

# Emergency Medical Treatment and Labor Act (EMTALA)



## Objectives

At the conclusion of this course you should:

- Understand the requirements of EMTALA
- Identify how EMTALA requirements apply to Stanford Health Care and Stanford Children's Health
- Recognize a potential EMTALA violation
- Understand when EMTALA violations must be reported
- Understand how to report suspected EMTALA violations
- Understand where to access EMTALA policies, procedures, FAQs, and guidance

## EMTALA Background

- Federal statute that stands for Emergency Medical Treatment & Active Labor Act
- Also referred to as patient “anti-dumping” law
- Passed as part of the Consolidated Omnibus Budget Reconciliation Act of 1986
- Applies to hospitals participating in Federal healthcare programs
- Prevents hospitals from rejecting patients, refusing to treat them, or transferring them to “charity hospitals” or “county hospitals” because they are either unable to pay or are covered under Federal healthcare programs

## EMTALA Background

- EMTALA requires any patient who comes to a Dedicated Emergency Department (Dedicated ED) requesting examination or treatment for a medical condition must be provided with an appropriate Medical Screening Examination.
  - Under EMTALA, the Stanford Health Care ED (SHC ED) and Stanford Children's Health Labor and Delivery (SCH L&D) are Dedicated EDs.
- EMTALA applies to any Dedicated ED patient until that patient is:
  - Found not to have an emergency medical condition;
  - Is admitted to the hospital due to an emergency medical condition; or
  - Is transferred to another hospital in conformance with EMTALA requirements.

## EMTALA Background

- EMTALA applies to all persons on hospital property, even if they are outside of a Dedicated ED, who are seeking or in need of an examination or treatment for a possible emergency medical condition.
- EMTALA applies to all persons in an ambulance operated by SHC or SCH, unless it is under the direction of the EMS system.
- EMTALA applies to all persons in an ambulance, even if not owned or operated by SHC or SCH, that is on the main hospital campus (Campus).
- Campus means the buildings, structures, and public areas of SHC and SCH that are located on hospital property (Hospital Property).
- Hospital Property means all SHC facilities and all SCH facilities, including SHC and SCH clinics and other facilities operated under the SHC or SCH Medicare provider numbers, including sidewalks, driveways, parking lots, and other structures that are located within 250 yards of the Boswell Building or the SHC/SCH inpatient buildings.

## EMTALA Background

- EMTALA does not apply to SHC or SCH inpatient admissions, inpatient discharges, or inpatient transfers.
- CMS Conditions of Participation, not EMTALA, rules and requirements regulate inpatient care activities from an access to care perspective.
- EMTALA does not apply to outpatients receiving a course of treatment in an SHC or SCH outpatient department on the main Hospital Campus.
- EMTALA does not apply to any person who is receiving treatment in an SHC or SCH outpatient department that is located more than 250 yards from the SHC or SCH inpatient buildings.
- EMTALA does not apply to any person who is not on Hospital Property, including offices and buildings on or next to the main hospital Campus when they are not operated by SHC or SCH.

## Medical Screening Examinations

- When a person comes to the SHC ED or SCH L&D seeking or in need of an examination or treatment for a medical condition, SHC or SCH must provide a Medical Screening Examination (MSE):
  - The purpose of the MSE is to determine if the person has an Emergency Medical Condition;
  - The MSE must be appropriate to the person's complaint and his or her signs and symptoms;
  - The MSE must be the same examination provided to any other person in the SHC ED or SCH L&D with the same complaint, signs, and symptoms;
  - The MSE must include all resources of SHC or LPCH that are available to the SHC ED or SCH L&D, including imaging, lab tests, and other services.

## Medical Screening Examinations

- The MSE must be performed by a Qualified Medical Professional authorized by SHC or SCH to perform the MSE:
  - In the SHC ED, the MSE must be performed by a physician;
  - In SCH L&D, an RN may perform the MSE if the RN has been certified as meeting the standards of the Interdisciplinary Practice Committee to perform a labor examination;
  - If a pregnant patient has a complaint that does not indicate that the patient is in labor, the MSE must be performed by a physician;
  - Only a physician may order the discharge of a patient before delivery.
- Triage does not qualify as an MSE under EMTALA.

## Emergency Medical Conditions

An Emergency Medical Condition includes any of the following conditions:

- Acute symptoms requiring immediate medical attention in order to prevent:
  - Serious jeopardy to the life of the patient or an unborn child;
  - Serious impairment to the patient's bodily functions; or
  - Serious dysfunction of any body organ or part;
- Serious psychiatric disturbance, for example, the patient is a danger to others or to himself or herself;
- Symptoms of substance abuse;
- Severe pain of any nature.

## Emergency Medical Conditions – Labor

An Emergency Medical Condition exists when a pregnant patient is having contractions if:

- There is not adequate time to transfer the patient safely to another hospital; or
- A transfer may threaten the health or safety of the patient or the unborn child.

## Emergency Medical Conditions – Psychiatric

An Emergency Psychiatric Condition exists when a person who comes to the SHC ED may seek or need care for both a medical emergency and a psychiatric emergency.

- A psychiatric condition is considered to be emergent if the patient is a danger to himself or herself or to others, or is gravely disabled due to a mental disorder.
- EMTALA requires that the ED physician provide an MSE for both the medical condition and the psychiatric condition.

## EMTALA Central Log

EMTALA requires that every patient who comes to the SHC ED or SCH L&D be included in the Central Log. The Central Log entry will contain the following minimum information for each patient:

- The name of the individual, and
- The disposition of the individual, including:
  - Whether the individual left without receiving a medical screening examination;
  - Whether the individual received a medical screening examination but left without receiving/completing treatment (left Against Medical Advice);
  - Whether the individual was treated and discharged;
  - Whether the individual was treated and admitted as an inpatient;
  - Whether the individual was stabilized and transferred;
  - Whether the individual was not stabilized and transferred to another hospital;
  - Whether the individual was refused treatment.
- For obstetrics patients in the SHC ED with signs and symptoms of active labor, log whether the patient received an initial triage and was moved to SHC L&D.

## Patient Insurance Status or Ability To Pay

When a person comes to the SHC ED or SCH L&D seeking treatment:

- SHC or SCH may ask about insurance coverage after the Medical Screening Examination and the initiation of stabilizing treatment.
  - The inquiry may not delay the provision of further evaluation and/or stabilizing treatment.
- SHC or SCH may request authorization from a health plan after the Medical Screening Examination and the initiation of stabilizing treatment.
  - The request may not delay the provision of further evaluation and/or stabilizing treatment.
- SHC or SCH may not ask for payment until:
  - After the patient's Emergency Medical Condition has been stabilized under EMTALA; or
  - After the patient has been admitted as an inpatient to SHC or SCH.
- These requirements apply to medical and psychiatric Emergency Medical Conditions.

## Stabilizing Treatment

If the MSE indicates that a patient has or may have an Emergency Medical Condition, the following must be provided to the patient:

- Continuing examination of the patient's Emergency Medical Condition, and
- Treatment within the capability and capacity of SHC or SCH that is intended to stabilize the emergency condition.
  - Capability means within the scope of services provided by SHC or SCH.
  - Capacity means staff and beds at SHC or SCH.

## Stabilizing Treatment

An Emergency Medical Condition is considered to be stabilized when:

- The emergent nature of the patient's medical condition has been treated and resolved; and
- It is medically safe to send the patient home with instructions for further care, even though in some cases, the underlying medical condition may still exist.

When an Emergency Medical Condition is stabilized, or a patient does not have an emergency condition:

- EMTALA obligations may be over, but the patient may still need further examination or treatment for his/her medical condition.

## On-Call Physician Services

- SHC and SCH must have an on-call roster that lists the names of physicians who are available to come to the SHC ED or SCH L&D to assist in providing further examination and stabilizing treatment for patients with an Emergency Medical Condition.
- On-call physicians must respond to a request from the SHC ED or SCH L&D, or other treating physician, to come to the SHC ED or SCH L&D to help treat a patient with an Emergency Medical Condition. The response, by phone or in-person, if needed, must be timely.
- On-call physicians cannot refuse to help treat a patient due to the lack or type of health insurance or the patient's ability to pay for medical services.
- A physician is not on-call when the physician is not listed on the on-call roster. This includes times when the physician is in the hospital seeing patients for inpatient or outpatient consultations or procedures.

## Transfers From Outside Hospitals To SHC ED Or SCH L&D

SHC and SCH must accept an appropriate transfer from another hospital if all EMTALA conditions are present:

- The patient is an emergency or labor patient at another hospital (i.e., the patient is not an inpatient from the sending hospital); and
- The transferring hospital does not provide the services, or have the ability or the beds, physician specialists, staff or equipment, which are needed to stabilize the patient's emergency condition; and
- SHC or SCH has the capability and capacity to stabilize the patient's condition.

EMTALA grants the physician from the transferring hospital the authority to decide whether the patient has an Emergency Medical Condition and needs a transfer.

## Transfers From SHC ED Or SCH L&D To Outside Hospitals

In circumstances when SHC or LPCH does not have an available bed, an available operating room, or the capability or resources to stabilize a patient's Emergency Medical Condition, SHC or SCH must arrange an EMTALA-compliant transfer of the patient to another facility that has the capability and resources to provide treatment to stabilize the patient's Emergency Medical Condition.

This may occur in instances when and only when:

- An inpatient bed or operating room is not available in the time required to stabilize the patient's Emergency Medical Condition, or
- SHC or SCH does not provide a specialized service needed to stabilize the patient's Emergency Medical Condition.

## Transfers Between SHC and SCH

California SB 630 permits a specific and limited EMTALA exemption when the SHC ED transfers certain patients to SCH L&D.

- California SB 630 applies:
  - Only to transfers of patients from the SHC ED to SCH L&D; and
  - Only in cases when a patient has signs and/or symptoms suggestive of active labor.
- No other medical condition or complaint applies for the California SB 630 exemption.
- Standard EMTALA transfer rules and requirements apply to all other medical conditions and complaints necessitating transfers between the SHC ED and SCH L&D or vice versa.
- California SB 630 does not apply to any transfers between SCH L&D and the SHC ED.

## Patient Rights Regarding Emergency Care and Transfers

When a patient refuses care or to be transferred to another facility, the SHC ED or SCH L&D needs to take the following actions:

- The refusal must be recorded in the patient's chart;
- SHC or SCH must tell the patient the risks and benefits of the care or the transfer that is being refused;
- The patient's chart must describe the care or transfer that was offered to the patient and refused;
- The patient (or a parent or person who speaks on the patient's behalf) should sign a form that he/she understands the risks and benefits of:
  - Refusing stabilizing care, or
  - Refusing a transfer.

If the patient (or a parent or person who speaks on the patient's behalf) refuses to sign the form, record a note in the patient's chart detailing the facts of the refusal.

## Patient Rights Regarding Emergency Care and Transfers

When a patient requests to be transferred to another facility, the SHC ED or SCH L&D needs to take the following actions:

- The request for transfer and the reasons for the transfer must be recorded in the patient's chart;
- SHC or SCH must tell the patient:
  - It will provide treatment to stabilize the patient's condition, and
  - The risks and benefits of the transfer requested by the patient.

The patient (or a parent or person who speaks on the patient's behalf) should sign a form that he/she understands the risks and benefits of requesting a transfer.

If the patient (or a parent or person who speaks on the patient's behalf) refuses to sign the form, record a note in the patient's chart detailing the facts of the refusal.

## Duty To Report

The SHC and SCH EMTALA Policies are located in the Compliance Manual on the SHC and SCH intranet sites.

SHC and SCH workforce members have a duty to report suspected EMTALA violations. The *EMTALA: Reporting Suspected EMTALA Violations* Policy addresses your responsibility for reporting suspected EMTALA violations:

- The Policy applies to any potential EMTALA concern, regardless of whether the potential violation occurred at SHC, SCH, or another hospital;
- The Policy applies to all workforce members, including any member of the nursing staff, administrative staff, house staff, or medical staff who have a reason to believe that a potential EMTALA violation has occurred;
- The Policy requires workforce members to report suspected EMTALA violations to both the Compliance Department and Risk Management immediately.

## Duty To Report

*EMTALA: Reporting Suspected EMTALA Violations Policy continued:*

- Upon notification of a suspected EMTALA violation, Risk Management's role in the process involves the evaluation of any concerns pertaining to potential malpractice/potential harm to patients committed by an agent of SHC or SCH;
- The Compliance Department's role in the process involves providing EMTALA regulatory guidance and interpretation of EMTALA policies (in collaboration and consultation with the Office of General Counsel);
- When it is determined by the Compliance Department and the Office of General Counsel that SHC or SCH must report a possible EMTALA violation to the mandated State Agency (CDPH), the organization must do so within 72 hours of the potential violation.
- The Quality Department then notifies CDPH of the suspected violation.

## Duty To Report

*EMTALA: Reporting Suspected EMTALA Violations Policy continued:*

- Quality is the CEO's designee for reporting potential EMTALA violations to CDPH.
- If SHC learns of the suspected EMTALA violation after 72 hours, Quality will report the violation within a reasonable time.
- Quality also works directly with CDPH should they conduct an onsite investigation.

EMTALA resources, including FAQs, guidances, and EMTALA policies are found on the Compliance Department's intranet site.

## Contact Information For Reporting Potential EMTALA Violations

- Compliance Department

Telephone: (650) 724-2572

Email: [ComplianceOfficer@stanfordhealthcare.org](mailto:ComplianceOfficer@stanfordhealthcare.org)

Hotline: 1 (800) 216-1784

- Risk Management

Internal: Page Operator at “0” and ask to speak with the on-call Risk Manager

External: 650-723-4000 and ask to speak with the on-call Risk Manager

Email: [riskmanagement@theriskauthority.com](mailto:riskmanagement@theriskauthority.com)

## Potential Penalties For EMTALA Non-Compliance

Potential penalties for violating EMTALA or the hospital's EMTALA policies may include:

- Federal monetary fines;
- Exclusion from Medicare programs;
- Reputational Damage; and/or
- Disciplinary action, up to and including termination.

## **Congratulations, you have almost completed your EMTALA Training!**

To receive credit for taking this course, you are required to complete and score 90% or higher on the SHC and SCH EMTALA Training Exam. This course is part of your annual training.

You can return to HealthStream and select My Training and select EMTALA Training Exam.

To proceed to the Exam, please click on the exit button above.