American College of Emergency Physicians®
ADVANCING EMERGENCY CARE

POLICY STATEMENT

Approved January 2019

EMTALA and On-call Responsibility for Emergency Department Patients

Reaffirmed January 2019

Revised June 2013, April 2006 replacing policy statements titled, "Hospital, Medical Staff, and Payer Responsibility for Emergency Department Patients" September 1999; "Medical Staff Responsibility for Emergency Department Patients" September 1997; and "Medical Staff Call Schedule" approved as a Board Motion 1987

The American College of Emergency Physicians (ACEP) believes that:

- Hospitals, medical staff, and payers share an ethical responsibility for the provision of emergency care.
- Hospital emergency departments (EDs) require a reliable on-call system that provides for the availability of medical staff members for consultation and participation in the evaluation and treatment of emergency patients.
- Such on-call systems are vital resources and must be maintained through the joint cooperation of the hospital governing body, administration, and medical staff.

ACEP endorses the following principles:

- Hospitals and their medical staffs must be familiar with and comply with the requirements of the Emergency Medical Treatment and Active Labor Act (EMTALA).
- Hospital bylaws and/or rules and regulations should clearly delineate which providers may participate in the EMTALA-mandated medical screening examination of patients.[1]
- All patients who come to a hospital requesting care must receive a medical screening examination and the necessary treatment to stabilize an emergency medical condition without unnecessary delay and without regard to the patient's ability to pay.[1] Under most circumstances, these services are best provided by emergency physicians.
- A medical screening examination and any necessary stabilizing treatment may require the use of ancillary, consultative, or inpatient services within the capability of the hospital and its medical staff or their delegates [advance practice registered nurse, physician assistant, certified nurse midwife, etc.].[1]
- All hospitals that provide emergency services must maintain a schedule of medical and surgical specialists on-call for the ED in a manner that best meets the needs of the hospital's patients who are receiving services.[1]
- To ensure institutional compliance with the provisions of EMTALA, hospital medical staff bylaws and/or rules, and regulations must delineate the responsibilities of the on-call physician and should specify methods for

monitoring and ensuring compliance.

- On-call physician services must be available within a reasonable time to provide necessary stabilizing treatment[1] and without regard to the patient's ability to pay.
- If a hospital lacks the medical staff resources to provide on-call coverage for a given specialty, the hospital must have a plan that specifies how such referrals should be managed.[1]
- Follow-up care should be arranged by referral for all patients who require such care.
- Physicians who choose to assume direct on-site emergency care responsibility for their patients must be physically present in the ED and must be members of the medical staff, privileged to provide such care.
- When feasible, requests for consultative services should be made in accordance with the patient's preferences and/or health plan.
- Physician services (including medically necessary post-stabilization care), when provided in response to the request for emergency care, should be recognized as emergency services for reimbursement purposes and should be compensated in a fair and equitable manner.
- Transfer of patient care responsibilities between physicians must be orderly, clearly defined, and properly documented. The mechanism for such transfers and for resolution of disagreements between physicians should be clearly defined in medical staff rules and regulations.
- All hospitals with specialized capabilities have a responsibility to accept transfer of patients when such transfer is necessary to stabilize an emergency medical condition.[1] Hospitals should have a means to ensure medical staff responsibility for transfer acceptance and provision of specialized care.

Reference

[1] The Emergency Medical Treatment and Active Labor Act, as established under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (42 USC 1395 dd), Section 9121, as amended by the Omnibus Budget Reconciliation Acts (OBRA) of 1987, 1989, and 1990. Rules and regulations published Federal Register June 22, 1994;59:32086-32127.