PROVISION OF CALL COVERAGE FOR THE EMERGENCY DEPARTMENT

Policy: ADM221.00, **v.6** **Effective: 05/19/2024**
Category: Administrative **Origination Date:** 10/17/2001

I. PURPOSE:

A. To establish guidelines for Mary Lanning Healthcare (MLH) and its personnel to be prospectively aware of which physicians, including specialists and sub-specialists, are available to provide additional medical evaluation and treatment necessary to stabilize individuals with emergency medical conditions in accordance with the resources available to the hospital as required by the Emergency Medical Treatment and Labor Act (EMTALA), 42 U.S.C., Section 1395 and all Federal and State regulations and interpretive guidelines promulgated thereunder.

B. This policy is to be used in conjunction with ADM220.00 EMTALA - Emergency Medical Treatment and Active Labor Act.

II. POLICY:

Mary Lanning Healthcare must maintain a list of physicians on its medical staff who have privileges at the hospital. Physicians on the list must be available after the initial examination to provide treatment necessary to stabilize individuals with emergency medical conditions (EMC) who are receiving services in accordance with the resources available to the hospital. The cooperation of the hospital's medical staff members with this policy is vital to the hospital's success in complying with the on-call provisions of EMTALA. In this regard, privileged physicians, by virtue of their privilege, have legal obligations as reflected in this policy and the Medical Staff Bylaws and Rules and Regulations. MLH will take all necessary steps to ensure that physicians perform their obligations as set forth herein.

III. DEFINITIONS:

None

IV. RESPONSIBILITIES:

A. **Physician's Responsibility**:

1. While on-call, it shall be the physician's duty and responsibility to assure the following:

a) Immediate availability, at least by telephone, to the Emergency Department physician for his or her scheduled "on-call" period, or to secure a qualified alternate if appropriate.

b) Arrival or response to the Emergency Department within a reasonable timeframe (generally, response by the physician is expected within 30 minutes). The emergency physician, in consultation with the on-call physician, shall determine whether the individual's condition requires the on-call physician to see the individual immediately. The determination of the emergency physician or other practitioner who has personally examined the individual and is currently treating the individual shall be controlling in this regard.

NOTE: EMTALA compliance is not met by a phone response.

c) The “on-call” rotation is twenty-four (24) hours (or multiples thereof, generally 0800 – 0800).

d) Unassigned medical patients (i.e. patients with no identified primary medical provider) will be managed, as necessary, by the Mary Lanning Healthcare Primary Care Group. Unassigned obstetrical patients will be managed by all appropriately credentialed community physician providers.

e) When specialties are represented by three (3) or more physicians, the specialty physicians will provide coverage on all days, weekends and holidays.

f) When specialties are represented by fewer than three (3) physicians, each specialty physician will provide coverage at a minimum of ten (10) days per month, and a proportionate number of weekends and holidays, in a schedule designed to meet the needs of the community.

g) Any anticipated gap in coverage of services normally provided at Mary Lanning Healthcare will be discovered in advance through maintenance of an on-call roster. When coverage gaps occur, a plan for patient management will be established and shall include the following options: 1) provision of locum tenens services for coverage; or 2) negotiated agreement for patient transfer to accepting physicians/facilities for services temporarily not available at MLH. Unexpected gaps in coverage precipitated by unforeseen emergent circumstances arising in the life an on-call physician will be communicated immediately to the Emergency Department and patients with affected specialty needs will, in those situations where immediate back-up coverage is not possible, be transferred to appropriate receiving hospitals according to existing EMTALA regulations. (Refer to Section IV D, below)

h) A physician who is not on-call may respond to the Emergency Department voluntarily to the needs of his/her established patients.

i) When patients present requiring specialty needs for which no call coverage is available they shall be transferred, as needed, and according to established agreements between MLH and receiving facilities. (See ADM 222.00)

j) An on-call physician is required to respond by phone to the Emergency Department within 30 minutes of the time the call is placed. If requested to respond, the physician response to patient bedside must occur within 30 minutes of the request.

k) Patient needs permitting, a second call can be initiated from the Emergency Department in the event of no response to a first call, but failure to respond by the on-call physician to a second call request shall result either in the referral of the patient to another appropriate member of the Medical Staff for care management, or transfer to another facility. Likewise, if the patient’s needs warrant such action, a decision by the Emergency Department physician to either refer to another member of the Medical Staff or transfer the patient to another facility is appropriate when a first call goes unanswered after fifteen (15) minutes. If transfer to another facility in such case is required, the Certificate of Transfer shall be completed with the name of the on-call physician who refused or failed to respond, and when identified, the reason for not responding. An occurrence report shall also be completed within the hospital’s occurrence reporting system.

l) If, based upon the information provided via telephone contact, the on-call physician disagrees with the Emergency Department physician about whether a patient has an EMC, is stable for transfer, or other medical management issues, the on-call physician must come to the Emergency Department and personally examine the patient and accept responsibility for the patient. Such an event will trigger an automatic review by the Medical Staff Excellence Committee according to established peer review process.

m) The on-call physician must accept and provide medical care to the patient for the duration of the EMC or effect an appropriate transfer to another facility in accord with agreements established between MLH and receiving facilities and this policy.

B. **Transfer to Physician's Office**:

1. When a physician who is on-call is in his or her office, the hospital may NOT refer individuals receiving treatment for an EMC to the physician's office for examination and treatment. The physician must come to the hospital to examine the individual if requested by the treating physician. If, however, there is a genuine medical justification, the treating physician in the Emergency Department may move an individual needing the specific services of the on-call physician to the physician's office only if the office meets the definition of a provider-based department of the hospital and is located on the hospital campus. This type of move will only be appropriate if all the following conditions are met:

   a) all individuals with the same medical condition are moved to this location regardless of their ability to pay for treatment;

   b) there is a bona fide medical reason to move the individual; and

   c) appropriate medical personnel accompany the individual.

C. **Financial Inquiries:**

1. Medical Staff members who are on-call and who are called to provide treatment necessary to stabilize an individual with an EMC may not inquire about the individual's ability to pay or source of payment before coming to the Emergency Department and no facility employee may provide such information to a physician on the phone.

D. **Selective Call and Avoiding Responsibility:**

1. Medical Staff members may not relinquish specific clinical privileges for the purpose of avoiding on-call responsibility. The Board of Trustees is responsible for assuring adequate on-call coverage of specialty services in a manner that meets the needs of the community in accordance with the resources available to the hospital. Exemptions for certain medical staff members (e.g., senior physicians) would not per se violate EMTALA-related Medicare provider agreement requirements. However, if a hospital permits physicians to selectively take call ONLY for their own established patients who present to the Emergency Department for evaluation, then the hospital must be careful to assure that it maintains adequate on-call services, and that the selective call policy is not a substitute for the on-call services required by the Medicare provider agreement.

E. Physician Appearance Requirements:

1. If a physician on the on-call list is called by the hospital to provide emergency screening or treatment and either fails or refuses to appear within thirty (30) minutes, the hospital and that physician may be in violation of EMTALA as provided for under section 1867(d)(1)(C)

of the Social Security Act. If a physician is listed as on-call and requested to make an in-person appearance to evaluate and treat an individual, that physician must respond in person within thirty (30) minutes.

2. If, as a result of the on-call physician's failure to respond to an on-call request, the hospital must transfer the individual to another facility for care, the hospital must document on the transfer form the name and address of the physician who refused or failed to appear within thirty (30) minutes of the time requested to come in to see the individual in the Emergency Department.
3. For violations related to calls from the Emergency Department, the on-call physician can be subject to one or more of the following:
    a) a fine of up to $50,000 by the federal government
    b) civil lawsuits
    c) exclusion from participation in Medicare and Medicaid payment programs for violation of EMTALA
    d) referral to the MSEC for review and/or the MEC for disciplinary action

F. **Records:**

1. The hospital must keep a record of all physicians on-call and on-call schedules for at least five years. Any on-call list must reflect any and all substitutions from the time of first posting of the list.

V. PROCEDURE:

A. **Maintain a List**:

1. Mary Lanning Healthcare shall maintain a list of physicians who are on-call for duty to provide treatment necessary to stabilize an individual with an EMC after the initial Emergency Department examination. Medical Staff Bylaws and Rules and Regulations define the specific responsibilities pertaining to the timeliness and scope of treatment necessary. (cf. Medical Staff Bylaws Article III, Section 3.1.3; and Medical Staff Rules and Regulations Section 2.2)
2. Specialties and subspecialties represented in the MLH call roster include but are not limited to: Anesthesia, Cardiology, ENT (Otorhinolaryngology); Family Practice; Infectious Disease; Internal Medicine; Nephrology; Neurology; Obstetrics and Gynecology; Oncology; Ophthalmology; Orthopedics; Pediatrics; Psychiatry; Pulmonology, Radiology; Trauma/General Surgery; and Urology.

B. **Develop an On-Call Schedule:**

1. The Board of Trustees of Mary Lanning Healthcare requires that the medical staff be responsible for developing an on-call rotation schedule that includes the name and direct pager or telephone number of each physician who is required to fulfill on-call duties. Physician group names are not acceptable for identifying the on-call physician. Individual physician names with accurate contact information, including a telephone number where the physician can be reached, are to be put on the on-call list. Hospital staff MUST be able to contact the on-call physician with the number provided on the list. Each physician is responsible for updating his or her contact information as necessary.

2. The on-call schedule may be by specialty or sub-specialty (e.g., General Surgery, Orthopedic Surgery, or Pediatrics, etc.) as determined by Mary Lanning Healthcare and implemented by the relevant department chairpersons. The Medical Executive Committee shall review the structure of the on-call schedule and make recommendations to the CEO or his/her representative when formal changes are to be made or when legal and/or operational issues arise.
3. Mary Lanning Healthcare shall keep local Emergency Medical Services advised of the times during which certain specialties are unavailable.

C. Call by Non-Physician Practitioners:

1. Advance Practice Practitioners (usually physician assistants or advanced practice registered nurses) who are employed by and have protocol agreements with the on-call physician, may take first call if, after discussion with the Emergency Physician, the physician on-call so directs the licensed non-physician practitioner to appear at the hospital and provide further assessment or stabilizing treatment to the individual. The designated on-call physician remains ultimately responsible for providing the necessary services to the individual in the Emergency Department regardless of who makes the first in-person visit. If the emergency physician does not believe that the non-physician practitioner is the appropriate practitioner to respond and requests the on-call physician to appear, the on-call physician must come to the hospital to see the individual.

D. Back-up Plans and Transfers:

1. Mary Lanning Healthcare shall have in place a written plan for transfer and/or back-up call coverage by a physician of the same specialty or subspecialty for situations in which a particular specialty is not available or the on-call physician cannot respond due to circumstances beyond the physician's control. The emergency physician shall determine whether to attempt to contact another such specialist or immediately arrange for a transfer. Mary Lanning Healthcare must be able to demonstrate that hospital staff is aware of and able to execute the back-up procedures.
2. Appropriate transfer agreements shall be in place for those occasions when an on-call specialist is not available within a reasonable period of time to provide care for those individuals who require specialty or subspecialty physician care and a transfer is necessary. A list of facilities with which the hospital has transfer arrangements and the specialties represented shall be available to the individual responsible for facilitating the transfer. The transfer agreements shall not include financial provisions for EMTALA transfers.

E. Providing Elective Surgeries or Other Therapeutic or Diagnostic Procedures While On-Call:

1. An on-call physician may undertake an elective surgery or other patient care services while on-call, and may be on-call at another hospital provided the on-call physician arranges for appropriate back-up. The on-call physician must notify the Emergency Department of the identified back-up plan in the event of unavailability due to involvement in an elective surgery or other patient care service.

F. Simultaneous Call:

1. Physicians are permitted to have simultaneous call at more than one hospital in the geographic area; however, the physician must provide Mary Lanning Healthcare with the

physician's on-call schedule so that the hospital can have a plan in place to meet its EMTALA obligation to the community. This plan could include back-up call by an additional physician or the implementation of an appropriate transfer.

VI. REFERENCES

A. The Emergency Medical Treatment and Active Labor Act, as established under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (42 USC 1395 dd), Section 9121, as amended by the Omnibus Budget Reconciliation Acts (OBRA) of 1987, 1989, and 1990. Rules and regulations published Federal Register June 22, 1994;59:32086-32127.

B. The Centers for Medicare and Medicaid Services (CMS) directs hospitals to develop on-call coverage in the Emergency Department. As the governing body of Mary Lanning Healthcare, it is the Board of Trustees that assigns the responsibility for the implementation of a call schedule to the Medical Staff according to guidelines set forth in this policy. Reference: "Interpretive Guidelines – Responsibilities of Medicare Participating Hospitals in Emergency Cases; www.emtala.com.

C. Smith, JM, "EMTALA Basics: What Medical Professionals Need to Know," Journal of the National Medical Association 94,6 (2002): 426-429.

D. ADM220.00 EMTALA - Emergency Medical Treatment and Active Labor Act.

VII. COLLABORATED WITH:

A. Medical Director of Emergency Services

B. Chief Medical Officer

VIII. DISTRIBUTION:

Medical Staff, Emergency Department Staff

IX. RESCISSIONS

A. Origination Date: 10/2001

B. Reviews/Revisions: 04/2014, 05/2015, 04/2016, 5/2021, 05/2024

1. 04/2014 Name changed from Medical Staff on-call

X. REVIEW AND REISSUE DATE:

A. Three (3) years from Effective Date

B. 05/2027

XI. FOLLOW-UP RESPONSIBILITY:

A. Chief Nursing Officer

B. Compliance Officer/Accreditation Specialist

XII. ATTACHMENTS:

None