

	Ethics & Compliance Department		
	Policy No.: 307	Created:	01/2000
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EMTALA: ANTI-DUMPING AND ANTI-EXCLUSION

SCOPE

Applies to all Envision clinicians associated with providing care in the Emergency Department. For purposes of this policy, all references to “clinician” include temporary, part-time and full-time employees, independent contractors, officers and directors.

PURPOSE

Envision Healthcare Operating, Inc. and its subsidiaries and affiliates (“Envision” or “the Company”) has adopted this EMTALA: Anti-Dumping and Anti-Exclusion Policy to ensure all Envision clinicians follow the “patient dumping” and “patient exclusion” regulations.

POLICY

The patient dumping statute is commonly referred to as the Emergency Medical Treatment and Active Labor Act (EMTALA). These regulations apply to all hospitals that participate in Medicare and provide emergency services. EMTALA obligations are governed by 42 U.S.C. §1395dd and implementing regulations at 42 CFR §489.24. Violations may result in strict liability regardless of intent.

An EMTALA obligation is triggered when:

- An individual or representative acting on the individual’s behalf, including EMS or a transferring facility, requests services requiring emergency care; or
- A prudent layperson observing an individual who comes to a dedicated emergency department would conclude from the individual’s appearance or behavior that the individual needs an examination or treatment for an emergency medical condition.

Hospitals participating in Medicare providing emergency services are required to:

- Provide an appropriate medical screening examination to determine whether an emergency medical condition exists.
- Provide necessary stabilizing treatment for emergency medical conditions and labor.



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- Provide an appropriate transfer of the patient if the hospital does not have the capability or capacity to provide the necessary treatment to stabilize the emergency medical condition. Clinicians are required to certify in writing that the medical benefits expected from the transfer outweigh the risks OR the patient must make the transfer request in writing after being informed of the hospital's EMTALA obligations and the risks of the transfer.
- Not delay the screening exam in order to inquire about the patient's insurance or payment status.
- Accept appropriate transfers of patients with emergency medical conditions if the hospital has the specialized capabilities not available at the transferring hospital and has the capacity to treat those individuals.
- Obtain or attempt to obtain a written statement from the patient refusing examination, treatment, or an appropriate transfer if the patient refuses examination, treatment, or transfer. Documentation of refusal must include the condition of the patient at departure, efforts to provide a medical screening examination, and a discussion of associated risks with patient. Follow facility documentation guidelines for patients Left Without Being Seen, Left Against Medical Advice, or patient elopement.
- Avoid taking adverse action against a clinician or who refuses to transfer a patient with an emergency medical condition that has not been stabilized, or against a clinician or teammate who reports a violation of these requirements.

The patient exclusion statute states that:

A hospital cannot knowingly fail to provide covered services or necessary care to members of a health maintenance organization (HMO).

While these statutes govern hospitals, the Company's clinicians working in client hospitals' emergency departments must ensure that their actions and medical services are in accordance with these statutes and regulations. The Company's client hospitals should have policies and procedures that enforce EMTALA and patient exclusion regulations that the Company's clinicians must follow. If any of the Company's clinicians or teammates have concerns regarding the application of these regulations, they should contact the Ethics & Compliance Department.

As part of the Company's compliance training, the Company will provide an annual course for all emergency medicine clinicians regarding EMTALA and patient exclusion rules.

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EMTALA Penalties

If an EMTALA violation exists, the Office of Inspector General may impose civil liabilities and/or monetary penalties per violation. Monetary penalties are **not** covered by any professional liability insurance policy and would be the sole responsibility of the healthcare provider, including the facility or clinician. CMS also has the authority to terminate a clinician's, clinician group's and/or a facility's Medicare/Medicaid provider agreement, and/or withholding all payments from Medicare and Medicaid. Finally, the individual who believes he/she has suffered harm as a result of an inappropriate transfer may sue the clinician, clinician group and/or the facility for damages. Likewise, a hospital that suffers economically as a result of another hospital's violation may also sue the hospital for damages.

Facility Recommendations to Prevent Allegations of an EMTALA Violation

- Don't seek pre-authorization for the medical screening examination.
- Require on-call clinicians to come to the Emergency Department within a reasonable timeframe.
- Provide accurate and complete documentation, including if/when the patient leaves the Emergency Department or refuses care before the medical screening examination/treatment is complete.
- Comply with the major points for unstable transfers.
- Specify in the hospital bylaws or rules and regulations who is to conduct medical screening examinations.
- Qualified medical personnel must perform a medical screening exam to all individuals who present to the Emergency Department.
- Develop a comprehensive EMTALA policy and be active in its development.
- Include components of the EMTALA policy in the hospital's Performance Improvement Program.
- Educate the entire medical staff on EMTALA policies and procedures.

POLICY REVIEW

The Ethics & Compliance Department will review and update this Policy, when necessary, in the normal course of its review of the Company's Ethics & Compliance Program.