

Complete Healthcare Compliance Manual 2024

Emergency Medical Treatment and Labor Act

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Fast Facts

Title of law: Emergency Medical Treatment and Labor Act (EMTALA); Examination and treatment for emergency medical conditions and women in labor

Categories:

- Discrimination in medical care
- Emergency medical services
- Health facilities
- Medicaid
- Medicare

U.S. Code: 42 U.S.C. § 1395dd

Year enacted: 1986

Major amendments: Not applicable.

Enforcement agency: U.S. Department of Health & Human Services (HHS) Centers for Medicare & Medicaid Services (CMS)

Link to full text of law: <https://www.govinfo.gov/content/pkg/FR-2012-02-02/pdf/2012-2287.pdf>

Applies to: Any hospital or health system that accepts payment from the Department of Health & Human Services Centers for Medicare & Medicaid Services under the Medicare program for services provided to beneficiaries of that program. Provisions of the act are applicable to all patients, not just Medicare patients. Hence, it applies to almost all hospitals in the United States, aside from some private hospitals and military hospitals.

What Is the Emergency Medical Treatment and Labor Act?

Emergency Medical Treatment and Labor Act (EMTALA) is a federal law that was enacted to prevent

discrimination of patients in hospital emergency departments and ban “patient dumping” on public hospitals. The law ensures public access to emergency medical services regardless of ability to pay.

There are three main legal obligations created by EMTALA:

1. Any person who comes into the emergency department must be able to receive a medical screening examination to determine whether an emergency medical condition exists, regardless of their financial or insurance status. The exam and treatment may not be delayed in order to ask about methods of payment or insurance.
2. If an emergency medical condition exists, treatment must be provided until the condition is resolved or the patient is stabilized. If the hospital is unable to treat the emergency medical condition due to capacity or ability, an appropriate transfer to another hospital must be done in accordance with EMTALA provisions.
3. Hospitals with specialized capabilities must accept transfers from hospitals that lack the capacity to treat unstable emergency medical conditions.^{[5],[6]}

EMTALA was passed as part of the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985.^[7] Referred to as the “anti-dumping” law, it was designed to prevent hospitals from transferring uninsured or Medicaid patients without providing at least a medical screening examination to ensure they were stable for transfer. In 2000, Congress made EMTALA enforcement a priority and began issuing penalties for violations of the act of more than \$1.17 million. A technical advisory group was convened in 2005 by the Centers for Medicare & Medicaid Services (CMS) to discuss improvements to EMTALA. Their purpose was to provide advice and recommendations regarding the application of the law to hospitals and physicians, as well as solicit comments and recommendations from hospitals, physicians, and the public to create incremental updates to the law.^[8]

Related Laws

Fla. Stat. § 395.1041(3) (2019)—Access to emergency services and care

- Requires hospitals to provide emergency services and care.
- An unstabilized patient may only be transferred if:
 - Patient or legally responsible person, after being informed of the hospital’s obligation, requests a transfer;
 - A physician, considering the risk to the patient at the time, signs a certificate effectuating a medically necessary transfer.

Cal. Health and Safety Code § 1317.3 (West 2019)—Policies and transfer protocols, discrimination, failure to adopt policies and protocols, submission for approval

- Prohibits hospitals from discrimination, including insurance status and ability to pay, in providing medical services.

Cal. Health and Safety Code § 1262.5 (West 2019)—Discharge planning policy and process, requirements, written homeless patient discharge plan, documentation

- Amended in 2019 (Sen. B. 1152) to include the arrangement of a post-discharge plan for homeless people.

Tex. Health and Safety Code Ann. § 241.027(b),(c) (2015); Tex. Health and Safety Code Ann. § 254.153(a) (2009) – Freestanding emergency centers

- Urgent care centers cannot transfer before stabilization unless:
 - The patient consents;
 - A licensed physician approves, or designates someone to approve, the transfer as medically appropriate.

Utah Code Ann. § R432-100-17(2)(c) (LexisNexis 2020)

- The evaluation and treatment of a patient who presents himself or is brought to the emergency care area shall be the responsibility of a licensed practitioner and shall include an appropriate medical screening examination, stabilizing treatment, and, if necessary for definitive treatment, an appropriate transfer to another medical facility that has agreed to accept the patient for care.^[9]

N.Y. Public Health Law § 2805-b(2)(b) (McKinney 2019)

- Any licensed medical practitioner who refuses to treat a person arriving at a general hospital to receive emergency medical treatment who is in need of such treatment; or any person who in any manner excludes, obstructs or interferes with the ingress of another person into a general hospital who appears there for the purpose of being examined or diagnosed or treated; or any person who obstructs or prevents such other person from being examined or diagnosed or treated by an attending physician thereat shall be guilty of a misdemeanor and subject to a term of imprisonment not to exceed one year and a fine not to exceed one thousand dollars.^[10]

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