



Emergency Medical Treatment & Labor Act (EMTALA) Policy

Policy Owner: General Counsel

POLICY STATEMENT

All individuals requesting an examination for a possible emergency medical condition, including women in active labor, are entitled to, and will receive, the appropriate care as outlined in the Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C., Section 1395 and all applicable Federal regulations and interpretive guidelines promulgated thereafter.

Individuals are provided with an appropriate medical screening examination (MSE) and stabilizing treatment prior to dismissal or transfer.

Requests for transfers to and from AU Medical Center (AUMC) are managed in accordance with EMTALA and the tenants of this policy.

Care is provided to individuals seeking emergency services without regard to their ability to pay, race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, or insurance status.

“Coming to the hospital” includes:

1. presenting to the AUMC Dedicated Emergency Department (DED), i.e., the adult or pediatric Emergency Department;
2. the individual or representative acting on behalf requests an examination or treatment for a medical condition, or
3. a prudent layperson observer would conclude from the individual’s appearance or behavior that the individual needs an examination or treatment of a medical condition.

The obligation for care is further extended to individuals presenting on the hospital property requesting an emergency examination or treatment for an emergency medical condition and/or any department of the hospital located within 250 yards of the hospital.

However, “hospital property” does not include non-medical businesses (shops and restaurants located close to the hospital) nor does it include physician’s offices or other medical entities having a separate Medicare identity.

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AFFECTED STAKEHOLDERS

Indicate all entities and persons within the Enterprise that are affected by this policy:

- Hired Staff
- House Staff/Residents & Clinical Fellows
- Leased staff
- Medical Staff (includes Physicians, PAs, APNs)
- Vendors/Contractors
- Other: Volunteers

DEFINITIONS

Appropriate Transfer: A transfer to a medical facility in which

- the transferring hospital provides the medical treatment within its capacity which minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child
- the receiving hospital has capacity and qualified personnel for the treatment of the individual, and has agreed to accept transfer of the individual

Capability: The level of care that AUMC hospital personnel can provide within the training and scope of their professional licenses. This includes coverage available through the hospital's on call roster. Capability is measured by the physical space, equipment, supplies and specialized services that the hospital provides (e.g., surgery, psychiatry, and obstetrics).

Capacity: AUMC shall be considered to have the capacity to treat a patient unless on diversion or saturation for a specific service type. Capacity includes what AUMC customarily does to accommodate patients in excess of our occupancy limit.

Dedicated Emergency Departments (DED): The AUMC Emergency Department, the Children's Hospital of Georgia (CHOG) Emergency Department, and the AUMC Labor and Delivery (L&D) Unit (7 West).

Emergency Medical Condition (EMC): A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances, and/or symptoms of substance abuse) such that the absence of immediate medical attention could reasonably be expected to result in either:

- Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; or
- Serious impairment to bodily functions; or
- Serious dysfunction of any bodily organ or part.
- With respect to a pregnant woman who is having contractions
 - there is inadequate time to effect a safe transfer to another hospital before delivery
 - Or a transfer may pose a threat to the health or safety of the woman and/or unborn child

Emergency Medical Condition Stabilization: The provision of medical and/or psychiatric treatment necessary to assure within reasonable medical probability that no material deterioration is likely to result from or occur during the transfer of an individual.

Labor: The process of childbirth beginning with the latent or early phase of labor and continuing through the delivery of the placenta. A woman experiencing contractions is deemed to be in true

labor, unless a physician, certified nurse midwife, or other qualified medical person acting within his/her scope of practice as defined in hospital medical staff bylaws and State law, certifies that, after a reasonable time of observation, the woman is in false labor.

Infants who are born alive shall obtain all rights provided by EMTALA

The *Born Alive Infant Protection Act of 2002* refers to any infant (*Homo sapiens*) who is born alive at any stage of development. "Born Alive" refers to an infant that has been completely expelled or extracted from the mother and who breathes, or has a beating heart, pulsation of umbilical cord or voluntary muscle movement, regardless of whether or not the umbilical cord has been cut or not..

Licensed Independent Practitioner (LIP): An individual permitted by law and by AUMC to provide care, treatment, and services without direction or supervision. A licensed independent practitioner operates within the scope of his or her license, consistent with individually granted clinical privileges,

Medical Screening Exam (MSE): The screening process performed by a Qualified Medical Person (QMP) that determines the presence or absence of an Emergency Medical Condition (EMC), or if a woman is in labor. The triage process does not constitute as a MSE. The MSE must not be delayed by a registration process.

Psychiatric Emergencies: An individual expressing suicidal or homicidal thoughts or gestures and determined dangerous to self or others.

Qualified Medical Personnel (QMP): A Licensed Independent Practitioner or other individual who is licensed or certified and who has demonstrated current competence in the performance of MSEs.

Transfer: The movement (including the discharge) of an individual outside a hospital's facilities at the direction of any person employed by (or affiliated or associated, directly or indirectly, with) the hospital but does not include the movement of an individual who leaves the facility without the permission of any such person 42 CRF 489.249(b).

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A. RESPONDING TO AN INDIVIDUAL/PATIENT/VISITOR WHO PRESENTS WITH AN EMERGENCY MEDICAL CONDITION ON HOSPITAL PROPERTY

1. **Presents:** An individual “presents” when they arrive:
 - at one of AUMC’s DEDs and requests examination or treatment for a medical condition or if a prudent layperson would believe, based on observing the individual’s appearance, that the individual needs emergency examination or treatment.
 - on AUMC property (as defined below) other than one of the AUMC DEDs and requests examination or treatment for what may be an emergency medical condition or if a prudent layperson would believe, based on observing the individual’s appearance, that the individual needs emergency examination or treatment.
 - on AUMC property via ground or air ambulance for medical examination and treatment at one of the AUMC DEDs. .
2. **Hospital Property** is the physical area immediately adjacent to the hospital’s main buildings, other areas and structures that are not strictly contiguous to the main buildings but are located within 250 yards of the main buildings, and any other areas determined on an individual case by case basis by the Centers for Medicare and Medicaid Services (CMS) regional office to be part of the hospital’s campus.

B. Three Zones That Comprise AUMC Hospital “Property”

- **ZONE 1:** DEDs(The AUMC Emergency Department, the CHOG Emergency Department, and the AUMC L&D Unit (7 West).
 - AUMC provides a MSE and stabilizing treatment to any individual who presents to a DED to determine whether or not an EMC exists.
- **ZONE 2:** AUMC, CHOG, Medical Office Building (MOB) and Professional Office Building (POB).
 - If an individual comes to the main hospital, CHOG, MOB or POB and requests examination or treatment for an EMC or if a prudent person would believe that the individual is suffering from an EMC, AUMC is obligated to conduct a MSE to determine if an EMC in fact exists.
 - For life-threatening emergencies, extension 1-2222 is called for immediate transport to the Emergency Department.
 - For other encounters, extension 1-4787 is called for AU Health Safety and Security.

- **ZONE 3:** AUMC buildings/clinics that are physically separate from the main hospital building, sidewalks, driveways, parking lots/decks and general grounds within 250 yards of the main hospital building including public and private non AUMC property/grounds.
 - If an individual comes to or is located at these areas of Hospital Property and requests or appears to need medical assistance, notify local EMS by calling 911.

C. APPROPRIATE MEDICAL SCREENING AND STABILIZATION

1. A Medical Screening Exam (MSE) is the process required to reach, within reasonable clinical confidence, the point at which it can be determined whether a medical emergency does or does not exist. Triage is not equivalent to an MSE. If the exam does not reveal an EMC, the EMTALA obligations of AUMC cease. If the exam reveals an EMC, the individual should be stabilized or transferred, if appropriate.

The adequacy (appropriateness) of a MSE depends on the presenting signs and symptoms elicited in the history. A MSE is a process and may involve multiple steps and reassessment over time to include diagnostic evaluation and/or consultation with specialty physicians as needed.

2. In the event of psychiatric emergencies an EMC exists if the individual:
 - expresses suicidal or homicidal thoughts or gestures and is determined to be dangerous to self and others
 - is mentally ill and a substantial risk of imminent harm to self or others
3. AUMC may not delay providing the MSE or further medical treatment to inquire about the individual's form of payment or insurance status. However, AUMC may follow reasonable registration processes so long as the process does not delay screening or treatment.
4. It may be necessary to move the individual to another department to provide the MSE or to stabilize the individual's condition. If an individual presents at an off campus department of the hospital, the MSE will be conducted at that location if a QMP is present, or transported to the Emergency Department.

D. TRANSFER OF UNSTABLE PATIENTS TO OTHER FACILITIES

1. AUMC may transfer an unstable individual who presents with an EMC if the individual has received an MSE and it is an appropriate transfer.
2. The receiving facility has available space (capacity) and qualified personnel (capability) for the treatment of the individual.
3. The receiving facility has agreed to accept the transfer of the individual and to provide medical treatment.

4. AUMC has appropriately identified and provided treatment and stabilization for an EMC that minimizes the risks to the individual's health and does not have the capability or capacity to treat the individual.
5. AUMC provides the receiving facility all medical records (or copies) related to the EMC including observations of signs and symptoms, preliminary diagnosis, treatment provided and the results of any tests. The records accompany the patient at the time of the transfer.
6. Either a Patient Consent to Transfer or a Physician Certification, as defined below, should accompany the patient at the time of transfer.
7. The patient or patient's authorized representative may request transfer and should consent in writing to the transfer. If the patient or patient representative refuses transfer, AUMC informs the patient that they may remain in the hospital and receive treatment.
8. If the individual does not or cannot request the transfer or refuses to consent to the transfer, a physician signs a certification that the medical benefits reasonably expected from transferring the individual to another facility outweigh the risks to the individual, or in the case of a woman in labor, to the woman or the unborn child, from being transferred.
 - a. The Physician Certification contains a summary of the risks and benefits upon which the transfer is based.
 - b. The date and time of the Physician Certification should closely match the date and time of the transfer.
9. A woman in labor may be transferred to another facility when she or her personal representative requests the transfer and when a physician or other qualified medical personnel signs a certification that the benefits outweigh the risks.
10. If AUMC is unable to attend to an individual because the Emergency Department is "operating beyond its capacity", AUMC transfers the individual to a facility that has the capacity and capability to stabilize and treat that individual's EMC after AUMC performs a medical screening exam.

E. PATIENT REFUSAL TO CONSENT TO TREATMENT

1. If an individual refuses to consent to medical treatment, notify a nurse or physician. The nurse or physician enters the appropriate documentation in the individual's medical record, if one has been created, or other form, as described below. The documentation should include:
 - a. A description of the examination, treatment, or both if applicable, that was refused by or on behalf of the individual;
 - b. A written summary of the risks/benefits of the examination and/or treatment by the nurse or physician; including documentation that the individual left prior to the risk/benefit discussion with the physician, when applicable;
 - c. The reason for refusal; and

- d. The steps taken to try to secure the written, informed refusal if it is not secured.
2. Complete a "Patient Refusal of Medical Care" form or other form and obtain the patient's signature. If the patient refuses to sign, this is noted on the form and in the medical record. If the individual does not provide a name, Jane/John Doe is used as the patient name on the form.

F. INDIVIDUALS WHO LEAVE PRIOR TO MSE, STABILIZATION OR TRANSFER

1. If an individual leaves the hospital premises prior to receiving a MSE, they are considered to have withdrawn their request for a MSE.
2. The medical record or other report that has been created for the individual will be updated, if possible, to the observed medical condition of the individual at the time of departure. If the individual appeared to have an EMC, the report should be made as soon as possible to the supervisor/manager/director. The supervisor/manager/director of the area generating the report is responsible for timely monitoring of reports.
3. If after review of the medical record or other report, concern exists that the individual may be suffering from an EMC, an attempt should be made to contact the individual.

G. DUTY TO ACCEPT APPROPRIATE TRANSFERS

AUMC has specialized capabilities and facilities, e.g., shock trauma, ICU, NICU,, etc., that are not available at all organizations and must accept appropriate transfers from inside the boundaries of the United States who require such specialized capabilities/facilities if AUMC has the capacity to treat the individual. In accordance with Section 210(i) of the Social Security Act, the term "United States," when used in a geographical sense, means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

H. GUIDELINES FOR REPORTING POSSIBLE INAPPROPRIATE TRANSFERS TO AUMC

1. If a workforce member believes that any of the following circumstances may exist, they are to report their concerns to their Department Director or Clinical Service Chief and contact AUMC Legal Counsel or their designee:
 - a. AUMC did not agree to accept the transfer, i.e., lack of capacity and/or capability.
 - b. AUMC did not receive appropriate medical records of the transferred individual.
 - c. The transfer was not made by qualified personnel or there was not appropriate transportation equipment or life support measures.
2. AUMC Legal Counsel will conduct an investigation. If, after a detailed review of the documented facts of the case, Legal Counsel concurs that the transfer was inappropriate, a report will be prepared and forward it to the Office of Regulatory

Services, CMS Regional Office, with a copy of the individuals' record and any other supporting documentation from the transferring facility and the referring facility.

3. The report is filed within 72 hours of the date of transfer of the individual to AUMC/Children's Hospital of Georgia (CHOG) or within 72 hours after the determination is made of a probable inappropriate transfer.

I. MONITORING OF EMTALA COMPLIANCE

1. Any workforce member who: (i) believes that AUMC has not complied with this policy, or (ii) receives notice from another health care facility that believes that AUMC may have violated EMTALA will promptly notify their immediate supervisor/manager of the facts of the situation. The supervisor/manager will promptly notify the Administrator on Call and AUMC Legal Counsel.
2. Potential violations will be reviewed by Senior Leadership and Legal Counsel. Legal Counsel will maintain a record of all allegations (validated and non-validated) and provide a semi-annual report to the Quality Safety Operations Committee.

J. SIGNAGE REQUIREMENTS

1. Signage must be conspicuously posted in the AUMC ED, CHOG ED, L&D and any other place likely to be noticed by all individuals entering these dedicated emergency departments, as well as those individuals waiting for examination and treatment in areas other than the traditional emergency department (e.g., entrance, admitting area, waiting room, treatment areas located on hospital property).
2. Signage must be readable from anywhere in the area, and the wording of the sign(s) must be clear and in simple terms and in language(s) that is (are) understandable by the population served by AUMC.
3. The signage content must include the following language:

"It's The Law"

If you have a medical emergency or are in labor, even if you cannot pay or do not have medical insurance or you are not entitled to Medicare or Medicaid, you have the right to receive, within the capabilities of this hospital's staff and facilities:

- An appropriate medical screening examination
- Necessary stabilizing treatment (including treatment for an unborn child) and, if necessary
- An appropriate transfer to another facility.

This hospital (does/does not) participate in the Medicaid program.

K. RECORD KEEPING / CENTRAL LOG REQUIREMENTS

1. The medical records of individual's transferred to or from AUMC must be retained in their original or legally-reproduced format for a period of five (5) years from the date of transfer.

- A central log must be maintained and include, directly or by reference, individual logs from all departments of the hospital including the emergency department or any other department where an individual might present for emergency medical services or receive a MSE. The log must also contain:
 - the name of the individual who is seeking emergency medical treatment and whether the individual:
 - Was refused treatment
 - Refused treatment
 - Was transferred
 - Was admitted and treated
 - Was stabilized and transferred
 - Discharged
2. The Central Log is audited for inclusion of required data. When trending information indicates issues with the data, appropriate individuals will be delegated to identify root causes and develop/implement corrective action. A semi-annual report will be submitted to the Quality Safety Operations Committee.

L. ON CALL COVERAGE

1. AUMC maintains an on-call list of physicians on its medical staff in a manner that best meets the needs of AUMC's patients who are receiving services required under EMTALA in accordance with the capability of the hospital.
2. Federal law requires AUMC to "maintain a list of physicians who are on call for duty after the initial examination to provide treatment necessary to stabilize an individual with an EMC, 42.U.S.C.A. 1395cc (a)(1)(I).
3. AUMC and/or an on-call physician may be subject to a penalty if the on-call physician fails or refuses to appear within 30 minutes when notified by an emergency department physician that their services are needed and the emergency physician subsequently orders a transfer because they determine that without the service of the on-call physician, the benefits of transfer outweigh the risks of transfer.

REFERENCES, SUPPORTING DOCUMENTS, AND TOOLS

Emergency Medical Treatment & Labor Act (EMTALA) <https://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/>

DHHS Interim Manual Instructions, 59 Federal Register 32127, Appendix III to 42 CFR 489 to examination and treatment for emergency medical conditions and women in active labor <https://www.federalregister.gov/documents/2012/02/02/2012-2287/medicare-program-emergency-medical-treatment-and-labor-act-emtala-applicability-to-hospital>

42 §USC 1395dd – Examination and Treatment for Emergency Medical Conditions and Women in Labor (EMTALA) <https://www.law.cornell.edu/uscode/text/42/1395dd>

42 § CFR 489.24 – Special Responsibilities of Medicare Hospitals in Emergency Cases
<https://www.law.cornell.edu/cfr/text/42/489.24>

Georgia Rules & Regulations 111-8-40-.31 Emergency Services
<http://rules.sos.ga.gov/GAC/111-8-40-.31>

Attachment A: Patient's Refusal of Care Form
Attachment B: Leaving Hospital Against Medical Advice
Attachment C: Authorization for Transfer
Attachment D: MSE Offer Report

RELATED POLICIES

[Diversion of Patient Transfer/Transport Policy](#)

[Code Blue Policy](#)

APPROVED BY

Chief Executive Officer, AU Medical Center

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