**I. SCOPE:**

This policy applies to **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** (“Hospital”).

1. **PURPOSE:**

The purpose of this policy is to set forth policies and procedures for Hospital’s use in complying with the requirements of the Emergency Medical Treatment and Labor Act (EMTALA).

**III. DEFINITIONS:**

* 1. “**Capacity**” encompasses such things as numbers and availability of qualified staff, beds and equipment, as well as the Hospital’s past practices of accommodating patients in excess of its occupancy limits.

B. “**Comes to the Emergency Department.**” For purposes of this policy, an individual is deemed to have “come to the emergency department” if the individual:

1. Presents at a dedicated emergency department, and requests examination or treatment for a medical condition, or has such a request made on his or her behalf. In the absence of such a request by or on behalf of the individual, a request on behalf of the individual will be considered to exist if a prudent layperson observer would believe, based on the individual’s appearance or behavior, that the individual needs examination or treatment for a medical condition; or

2. Presents on Hospital property, other than a dedicated emergency department, and requests examination or treatment for what may be an emergency medical condition, or has such a request made on his or her behalf. In the absence of such a request by or on behalf of the individual, a request on behalf of the individual will be considered to exist if a prudent layperson observer would believe, based on the individual’s appearance or behavior, that the individual needs emergency examination or treatment; or

3. Is in a ground or air non-hospital-owned ambulance on Hospital Property for presentation or examination for a medical condition at the Hospital’s dedicated emergency department; or

4. Is in a ground or air ambulance owned and operated by the Hospital for purposes of examination and treatment for a medical condition at a dedicated emergency department, even if the ambulance is not on Hospital property. However, an individual in an ambulance owned and operated by the Hospital is not considered to have come to the emergency department if: (1) The Hospital-owned ambulance is operated under communitywide emergency medical service (EMS) protocols that direct it to transport the individual to a hospital other than the Hospital; or (2) The Hospital-owned ambulance is operated at the direction of a physician who is not employed or otherwise affiliated with the Hospital.

5. **[policies adopted by Florida Hospitals need the following language: Under state law, an obligation to provide a screening examination attaches when treatment is requested by an EMS provider who is rendering care to or transporting a person.]**

C.“**Dedicated Emergency Department**” is defined as any department or facility of the Hospital, regardless of whether it is located on or off the main Hospital campus, that meets at least one of the following requirements:

* + 1. It is licensed by the State in which it is located under applicable State law as an emergency room or emergency department;
    2. It is held out to the public (by name, posted signs, advertising, or other means) as a place that provides care for emergency medical conditions on an urgent basis without requiring a previously schedule appointment; or
    3. During the calendar year immediately preceding the calendar year in which a determination under this Section is being made, based on a representative sample of patient visits that occurred during that calendar year, it provides at least one-third of all its outpatient visits for the treatment of emergency medical conditions on an urgent basis without requiring a previously scheduled appointment.

Examples of Dedicated Emergency Departments may include licensed EDs, labor and delivery units, psychiatric departments, provider based urgent care centers.

D*.* “**Emergency Medical Condition**” means:

1. 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:

* + - 1. 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
      2. Serious impairment to bodily functions, or
      3. Serious dysfunction of any bodily organ or part; or

2. With respect to a pregnant woman who is having contractions:

a. That there is inadequate time to effect a safe transfer to another Hospital before delivery, or

b. That the transfer may pose a threat to the health or safety of the woman or her unborn child.

E*.* “**Hospital Property**” means the entire main Hospital campus, including the physical area immediately adjacent to the Hospital’s main buildings (*e.g.*, parking lots, sidewalks, and driveways), and other areas and structures that are not attached to the Hospital’s main buildings but are located within 250 yards of the Hospital’s main buildings. Hospital Property excludes areas or structures of the Hospital’s main building that are not part of the Hospital, such as physician offices, rural health centers, skilled nursing facilities, or other entities that participate separately under Medicare, or restaurants, shops, or other nonmedical facilities.

F. “**Labor**” means the process of childbirth beginning with the latent or early phase and continuing through the delivery of the placenta. A woman is in true labor unless a physician or other qualified medical person certifies, after a reasonable period of observation that she is in false labor. Certification of false labor by a non-physician (i.e., physician assistant, nurse practitioner, or qualified registered nurse) requires physician certification.

G. “**Medical Screening Examination**” or “**MSE**” means the screening process required to determine with reasonable clinical confidence whether an emergency medical condition does or does not exist.

H. “**Qualified Medical Person**” or “**Qualified Medical Personnel**” means an individual or individuals determined qualified by Hospital bylaws or rules and regulations (and consistent with state licensure) to perform a Medical Screening Examination. In the Hospital, qualified medical personnel are limited to physicians, physician assistants, nurse practitioners, and registered nurses who have been deemed qualified to certify false labor in conjunction with physician certification.

I. “**To Stabilize**” or “**Stabilize**” or “**Stabilized**” means:

1. With respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from or occur during the transfer or discharge of the individual from the Hospital; or

2. With respect to a pregnant woman who is having contractions and who cannot be transferred or discharged before delivery without a threat to the health or safety of the woman or the unborn child, that the woman has delivered the child and the placenta.

1. **POLICY:**

If an individual comes to the Emergency Department:

* + 1. The Hospital will provide an appropriate medical screening examination within the capability of the Hospital’s Dedicated Emergency Department, including ancillary services routinely available, to determine whether or not an emergency medical condition exists; and
    2. The Hospital will: (a) provide to an individual who is determined to have an emergency medical condition such further medical examination and treatment as is required to stabilize the emergency medical condition, or (b) arrange for transfer of the individual to another medical facility in accordance with the procedures set forth below.
  1. The Hospital will maintain a list of physicians from its medical staff who are on-call for duty after the medical screening examination to provide further medical examination and treatment as necessary to stabilize individuals who have been found to have an emergency medical condition.
  2. The Hospital will accept from a referring hospital within the boundaries of the United States the appropriate transfer of individuals who require the Hospital’s specialized capabilities or facilities if the Hospital has the capacity to treat the individual.
  3. The Hospital will report to the appropriate regulatory agency when it has reason to believe that it has received an individual who was transferred in violation of the requirements of federal law regarding the transfer of an individual with an emergency medical condition.
  4. The Hospital will not base the provision of emergency services and care upon an individual’s race, ethnicity, religion, national origin, citizenship, culture, language age, sex, preexisting medical condition, physical or mental disability, insurance status, sexual orientation, gender identity or expression, economic status or ability to pay for medical services, except to the extent that a circumstance is relevant to the provision of appropriate medical care.

1. **PROCEDURE:**
   1. Triage and Registration
      1. Triage
         1. As soon as practical after arrival, individuals who come to the Emergency Department should be triaged in order to determine the order in which they will receive a medical screening examination.
         2. Triage is not a medical screening examination, as it does not determine the presence or absence of an emergency medical condition, but rather, simply determines the order in which individuals will receive a medical screening examination.
      2. Registration
         1. The Hospital may not delay the provision of an appropriate medical screening examination or any necessary stabilizing medical examination and treatment in order to inquire about the individual's method of payment or insurance status.
            1. **[Hospital should choose one of the following descriptions of its ED registration process which best matches its practice.]**  [The Hospital may, however, follow reasonable registration processes after triage has been completed, but prior the provision of a medical screening examination, including asking whether an individual is insured and, if so, what that the insurance is. Such processes, however, may not unduly discourage individuals from remaining for further evaluation. Further, such inquiry shall not delay provision of the medical screening examination. Accordingly, insurance information should only be collected at times when an individual is waiting for an available examination room. Once an examination room becomes available, the individual should be taken to the examination room to receive a medical screening examination. **(NOTE: This option is not permissible in California)**] **or [**In order to ensure that the appropriate medical screening examination and necessary stabilizing medical examination and treatment are not delayed, Hospital will not inquire as to whether an individual is insured and, if so, what that the insurance is, until after the medical screening examination is provided, and necessary stabilizing treatment is initiated.**]**
            2. The Hospital may not seek authorization from the individual’s insurance company for screening or stabilization services until the Hospital has provided the appropriate medical screening examination, and initiated any further medical examination and treatment required to stabilize the individual’s emergency medical condition**.**
         2. Qualified medical personnel are not precluded from contacting the individual’s physician at any time to seek advice regarding medical history and needs that may be relevant to the medical treatment and screening of the individual*,* as long as this consultation does not inappropriately delay services required.
   2. Medical Screening Examination
      1. The Hospital shall provide a medical screening examination to any individual who comes to the Emergency Department.
      2. The medical screening examination is the examination of the patient by the Qualified Medical Person required to determine within reasonable clinical confidence whether an emergency medical condition does or does not exist. The examination should be tailored to the patient’s complaint, and depending on the presenting symptoms, the medical screening examination may represent a spectrum ranging from a simple process involving only a brief history and physical examination, to a complex process that also involves performing ancillary studies and procedures.
      3. Monitoring must continue until the individual is stabilized or appropriately admitted or transferred. The medical screening examination, and ongoing patient assessment, must be documented in the medical record.
      4. The medical screening examination must be provided in a non-discriminatory manner. The examination provided to an individual must be the same medical screening examination that the hospital would provide to any individual coming to the Hospital’s dedicated emergency department with those signs and symptoms, regardless of ability to pay.
   3. Central Log
      1. The Hospital must maintain a central log of individuals who come to the emergency department and include in such log whether such individuals refused treatment, were refused treatment, or whether such individuals were treated, admitted, stabilized, and/or transferred or were discharged. The log must register all patients who present for examination or treatment, even if they leave prior to triage or MSE.
      2. The Hospital has the discretion to maintain the central log in a form that best meets the needs of the Hospital. Accordingly, the central log may include, directly or by reference, patient logs from other areas of the hospital where a patient might present for emergency services or receive a medical screening examination instead of in the traditional emergency department. These additional logs must be available in a timely manner for surveyor review. The hospital may also keep its central log in an electronic format.
      3. The central log must be kept as required by [Administrative policy AD 1.11 Records Management](https://portal.etenet.com/Lists/Policies/AD_1.11_Records_Management.pdf) and its Records Retention Schedule.
      4. The central log should also include any additional information required by state law.
   4. Individuals Who Do Not Have An Emergency Medical Condition
      1. If, after the medical screening examination is completed, a physician or other qualified medical person determines that an individual does not have an emergency medical condition, the individual may be discharged.
      2. Discharged individuals who do not have an emergency medical condition must receive a follow-up care plan with written discharge instructions.
   5. Individuals Who Have An Emergency Medical Condition

If, after a medical screening examination, it is determined that an individual has an emergency medical condition, the Hospital must:

1. Within the capability and capacity of the staff and facilities available at the Hospital (including coverage available through the Hospital’s on-call roster), provide treatment necessary to stabilize the individual, at which time the individual may be discharged; or

2. Admit the individual to the Hospital in order to stabilize the individual; or

3. If stabilization of the individual is beyond the capabilities or capacity of the Hospital, arrange for appropriate transfer of the individual to another medical facility in accordance with this policy.

* 1. Refusal of Treatment

If the Hospital offers further examination and treatment and informs the individual or the person acting on the individual’s behalf of the risks and benefits of the examination and treatment, but the individual or person acting on the individual’s behalf does not consent to the examination and treatment, the Hospital must take all reasonable steps to have the individual or the person acting on the individual’s behalf acknowledge their refusal of further examination and treatment in writing. The medical record must contain a description of the examination, treatment, or both if applicable, that was refused by or on behalf of the individual; the risks/benefits of the examination and/or treatment; the reasons for refusal; and if the individual refused to acknowledge their refusal in writing, the steps taken to secure the written informed refusal. Hospital personnel involved with the individual’s care or witnessing the individual refusing consent must document the patient’s refusal in the medical record.

* 1. Physicians On-Call
     1. The Hospital must maintain a list of physicians who are on-call for duty after the initial medical screening examination to provide further evaluation and/or treatment necessary to stabilize an individual with an emergency medical condition. The list must include the names of individual physicians on call; names of groups or practices are not sufficient.
     2. The Hospital has the discretion to maintain the on-call list in accordance with the resources available to the Hospital, including the availability of on-call physicians. In determining on-call responsibilities, the Hospital will consider all relevant factors, including the number of physicians on staff in a particular specialty, other demands on these physicians, and the frequency with which individuals typically require services of on-call physicians. On call roster exemptions for senior staff members which recognize years of service or physician age are permitted as long as the exemption does not affect patient care adversely.
     3. A determination as to whether an on-call physician must physically assess the individual in the emergency department is the decision of the treating Emergency Department physician.
     4. If a physician on the on-call list is called by the Emergency Department physician to provide emergency screening or treatment, the physician must respond within a reasonable time in accordance with the time established in the Hospital Medical Staff’s by-laws. If the physician refuses or fails to arrive within the required response time the chain of command should be initiated in an effort to obtain treatment for the emergency patient. If the individual is required to be transferred as a result of the on-call physician’s failure to appear, the Hospital is required by EMTALA to document in the medical record the name and address of the physician who failed to appear. Refer transfers that result from physician refusal to peer review for evaluation in accordance with the Hospital Medical Staff’s by-laws.
  2. Transfer of Unstable Individuals
     1. A decision regarding patient transfer may be made by either patient request or physician certification.
        1. Upon Individual request. An individual may be transferred if the individual or the person acting on the individual’s behalf is fully informed of the risks of the transfer, the alternatives (if any) to the transfer, and of the Hospital’s obligations to provide further examination and treatment sufficient to stabilize the individual’s emergency medical condition, and to provide for an appropriate transfer. The transfer may then occur if the individual or person acting on the individual’s behalf: (i) makes a request for transfer to another medical facility, stating the reasons for the request (document reason for request on the transfer form or in medical record); and (ii) acknowledges his or her request and understanding of the risks and benefits of the transfer in writing; or
        2. With certification. The individual may be transferred if a physician or, should a physician not physically be present at the time of the transfer, another qualified medical person in consultation with a physician, has certified that the medical benefits expected from transfer outweigh the risks. The date and time of the certification should be close in time to the actual transfer. A certification that is signed by a non-physician qualified medical person shall be countersigned by the responsible physician within twenty-four (24) hours. Individual states have additional requirements for the content of the certification or memorandum of transfer.
     2. When the Hospital transfers an individual with an unstabilized emergency medical condition to another facility, the transfer shall be carried out in accordance with the following procedures.
        1. The Hospital shall, within its capability, provide medical treatment that minimizes the risks to the individual’s health and, in the case of a woman who is having contractions, the health of the unborn child.
        2. A representative of the receiving facility must confirm that:
           1. The receiving facility has available space and qualified personnel to treat the individual; and
           2. The receiving facility agrees to accept transfer of the individual and to provide appropriate medical treatment.
        3. The Hospital must send to the receiving facility copies of all pertinent medical records available at the time of transfer, including: (1) history; (2) records related to the individual’s emergency medical condition; (3) observations of signs and symptoms; (4) preliminary diagnoses; (5) results of diagnostic studies or telephone reports of the studies; (6) treatment provided; (7) results of any tests; (8) the written patient consent or physician certification to transfer; and (9) the name and address of any on-call physician who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment. The Hospital must forward relevant records, pending lab work and test results to the receiving facility that was not available at the time of transfer.
        4. The transfer must be affected through appropriately trained professionals and transportation equipment, including the use of necessary and medically appropriate life support measures during the transfer. The physician is responsible for determining the appropriate mode of transport, equipment, and transporting professionals to be used for the transfer.
     3. Patient Refusal of Transfer.

If the Hospital offers an appropriate transfer and informs the individual or the person acting on the individual’s behalf of the risks and benefits to the individual of the transfer, but the individual or the person acting on the individual’s behalf does not consent to the transfer, the Hospital must take all reasonable steps to have the individual or person acting on the individual’s behalf acknowledge such refusal in writing. If the individual refuses to acknowledge in writing, the medical record must contain a description of the proposed transfer that was refused by or on behalf of the individual.

* 1. Obligation to Accept Transfers
     1. To the extent that the Hospital has specialized capabilities (including capabilities available through the Hospital’s on-call roster) or facilities, such as a burn unit, a shock-trauma unit or a neonatal intensive care unit, that are not available at the transferring facility, the Hospital must accept appropriate transfers of an individual needing such specialized capabilities or facilities if the Hospital has the capacity to treat the individual.
     2. The following personnel or categories of personnel are authorized to accept or reject transfers from another hospital on behalf of the Hospital: **[List individuals who are able to accept transfers on behalf of Hospital. Examples may include house nursing supervisors, and Emergency Department physicians.]** Personnel who accept or reject another facility’s request for transfer must record the request, the response to the request, and the basis for any denial of such a request, in a patient transfer request log which should be maintained in the Emergency Department in order to document the appropriateness of any transfers that were refused by the Emergency Department.
  2. Reporting Obligations

Any Hospital medical staff member or employee who believes that the Hospital received an inappropriate transfer from another facility in violation of the law, or that the Hospital violated EMTALA, must report the incident to the Compliance Officer or designee, as soon as possible for investigation. If, based on the investigation, the Compliance Officer or designee, in consultation with Regulatory Counsel, determines that an inappropriate transfer has been received by Hospital, the Compliance Officer or designee shall report the transfer to CMS or the state survey agency. Reports of inappropriate transfers must be made to CMS with 72 hours of the violation. Any violation of EMTALA by the Hospital, determined in conjunction with Regulatory Counsel, must be reported to the Chief Compliance Officer in accordance with [Regulatory Compliance policy COMP-RCC 4.21 Internal Reporting of Potential Compliance Issues](https://portal.etenet.com/Lists/Policies/COMP-RCC_4.21_Internal_Reporting_of_Potential_Compliance_Issues.pdf).

* 1. Posting Signs
     1. The Hospital must post conspicuously, in the Dedicated Emergency Departments and all areas in which individuals routinely present for treatment of emergency medical conditions and wait prior to examination and treatment, (such as entrance, admitting areas, waiting room or treatment room) signs in the format of the attached Attachments A and B that specify rights of an individual under the law with respect to examination and treatment for emergency medical conditions and of women who are pregnant and are having contractions.
     2. The Hospital must conspicuously post signs stating whether or not the Hospital participates in the Medicaid program.
     3. All signs must be posted in all the major languages that are common to the population of the Hospital’s service area.
  2. Responsible Person

The Hospitals’ Chief Nursing Officer and Chief Medical Officer are responsible for assuring that this policy is implemented and followed, and that instances of noncompliance with this policy are reported immediately to the Compliance Officer.

* 1. Auditing and Monitoring

Audit Services and Clinical Operations will audit adherence to this policy.

N. Enforcement

All Hospital staff and Medical Staff whose responsibilities are affected by this policy are expected to be familiar with the basic procedures and responsibilities created by this policy. Failure to comply with this policy will be subject to appropriate performance management pursuant to all applicable policies and procedures, including the Medical Staff Bylaws, Rules and Regulations.

**VI. REFERENCES:**

- [Social Security Act § 1867](http://www.ssa.gov/OP_Home/ssact/title18/1867.htm)

- [42 CFR § 489.24](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr;sid=060daea35afcfbf6b1c6a8bf685d6f87;rgn=div5;view=text;node=42:5.0.1.1.7;idno=42;cc=ecfr#se42.5.489_124)

- [42 CFR § 489.20](http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr;sid=060daea35afcfbf6b1c6a8bf685d6f87;rgn=div5;view=text;node=42:5.0.1.1.7;idno=42;cc=ecfr#se42.5.489_120)

- [Medicare State Operations Manual (CMS Pub. 100-07), Appendix V – Interpretive Guidelines – Responsibilities of Medicare Participating Hospitals in Emergency Cases](http://cms.hhs.gov/manuals/Downloads/som107ap_v_emerg.pdf)

**VII. ATTACHMENTS:**

- Attachment A: EMTALA Sign (English)

- Attachment B: EMTALA Sign (Spanish)

**IT IS THE LAW!**

**IF YOU NEED EMERGENCY MEDICAL ASSISTANCE OR IF YOU ARE PREGNANT AND HAVING CONTRACTIONS**

**YOU ARE ENTITLED TO RECEIVE WITHIN THE CAPABILITY OF THE HOSPITAL’S STAFF AND FACILITY:**

**AN APPROPRIATE MEDICAL SCREENING EXAM**

**APPROPRIATE MEDICAL TREATMENT TO STABILIZE YOUR MEDICAL CONDITION (INCLUDING THE DELIVERY OF AN UNBORN CHILD); AND, IF NECESSARY,**

**AN APPROPRIATE TRANSFER TO ANOTHER FACILITY, EVEN IF YOU ARE NOT ABLE TO PAY OR DO NOT HAVE MEDICAL INSURANCE OR WERE NOT ENTITLED TO PARTICIPATE IN THE MEDICARE OR MEDICAID PROGRAMS.**

**THIS HOSPITAL DOES PARTICIPATE IN THE MEDICAID PROGRAM.**

**ES LA LEY!**

**SI USTED NECESITA ATENCION MEDICA DE EMERGENCIA O SI ESTA EMBARAZADA CON CONTRACCIONES DE PARTO**

**USTED TIENE DERECHO A RECIBIR, SIEMPRE Y CUANDO EL HOSPITAL CUENTE CON LAS INSTALACIONES ADECUADAS Y TENGA DISPONIBLE AL PERSONAL CALIFICADO:**

**UN EXAMEN MEDICO ADECUADO PARA PRUEBAS DE DETECCION**

**TRATAMIENTO MEDICO QUE SEA NECESARIO PARA ESTABILIZAR SU CONDICION MEDICA (INCLUYENDO EL PARTO DE UN NINO NO NACIDO AUN); Y, SI ES NECESARIO,**

**SER TRASLADADO APROPIADAMENTE A OTRA INSTITUCION DE ATENCION MEDICA, AUNQUE USTED NO PUEDA PAGAR O NO TENGA SEGURO MEDICO O NO TENGA DERECHO DE PARTICIPAR EN LOS PROGRAMAS DE MEDICARE O MEDICAID.**

**ESTE HOSPITAL SI PARTICIPA EN EL PROGRAMA MEDICAID.**