without permission or is declared dead. However, transfer does include discharge.

## POLICY

UW Medicine hospitals comply with all EMTALA obligations.

Each UW Medicine hospital provides an appropriate MSE to determine whether an EMC exists to any patient who “comes to the emergency department” 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, race, color, national origin, gender, age or disability.

**REGULATORY/LEGISLATION/REFERENCES**

CMS State Operations Manual: Appendix V – Interpretive Guidelines – Responsibilities of Medicare Participating Hospitals in Emergency Cases

[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**

- HMC, APOP 45.9, [Advanced Beneficiary Notice](#)
- HMC, APOP 5.47, [Hospital Plan for the Provision of Patient Care](#)
- HMC, Emergency Services, [Triage and Registering Patients](#)
- NWH, [High Patient Census Policy](#)
- NWH, ED, [Delivery of Care Methodology](#)
- NWH, Transfer Process, [Transfer 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](#)
- UWMC, Ambulatory Care Division, [Transport of Patients from Off-Site Locations](#)
- UWMC, Emergency Department, [Scope of Service](#)
- UWMC, Medical Staff, [Policy for the Transfer of Patients from an Outside Hospital Emergency Department to the UWMC Emergency Department](#)
- Airlift Northwest, Policy & Procedure 1100, EMTALA Compliance

**Related Procedures**

1. **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.

## 2. Transfer

- Following the MSE, a patient may be transferred if requested by the patient or their representative, after being notified of the risks and benefits of the transfer.
- If the hospital determines that it does not have appropriate medical and/or staffing resources to properly stabilize the patient, transfer to an appropriate facility may be made if a physician certifies in writing that the medical benefits of the transfer are expected to outweigh the risks of transfer; or if a physician or QMP certifies in writing that the benefits of transfer are expected to outweigh the risks of transfer, and such certification is co-signed by a physician.
- 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.
- The physician or QMP overseeing the transfer must certify in writing on a certification form. The certificate 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 QMP must sign the certification after consulting with a physician who agrees with the transfer. The physician must thereafter countersign the certification as soon as practical.

### 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.

**AUTHORITIES**

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\*Approved at the UW Medicine Executive Compliance Committee meeting on October 29, 2013.