



Approved January 2021

Interpretation of EMTALA in Investigations, Enforcement, and Medical Malpractice Litigation

Revised January 2021
with current title

Originally approved
June 2018 titled
“Interpretation of EMTALA
in Medical Malpractice
Litigation”

Background

The Emergency Medical Treatment and Labor Act (EMTALA) requires hospital emergency departments to provide a medical screening examination to anyone who comes to the hospital seeking an examination or treatment for a medical condition, in order to determine the presence or absence of an emergency medical condition. If an emergency medical condition is determined to exist, the law requires the hospital to provide treatment to try to stabilize the condition, or, in some specific situations, allows for the patient to be transferred to achieve that stabilization.

Evolution

Since EMTALA’s passage, EMTALA investigators and reviewers, as well as trial courts dealing with medical malpractice litigation, have vastly broadened the interpretation of the terms “emergency medical condition” and “to stabilize” far beyond the original legislative intent and legal definitions cited in the statute. Similarly, some expanded enforcement efforts by the Centers for Medicare and Medicaid Services (CMS) and the Office of the Inspector General (OIG) can be considered as inconsistent with the EMTALA statute, Code of Federal Regulations and CMS-written EMTALA guidance.

Additionally, Congress has authorized a plaintiff “private right of action” against hospitals resulting from EMTALA violations. Such actions have resulted in court decisions expanding the scope of EMTALA by altering definitions, expanding intent, and in some instances creating conflicting and contradictory rulings that may be antithetical to good patient care.

Recommendations

The American College of Emergency Physicians believes that:

- With respect to EMTALA investigations or when considered in conjunction with medical malpractice litigation, EMTALA should not be interpreted or applied to extend beyond the actual definitions and

applications specifically stated in the federal statute.

- Congress should provide definitive statutory clarity to EMTALA to resolve the disparities that now exist between CMS and the courts.
- EMTALA statutes should be investigated, reviewed and equitably enforced by CMS and OIG as written by Congress and interpreted according to applicable federal appellate court decisions.

Reference

Title 42, Chapter 7, Subchapter 18, Part E, Section 1395dd of the U.S. Code, “Examination and Treatment for Emergency Medical Conditions and Women in Labor”