EMTALA - EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR ACT

Policy: ADM220.00, **v.5** **Effective: 04/01/2025**
Category: Administrative **Origination Date:** 10/17/2001

I. PURPOSE:

To describe the responsibility of Mary Lanning Healthcare's employees and medical staff to assure compliance with the EMTALA requirements.

II. POLICY:

A. A medical screening examination is provided at Mary Lanning Healthcare (MLH) by qualified medical personnel to any individual presenting themselves anywhere on the Mary Lanning Healthcare campus who is seeking emergency services to determine whether that person has an emergency medical condition.

1. Medical screening cannot be deferred to another agency or location but must be performed at the Hospital.
2. Medical screening is not delayed for registration, obtaining of a patient's written consent, insurance inquiry or other such activities.
3. Medical screening is provided regardless of a patient's insurance plan, ability to pay, race, gender, or health condition.
4. The following patients are always considered emergency medical conditions and must be screened and treated:
    a) Pregnancy with the presence of contractions
    b) Intoxication or substance abuse
    c) Psychiatric patient with potential to harm self or others
    d) Severe undiagnosed pain, whether deemed acute or chronic

III. DEFINITIONS:

A. Emergency Medical Condition: As defined by law is a condition manifesting with acute symptoms of sufficient severity including severe pain, that the absence of immediate medical attention could reasonably be expected to result in: placing the health of the person in serious jeopardy; serious impairment to any bodily functions; serious dysfunction of any bodily organ or part; or, a pregnant woman having contractions, that there is inadequate time to effect a safe transfer to another hospital before delivery; or that the transfer may pose a threat to the health or safety of the woman or unborn child. Emergency medical conditions always include women in labor, patients with substance abuse or current intoxication, patients with severe pain, and psychiatric patients that might or could ultimately be at risk to self or others.

B. Labor: The process of childbirth beginning with the latent or early phase of labor and continuing through the delivery of the placenta. A woman having contractions is in true labor unless a physician certifies that, after a reasonable time of observation, the woman is in false labor.

Except in the case of certified false labor, a pregnant woman experiencing contractions is legally unstable until delivery of baby and placenta.

C. Medical Screening Examination: A process of assessment which begins with triage and includes exam by the emergency department provider on duty and/or specialist on call, who may determine if an emergency medical condition exists and shall include a history of physical examination, diagnostic evaluation/necessary ancillary services, and consultation to the extent necessary, within the capability of the hospital.

D. Qualified Obstetrical Evaluator: A Registered Nurse in Labor and Delivery who is approved by leadership to evaluate pregnant women in the absence of a medical provider.

E. Stabilize (with respect to an emergency medical condition): To provide such medical treatment of the condition necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility or that, with respect to a pregnant woman, the woman has delivered the child and placenta.

F. Transfer: The movement of an individual outside of Mary Lanning Healthcare's facilities at the direction of any person employed by or associated with (directly or indirectly) the Hospital but does not include the movement of a deceased individual or an individual that leaves against medical advice.

G. Appropriate Transfer: A transfer in which a physician has certified the patient condition for transfer, the destination facility and a physician has accepted care of the patient, the patient (or responsible party) has agreed to the transfer, and the needed equipment, level of staff and mode of transport is available.

IV. RESPONSIBILITIES:

A. The process and procedure for assuring appropriate reception, screening, treatment, and potential transfer of individuals seeking emergency services in accordance with EMTALA regulations are demonstrated in the following policies and procedures:

1. Medical Screening Examination Policies and Procedures
    a) ER I-2 Medical Screening
    b) ER 1-2A Medical Screening Exam - Mental Health Patients in the ED
    c) FCC 1-24 OB EMTALA
    d) FCC III-13 Staffing, Orientation & Competency Guidelines
    e) ADM221.00 EMTALA/Provision of Call Coverage Emergency Department
    f) ER XII-6 On Call Schedule/Physician List for Emergency Department
    g) ER II-10 Triage
    h) Medical Staff Rules and Regulations outlining on-call requirements

V. PROCEDURE:

All Mary Lanning Healthcare employees and medical staff comply with EMTALA, including but not limited to:

A. Medical Screening

1. Medical screening exam is conducted by qualified medical personnel
    a) The Board of Trustees of Mary Lanning Healthcare designate the following as Qualified Medical Personnel for the provision of medical screening examinations under 42 USC 1395 dd:
        - Physicians privileged in this facility to practice medicine
        - Nurse Practitioners and Physicians' Assistants licensed by the State of Nebraska, operating within the scope of their authorized practice, credentialed to provide such services in the Hospital and acting in accordance with written protocols, policies and procedures.
        - Registered Nurses in the Maternal Child Department in consultation with a provider and who meet the criteria established by Leadership under protocols approved by the Obstetrics Committee.
2. Final determination of whether an emergency medical condition exists can only be made by a provider.
3. Medical screening includes:
    a) A brief, general history as well as the history related to the patient's chief complaints, medications, and heath history.
    b) Appropriate physical examination including the presenting complaint, potentially affected systems, and known chronic conditions.
    c) Supportive diagnostic evaluation.
    d) Consultation, to the extent felt necessary, with a physician directing emergency care to the extent of the capabilities of Mary Lanning Healthcare.
    e) The level of complexity/acuity may require the use of ancillary services and/or a physician specialist to consult.
    f) Each medical staff member must assure reasonably timely (being physically available with 30 minutes as requested based on what is reasonable for individual patient's needs, or having back-up physician coverage by a member of the Mary Lanning Medical Staff who has privileges and is able to provide coverage within 30 minutes), adequate professional care for his/her patients in the Hospital by being available through his/her office and eligible alternate Medical Staff member with whom prior arrangements have been made (refer to Medical Staff Rules and Regulations and Medical Staff On-Call Policies and Procedures).
4. A medical screening is not an isolated event, but an ongoing process that determines the patient's status at any given time.
    a) Select medical screening data must be collected and documented at a minimum as follows:
        - Upon presentation for emergency services

- As warranted by patient condition/triage status
- Upon discharge or transfer

B. Further Examination, Observation, and Stabilizing Treatment

1. If an emergency medical condition as defined by law exists, Mary Lanning Healthcare employees and Medical Staff provides further health assessment/examination and treatment to stabilize the medical condition.
    a) In the event of pregnancy with contractions present, consistent with Maternal Child Unit policies and procedures, Mary Lanning Healthcare delivers the baby and placenta, except in cases where the benefits outweigh the risks that may arise from or during the transfer.
    b) Patients are treated by Mary Lanning Healthcare unless:
        - The required care cannot be provided at Mary Lanning
        - The patient requests a transfer and/or refuses treatment at Mary Lanning
        - When a medical emergency condition requires further evaluation and/or if the patient is unstable for transfer and risks of immediate transfer outweigh the benefits, the patient will be held/observed and treated on the appropriate nursing unit at Mary Lanning.

C. Hospital to Hospital Transfers

1. The Hospital may transfer a patient who has no reasonable risk of deterioration in condition from or during transfer to another facility in accordance with the Transfer of Patients to Another Facility policy and procedure.
2. Patients who may be at risk for deterioration from or during transfer may be transferred only when:
    a) The patient (or his/her representative) requests to transfer to another facility and certifies that he/she has been informed of both the Hospital's EMTALA obligations to screen and to treat him/her and any potential risks of transfer.
    b) A physician has certified, based upon the information available at the time of transfer, the medical benefits of transfer outweigh the actual and/or potential risks to the patient and/or unborn child during the transfer.
    c) Patients being transferred from Mary Lanning Healthcare for further diagnostic testing, evaluation, specialty care, or equipment or services not available at this hospital are deemed to be in the process of the Medical Screening Examination or in the process of stabilization and to be at risk for deterioration from or during transfer for EMTALA compliance purposes.
3. Before transfer, Mary Lanning Healthcare must provide treatment within its capacity to minimize the risks to the patient and/or unborn child.
4. An appropriate transfer from Mary Lanning Healthcare is one in which:
    a) The patient is informed of the benefits and risks
    b) The patient consents to transfer

c) The physician certifies (signs) the certificate of transfer at the time of transfer, including a statement of risk and benefits.

- Nurse Practitioners and Physician's Assistants licensed in the State of Nebraska, operating within the scope of their authorized practice; in the absence of an attending physician may institute the certificate of transfer, after consultation with the physician by telephone or other two-way communication. The said physician shall countersign the certificate within 24 hours. The responsibility of seeing that the counter signature is made in a timely fashion is that of the respective physician.

d) The destination facility:

- Has the capacity (space), qualified staff and equipment for the treatment of the patient.
- Has agreed to accept transfer of the patient and to provide appropriate medical treatment.

e) Mary Lanning Healthcare sends to the destination facility all medical records related to the emergency medical condition available at the time of transfer including but not limited to:

- Physician and nursing records
- Results of diagnostic tests
- Patient consent to transfer
- Physician certificate for transfer

f) The transfer is provided through qualified personnel and transportation equipment as required, including the use of necessary and medically appropriate life support measures during transfer, as determined by the transferring physician.

g) Transfer by private vehicle

- Patients being transferred pursuant to Paragraph C. 2, above, shall be transferred by appropriate medical vehicle;
- Patients requesting to utilize private vehicles who are deemed capable of making such a decision by the responsible physician may do so upon meeting the requirements of sub-paragraph iii. below
- Documentation required for private vehicle transfer

i. The responsible physician or Emergency Department provider will document that he/she has discussed the risks of transfer with the patient or responsible decision maker and document the specific risks discussed.

ii. The responsible physician will document the patient's or responsible decision maker's understanding and capability to make an informed decision.

iii. The risks discussed will be inserted into the Ambulance Refusal Form in the section labeled "Risks".

iv. The Ambulance Refusal Form will be signed by the patient or responsible decision maker or if signature is refused, the refusal to sign will be noted by the responsible physician or Emergency Department provider on the Form in the area provided for patient signature.

v. The refusal form will be signed by the physician or Emergency Department provider on the line provided on the Form and witnessed by at least one other person in the witness spaces provided on the Form.

vi. Where the physician or Emergency Department provider deems it appropriate, they may further document the refusal and warnings provided through the use of an "Against Medical Advice" form.

D. Additional EMTALA requirements will be adhered to as follows:

1. The Mary Lanning Healthcare EMTALA policies and medical staff rules and regulations reflect the current nature of the law and undergo review in accordance with Hospital policy.
2. Conspicuous signage describing a patient's rights to examination and treatment for emergency medical conditions, women in labor and indicate the Hospital's participation in the Medicaid program will be posted at appropriate locations.
3. Medical records of patients transferred to or from the Hospital and other related documents are retained for a minimum of five (5) years.
4. A list of on-call physicians for consultation and/or care after the initial patient examination is maintained as described in the Medical Staff Rules and Regulations and the Medical Staff On-Call Policy.
5. A log is maintained in the Emergency Department depicting any individual who seeks assistance in the form of emergency services and screening, including the patient presenting for obstetrics screening.
6. Reporting EMTALA transfer violations is in accordance with the Hospital variance reporting and Transfer to Another Facility policies. Examples of reportable scenarios include, but are not limited to, the following:
    a) Receipt of a patient who did not need specialty services
    b) Receipt of a patient who did not have an emergency medical condition which precipitated the need for further examination to determine whether an emergency medical condition was present
    c) Receipt of a patient whose condition was materially misrepresented to justify transfer, the hospital's remedy is to report a possible EMTALA violation by the sending facility.
7. If a violation is suspected, it must be reported to the Director of the Emergency Department. In his/her absence, on weekends, or holidays, a violation should be reported to the House Supervisor who may escalate the situation as appropriate.
    a) Report of violation must be submitted to CMS or state survey agency within 72 hours of the occurrence. Record of violations and documentation of submissions are kept with the Compliance Officer.

VI. REFERENCES

CMS State Operations Manual, Appendix V

VII. COLLABORATED WITH:

A. Accreditation Coordinator/Quality Improvement
B. CNO
C. Compliance Officer
D. MLH Legal Council

VIII. DISTRIBUTION:

All MLH Staff

IX. RESCISSIONS

A. Origination Date: 10/2001
B. Reviews/Revisions: 02/2003, 04/2008, 07/2013, 02/2016, 02/2019, 09/2019, 08/2022, 03/2025

X. REVIEW AND REISSUE DATE:

A. Three (3) years from last review date
B. 03/2028

XI. FOLLOW-UP RESPONSIBILITY:

Accreditation Coordinator/Quality Improvement

XII. ATTACHMENTS:

A. Appendix A