Please distribute to all MHMH providers

Memo

To: Methodist Le Bonheur Healthcare Medical Staff Members

From: Tom Gray, MD Chief of Staff
Trey Eubanks, MD Medical Staff President

Date: 07/23/2012

RE: EMTALA Education

We want to remind the MHMH medical staff of the key elements and physician responsibilities regarding Emergency Medical Treatment and Labor Act (EMTALA). Please review the following educational document entitled, "EMTALA Quick Reference Guide."

To highlight a few items from the Guide relating to on call coverage responsibilities:

For those taking ED call:

- An on-call physician who refuses or fails to respond within 30 minutes will be in violation of hospital policy and may be found to be in violation of EMTALA. Recently, a Physician taking call at Vanderbilt was personally fined $35,000 for refusing to see a patient.
- An on-call physician who is taking call at another hospital or delayed is obligated to inform the ED physician of back up on-call coverage.

There are generally only 2 reasons a transfer request for an ED patient may be denied:

- Capacity (lack of bed space)
- Capability (lack of specialty services/personnel available)

EMTALA does not apply to inpatients. But, EMTALA applies regardless of the location of the facility requesting transfer – it can be anywhere in the continental United States.

Only ED and NICU physicians and Le Bonheur PICU/NICU/CVICU physicians should deny transfer requests. Residents may not deny any transfer requests.

If an attending or on call physician is contacted by an outside emergency department physician and feels a patient transfer should be denied due to lack of capacity or capability(s), the physician should contact the appropriate MHMH emergency department so that:

- the appropriate conversation can occur between our ED and the outside referring ED, and
- the appropriate documentation for denial of transfer can occur.

Thank you for your cooperation. If you have any questions please email medstaffleaders@mlh.org or call 901-516-7663.

EMTALA QUICK REFERENCE GUIDE

EMTALA is triggered when 1 of 2 events occur:

(1) Patient Presents: Individual comes to the emergency department or hospital campus/property and a request is made for examination/treatment for an emergency medical condition ("EMC") (or based on appearance, prudent layperson observer would believe individual needs an exam); or

(2) Transfer Requested: A transfer request is made for an unstable ED patient where the transferring hospital lacks specialized capability or capacity to treat individual at the time of the request and the recipient hospital has capability and capacity to treat at the time of the request.

- *A hospital with **specialized capabilities** or facilities and the **capacity** to treat an individual needing its specialized services **cannot refuse** to accept a proper transfer **regardless of where the patient is located** even if there are closer hospitals to patient.*

EMC: An emergency medical condition is, when in absence of immediate medical attention, the condition could reasonably be expected to result in:

- Placing the health of an individual or unborn child in serious jeopardy; or
- Serious impairment to bodily function; or
- Serious dysfunction of any bodily organ
- EMC is presumed if one of the following conditions is present:
  - intoxicated / impaired
  - psychiatric patient: suicidal / homicidal
  - pregnant or in labor

Screen Patient: EMTALA requires hospital to provide an appropriate medical screening exam (MSE) to determine whether an emergency medical condition exists.

- Appropriate MSE means the exam is suitable for the symptoms presented and conducted in non-disparate fashion (meaning that all patients with similar symptoms receive the same level of examination regardless of ability to pay).
  - For pregnant women, medical record must show evidence that the MSE included on-going evaluation of the fetal heartbeats, regularity and duration of uterine contractions, fetal position and station, cervical dilation, and status of the membranes (ruptured, leaking, intact). Must assess and re-assess both the woman and fetus separately and must document separately.
- MSE is not the same thing as triage. MSE must be conducted by a physician or other qualified medical personnel (QMP) such as nurse practitioners and physician assistants.

Stabilize Patient: If an emergency medical condition exists, then must stabilize and/or appropriately transfer the patient. For EMTALA purposes, stabilization means that if the patient were to be transferred, there would be no material deterioration of the condition likely to occur during the transfer.

- For a woman in labor, the woman is stable, only if:
  - physician or other QMP has certified false labor; or
  - woman has delivered the child and placenta.
- Psychiatric patients that are suicidal or homicidal are considered stable only if they are no longer a threat to themselves or others.
- Intoxicated patients are not stable until sober.

Transfer:

- ED physicians are authorized to transfer patients - ED to ED
- Only ED and NICU physicians and Le Bonheur PICU/NICU/CVICU physicians should deny transfer requests. Residents may not deny transfer requests
- EMTALA requirements DO NOT apply to inpatients at other hospitals
- "Observation" status is not the same as inpatient. Observation patients are subject to EMTALA obligations.
- If the on-call physician is contacted by an ED outside the system or by any MD outside the system, the on-call physician **must** call our hospital ED to ascertain hospital capacity prior to accepting the patient.

EMTALA allows transfer of an unstable patient only if:

- Transferring hospital provides medical treatment within its capabilities to minimize the risk to the patient's (and fetus') health.
- Receiving facility has bed space and personnel to treat the patient.
- Receiving facility has accepted the transfer.
- Transferring hospital sends all the medical records (including name and address of any on-call physician who refused/failed to appear) with the transfer or as soon as possible thereafter (e.g., by fax or email, etc.)
- Transfer is made through qualified personnel and transportation equipment, including life support if necessary.
- Patient (or legal representative) requests the transfer in writing after being informed of the risk and the Hospital's obligations.
- Sending physician certifies that the benefit of transfer outweighs the risk to the patient (and/or fetus).

AMA/LWBS:

If a patient tries to leave without being seen or against medical advice, then provider must:

- inform the individual of the risk & benefits of leaving; and
- have the individual sign an AMA/LWBS form, or document in the medical record that the patient refused to sign and the risk and benefits were explained.

On-Call Obligations:

- An on-call physician **who refuses or fails to respond at the hospital within a reasonable period of time, 30 minutes, will be in violation** of hospital policy (subject to disciplinary action) and may be found to be in violation of EMTALA.
- An on-call physician who is **taking call at another hospital or delayed is obligated to inform the ED physician of back up on-call coverage**.

Potential EMTALA penalties/consequences include the following:

- Civil monetary penalties for hospital and physician
- Termination of Medicare Provider Number
- Private lawsuit
- Negative impact on Medical Staff privileges at Hospital or other disciplinary action