EMTALA (Emergency Medical Treatment and Active Labor Act)

What is EMTALA?
The Emergency Medical Treatment and Active Labor Act is a Federal law. It was enacted by Congress in response to studies which found that indigent emergency patients had been turned away from hospitals or transferred (i.e., “dumped”) to county or charity hospitals in an unstable medical condition. EMTALA ensures that anyone who comes with an emergency medical condition or needs emergency services and care will:

- Will be triaged to determine in which order the person should be seen for a medical screening exam
- Receive a medical screening examination.
- Not experience a delay in medical screening so the hospital can inquire about the patient’s method of payment. The hospital will not question the patient or any person about the patient’s ability to pay.
- Be stabilized before any transfer to another hospital.

Are there any California laws that prohibit discrimination in the provision of emergency services?
Yes. The provision of emergency services and care will not be based upon, or affected by, the person’s race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services.

To whom does EMTALA apply?
EMTALA applies to anyone who:

- Comes to a dedicated emergency department (our main Emergency Department and Labor & Delivery).
- Requests or has a request made on his behalf for examination or treatment for an emergency or perceived emergency condition.
- Visitors who are on SFMC property and who request or look as though they need emergency services.

Does EMTALA apply only to the emergency department?
No. It applies to:

- Any facility or department located on the hospital campus.

What is the scope of a medical screening exam?
The medical screening examination includes diagnostic tests, to determine if the individual has an emergency medical condition or is in labor. The exam continues until the person is either stabilized or transferred.

- Nurses, as approved, may perform a medical screening exam in Labor & Delivery to determine if the patient is in active labor or has another emergency condition.

How is an emergency medical condition defined?
This means:
1. Acute symptoms of sufficient severity (including severe pain, psychiatric problem, and/or symptoms of substance abuse) such that the absence of immediate medical attention could result in:
   - Placing the patient’s health in serious jeopardy.
   - Serious impairment to bodily functions, or
   - Serious dysfunction of any organ or part; or

2. A pregnant woman who is having contractions:
   - And there is inadequate time to safely transfer her to another hospital, or
   - The transfer may pose a threat to the woman or the unborn child.

**Can a patient be transferred to another hospital for non-medical reasons?**
Yes, if all of the following requirements are met:
- The patient is not in active labor and does not have an emergency medical condition, and the patient is now stabilized.
- The physician at the transferring hospital has notified and obtained the consent from the physician at the receiving hospital.
- The transferring hospital arranges appropriate transportation.
- Copies of the medical record and relevant diagnostic test results are sent with the patient.
- A Transfer Summary signed by the transferring physician is sent with the patient.
- The patient or the patient’s legal representative is notified and agrees to the transfer.

**When is a patient stable for discharge or transfer?**
The patient may be considered stable when the treating physician has documented that the emergency medical condition has been resolved.

**Can a patient be transferred to another hospital with an emergency medical condition and has not been stabilized?**
No, not unless:
- There is a transfer request from the patient or patient’s legal representative. The hospital has the obligation to inform the patient of the risks of transfer. OR
- A physician signs a certification that based on the information available at the time of transfer, the medical benefits from being treated at another hospital, outweigh any increased risks to the patient. The patient should be re-examined immediately prior to transfer.

**What are the criteria for an appropriate transfer to another hospital?**
1. The transferring hospital provides the medical treatment which minimizes the risks to the patient’s health.
2. The receiving hospital has available space and qualified personnel for the treatment of this patient and has agreed to accept transfer.
3. The transferring hospital sends copies of all available medical records related to the patient’s emergency condition, including test results.
4. Patient is transferred by qualified personnel and transportation equipment and life support measures during transfer, and
5. The patient or patient’s legal representative has agreed in writing to the transfer.

**Are there any penalties if a hospital violates EMTALA?**
Yes, fines of up to $50,000 may be imposed and a hospital may have its EMS license suspended or revoked. Physicians may be fined up to $5,000 for each violation.

**Who can report EMTALA violations?**
- Receiving hospitals
- Physicians
- Licensed emergency department personnel at the receiving hospital
- Pre-hospital emergency personnel, such as paramedics
- Patients or their legal representatives

Both federal and California law prohibit any retaliation against a physician or emergency personnel for reporting a possible violation.