Banner Health

Title: EMTALA - Medical Screening Examination and Stabilization Treatment	
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Discrete Operating Unit/Facility: Banner Baywood Medical Center Banner Boswell Medical Center Banner Casa Grande Medical Center Banner Children's at Desert Banner Churchill Community Hospital Banner Del E Webb Medical Center Banner Desert Medical Center Banner Estrella Medical Center Banner Fort Collins Medical Center Banner Gateway Medical Center Banner Goldfield Medical Center Banner Ironwood Medical Center Banner Lassen Medical Center Banner MD Anderson Cancer Center Banner Ocotillo Medical Center Banner Payson Medical Center Banner Thunderbird Medical Center Banner--University Medical Center Phoenix Banner--University Medical Center South Banner--University Medical Center Tucson Banner--University Medical Imaging Center Banner--University Medical Tucson Cancer Center East Morgan County Hospital McKee Medical Center North Colorado Medical Center Ogallala Community Hospital Page Hospital Platte County Memorial Hospital Sterling Regional Medical Center Torrington Community Hospital Washakie Medical Center Wyoming Medical Center	

I. Purpose/Population:

A. **Purpose**: Banner Health provides care for individuals presenting to its hospitals (and Dedicated Emergency Departments, as defined below) with emergency medical conditions without discrimination and regardless of their payor status or eligibility for financial assistance. This Policy outlines Banner Health's commitment to comply with the requirements of the federal Emergency Medical Treatment and Active Labor Act ("EMTALA"), codified at 42 U.S.C. § 1395dd, and its implementing regulations, codified at 42 C.F.R. § 489.24.

B. **Population**: This policy applies to All Banner Health Employees and Qualified Medical Personnel, as defined below, whether contracted or employed by Banner Health.

II. Definitions:

A. Board: the Board of Directors of Banner Health.

B. Campus: the physical area immediately adjacent to the Hospital and other areas and structures that are: (1) under the ownership and control of the Hospital; (2)located within 250 yards of the Hospital; and (3) used to provide patient care to Hospital Patients. The Campus includes the Hospital parking lot, sidewalk and driveway, but excludes other areas or structures that are not part of the Hospital, such as physician offices, skilled nursing facilities, other entities that participate separately under Medicare, or other non-medical facilities.

C. Capabilities: the capabilities of the staff and the facilities. Capabilities of the staff means the level of care that the personnel of the Hospital can provide within the training and scope of their professional licenses and includes on-call physicians. Capabilities of the facilities available to the Hospital include physical space, equipment, supplies and specialized services that the hospital provides as well as ancillary services routinely available to the Hospital.

D. Capacity: the ability of the Hospital to accommodate the individual requesting availability of qualified staff, beds, and equipment, and the Hospital's past practice of accommodating additional Patients in excess of its licensure occupancy limits.

E. Central Log: the Hospital logs reflecting all patients who are on campus seeking Emergency Medical Services, including those maintained by the Emergency Department, the obstetrical department and psychiatric intake office. Hospital logs are part of and incorporated into the Central Log.

F. Dedicated Emergency Department: any department or facility of the Hospital, regardless of whether it is located on the main Hospital Campus or is an Off-Campus Department of the Hospital, that meets at least one of the following:

1. It is licensed by the State as an emergency department or emergency room;
2. It is operated as a provider-based emergency department or emergency room of a Hospital;
3. It is held out to the public (by name, signage, advertising or other means) as a place that provides care for emergency medical conditions on an urgent basis without requiring a previously scheduled appointment; or

4. During the previous calendar year, based on a representative sample of patient visits that occurred during that year, it provided 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.

G. Diversionary Status: the period during which, in the good faith judgment of Hospital administration, after consultation with physicians and nursing staff, as deemed appropriate, the Hospital is "saturated" or lacks Capacity to handle additional Patients.

H. Emergency Medical Condition or EMC:
1. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain and/or a Psychiatric Emergency) such that the absence of immediate medical attention could reasonably be expected to result in:
    a. Placing the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
    b. Serious impairment to bodily functions; or
    c. Serious dysfunction of any bodily organ or part.
2. With respect to a pregnant woman who is having contractions (true labor is presumed unless the physician/QMP, after a period of observation, certifies the presence of false labor):
    a. Inadequate time to effect a safe Transfer to another Hospital before delivery; or
    b. Transfer may pose a threat to the health or safety of the woman or unborn child.

I. Hospital: a Hospital means the licensed Medicare-participating hospital or any location, department or facility that operates under the Hospital's Medicare provider number. This includes all provider-based locations, departments and facilities that provide outpatient or inpatient hospital services to Hospital Patients.

J. Hospital Property: the entire main hospital campus, including the parking lot, sidewalk, and driveway, but excluding other 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 non-medical facilities.

K. Labor: the process of childbirth beginning with the latent or early phase of labor and continuing through the delivery of the placenta.

L. Off-Campus Department: any provider-based facility, location, department, or organization located off of the Hospital's main Campus that is operated under the Hospital's Medicare provider number, licensed as part of the Hospital, and furnishes health care services as part of the Hospital.

M. On-Call Physician List: a list of physicians who are on call.

N. Patient: an individual who presents anywhere on Hospital Campus or at an Off-Campus Department for examination or treatment for an EMC. Patient does not include an individual who has been admitted as an inpatient nor an individual who has begun to receive outpatient services as part of an encounter other than an encounter in a Dedicated Emergency Department for examination or treatment for an EMC. An individual includes an infant, that is born alive who, after expulsion or extraction, breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscle regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or

extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.

O. Psychiatric Emergency: those situations where a Patient is a danger to himself or others by reason of aggressive conduct to inability to perceive or appreciate danger. Symptoms of substance abuse (drug and/or alcohol) requiring immediate detoxification are also considered within the definition of an emergency medical condition, and stabilizing treatment must be rendered.

P. Qualified Medical Personnel or QMP: a practitioner in a category of providers approved by the Board to perform medical screening examinations and who has been approved by the Medical Staff to perform MSEs.

Q. Representative: the Patient's legally authorized representative acting on the Patient's behalf.

R. Specialized Capabilities or Facilities: facilities such as burn units, neonatal ICU's and, in rural areas, regional referral centers.

S. Stabilizing Treatment: the treatment necessary to stabilize an EMC.

T. Stable for Transfer: the determination of a physician or the QMP that the Patient's EMC is unresolved, but a Transfer may be made as no material deterioration of the Patient is likely and the receiving facility has the Capability of managing the Patient, including any foreseeable complications which might arise.

U. Stable for Discharge: the determination of a physician or QMP, within reasonable clinical confidence, that the Patient has reached a point where continued care, including diagnostic work-up and/or treatment, can be reasonably performed as an outpatient or later as an inpatient. A Patient may be Stable for Discharge even though the underlying medical condition persists.

V. Transfer: the movement of an individual in a Dedicated Emergency Department to facilities outside the Hospital at the direction of any person employed by or affiliated with the Hospital, including medical staff members. (Transfer includes discharge, but does not include moving an individual who has been declared dead or who leaves without permission).

III. Policy:

A. **Medical Screening Examination ("MSE").**

1. An appropriate MSE will be offered to individuals on the Campus of Banner Hospitals with a Dedicated Emergency Department who request emergency medical services, on whose behalf such services are requested, or, in the absence of such a request, whose appearance or behavior would cause a prudent layperson observer to believe that such individuals need emergency examination or treatment.
2. An appropriate MSE will be offered to individuals in the Hospital's Dedicated Emergency Department who request emergency medical services, on whose behalf such services are requested, or, in the absence of such a request, whose appearance behavior would cause a prudent layperson observer to believe that such individuals need examination or treatment for a medical condition. Where the individual requires obstetrical or psychiatric services, the MSE may be rendered in OB Triage or the psychiatric crisis center.

3. When an EMS provider brings an individual to the Hospital with a Dedicated Emergency Department and the Hospital does not have the capacity or capability to provide an immediate medical screening exam and if needed, stabilizing or an appropriate transfer, the Hospital must still assess the individual upon arrival to ensure that the individual is appropriately prioritized based on presenting signs and symptoms. Hospital should assess whether the EMS can appropriately monitor the individual's condition.
4. Triage establishes the order in which an individual will be evaluated and is not considered an emergency MSE.
5. An MSE will be conducted to determine whether the Patient has an EMC. The Hospital will conduct a consistent MSE, in nondiscriminatory matter, for all Patients with similar medical conditions. The MSE is an ongoing process requiring continuing monitoring based upon the Patient's needs and must continue until the EMC is stabilized or the Patient is admitted or appropriately transferred.
6. An MSE and Stabilizing Treatment, within the capabilities of the Hospital, will be provided to all individuals regardless of their ability to pay. Medical screening and stabilizing treatment will not be delayed to obtain payment or insurance information. Reasonable registration processes, including insurance information, may be followed as long as individuals are not unduly discouraged from remaining for further evaluation.
7. An MSE will be conducted on minors without waiting for parental consent. Once it is determined that the minor does not have an Emergency Medical Condition (EMC), staff may await parental consent to conduct a further assessment or treatment.
8. Where an individual comes to the Hospital's Dedicated Emergency Department and requests services for a medical condition that is not of an emergency nature, the Hospital will perform such screening as would be appropriate to determine that the individual does not have an EMC. After such determination is made, the person may be directed elsewhere for services.
    a. Where an individual requests non-emergent tests, the Hospital need not perform a MSE but must document that it has not been asked to analyze test results and/or otherwise examine or treat the patient.
    b. Where an individual presents to the Dedicated Emergency Department for outpatient services specified in an order from a physician or licensed practitioner (such as blood draws, diagnostic tests, medication/pharmaceutical services, scheduled procedures), the Hospital is not required to perform a MSE.
    c. Where an individual requests medication/pharmaceutical services, the Hospital will perform such screening as would be appropriate to determine that the individual does not have an EMC.
    d. Where an individual requests services that are not for a medical condition, such as preventative care services (immunizations, allergy shots, flu shots, employer mandated blood/breath alcohol testing), the Hospital is not required to perform a MSE.
    e. Where an individual is brought to the Hospital by law enforcement seeking only blood/breath alcohol testing or evidence collection for law enforcement purposes and does not require examination or treatment and does not appear to need an examination, the Hospital is not required to perform a MSE.
    f. Where an individual is brought to the Hospital by law enforcement seeking clearance for incarceration, the Hospital's EMTALA obligation is to perform a MSE to determine if an EMC exists. If no EMC is present, no further action is required for EMTALA compliance.
9. Where an individual comes to the Hospital's Dedicated Emergency Department for a condition addressed by a prearranged community plan (e.g., psychiatry, high risk OB, sexual assault, trauma), an MSE will be conducted and stabilizing care initiated prior to the transfer of the patient pursuant to the community plan. Where the Hospital cannot

provide Stabilizing Treatment (e.g., trauma), the patient may be appropriately transferred in accordance with community-wide protocols.

10. Where an individual comes to the Hospital's Dedicated Emergency Department and requests treatment during a declared state of national emergency or crisis where the Hospital has activated its Hospital Incident Command System, the Hospital must perform such screening as necessary to determine whether the individual falls into the category for which the community has a specified screening site (e.g., toxin exposure) and may refer the individual to the designated facility.
11. An individual may be moved to a different part of the Hospital for screening or stabilizing care provided that:
    a. All individuals are moved in such circumstances regardless of ability to pay (e.g., psychiatric screening or OB triage);
    b. There is a bona fide reason to move the individual; and
    c. Appropriate personnel accompany the individual.
12. The MSE includes ancillary services routinely available to the Hospital along with available personnel, which includes on-call physicians, in determining whether an EMC exists.
13. A Physician or Qualified Medical Personnel (QMP), as determined by the Board, will medically screen Patients. Where a QMP performs the screening exam, such QMP will consult with the Patient's physician during or at an appropriate time after the medical screening examination as necessary. The on-call physician shall be contacted and consulted about the Patient's condition as necessary when the Patient does not have a physician on the medical staff or after hours as determined by the Medical Staff.
14. A Physician, QMP or other hospital personnel may contact the Patient's physician to seek advice regarding the Patient's medical history and needs that may be relevant to the MSE or treatment, provided that such consultation does not inappropriately delay the MSE or Stabilizing Treatment.
15. An MSE and Stabilizing Treatment will be provided to all individuals with an EMC regardless of managed care/payor requirements. Managed care plans/payors may be notified of the individual's presentation and asked to identify an attending physician, but no request for authorization will be sought until the individual has been examined and treatment has been initiated to stabilize an EMC.
16. An individual on Hospital Property presenting for emergency care at a Hospital with a Dedicated Emergency Department will be seen even when the Hospital is on diversionary status. Hospital personnel will respond to an individual presenting for emergency care on Hospital Property other than the Dedicated Emergency Room in a manner that is in the individual's best interests, taking into consideration the needs of the individual, the location of the individual, access to the individual, and needs of other Patients. When appropriate, 911 may be called.
17. When an individual on Hospital Property requires rescue, stabilization, and/or transport, EMS may be called to assist when to do so is in the best interest of the individual.
18. An individual on Hospital Property presenting for the purpose of seeking helicopter transfer will not be seen unless a request is made for a screening examination or treatment. For purposes of this paragraph, a "request" means any request for assistance or an examination by the individual or on the individual's behalf or the presentation of the individual at the Dedicated Emergency Room.

B. **Stabilizing Care.**

1. If the MSE demonstrates that an EMC exists, the Hospital will provide Stabilizing Treatment within the Hospital's Capabilities, even if the Hospital must transfer the Patient. An on-call physician is expected to present to the Hospital to stabilize and treat a Patient when requested by a physician or a QMP.

2. A Patient with an EMC is stabilized when the physician/QMP determines that:
   a. The Patient is Stable for Discharge (i.e., when, within reasonable clinical confidence, the physician or QMP determines that the Patient has reached the point where his/her continued care, including diagnostic work-up and/or treatment, could be reasonably performed as an outpatient or later as an inpatient).
   b. The Patient is Stable for Transfer (i.e., when the physician or QMP has determined, within reasonable clinical confidence, that the Patient is expected to leave the Hospital and be received at the second facility with no material deterioration of his/her medical condition and the treating physician reasonably believes the receiving facility has the Capability to manage the Patient's medical condition and any reasonably foreseeable complications of that condition).
   c. With regard to a pregnant Patient in active labor, stabilization means the delivery of the fetus and placenta unless:
      i. Delivery is contraindicated or
      ii. Transfer is appropriate.
   d. With regard to a Psychiatric Emergency, stabilization means protecting the Patient and preventing him/her from harming him/herself or others.

C. **Patient Registration and Financial Issues.**
1. The Hospital will not delay the MSE to request payment or insurance information. The Hospital may complete its routine registration process, including inquiries about insurance coverage, provided that the inquiry does not delay medical screening or Stabilizing Treatment.
2. The Hospital may not seek or receive payment as part of its routine request process prior to conducting the MSE and initiating stabilizing care. Prior to the MSE and initiating stabilizing care, the Hospital may not inform individuals that their care will be free or at a lower cost if they transfer to another hospital.
3. The Hospital will train personnel to respond to individual inquiries about their financial liability.
4. Trained personnel will respond as fully as possible to individual inquiries about their financial liability.
   a. Individuals will be informed of the Hospital's willingness and obligation to provide a MSE and Stabilizing Treatment, if necessary.
   b. Hospital staff will encourage individuals believed to have an EMC to remain for a MSE and treatment. Hospital staff will encourage individuals to defer questions about financial liability until after the MSE has been completed.
   c. Where the individual withdraws his/her request for examination and treatment, the Refusal of Examination from shall be completed. (See paragraph I below.)
5. Managed care plans/payors may not be contacted for payment authorization until the MSE has been completed and Stabilizing Treatment has been initiated.
6. Where an MSE has been performed and the patient does not have an Emergency Medical Condition, the Hospital is not required to provide care. Upon request, the patient will be advised of outpatient clinics that provide such care.

D. **On-Call and Attending Physicians.**
1. The Hospital shall maintain a list of physicians to serve on the on-call roster in a manner that best meets the needs of its patients in accordance with available resources, including the availability of on-call physicians. The list must reflect coverage for the types of services routinely offered at the Hospital.
2. The on-call roster must include individual physician names. Physician group names are not acceptable.

3. All Hospitals must maintain an on-call roster, even if the Hospital does not have a Dedicated Emergency Department.
4. The Hospital must strive to provide adequate specialty on-call coverage consistent with the services provided at the Hospital and the resources that are available. Where the Hospital lacks available physician resources to provide 24/7 coverage, the Hospital shall consider various factors in developing the on-call roster, including the supply of specialty physicians at the Hospital and in the area, other demands on these physicians, the frequency with which a particular service is provided at the Hospital, and the availability of specialty care at other nearby hospitals.
5. The Hospital must have written on-call policies that define the responsibilities of the on-call physician to respond, examine and treat patients with an Emergency Medical Condition. The attending or on-call physician must come to the Hospital to examine and provide necessary stabilizing care when requested to do so by the emergency department physician or the QMP providing services to the Patient. Physicians must respond to calls from the emergency department within 30 minutes. The Hospital shall report to the Medical Staff any physician failure to respond timely and appropriately to the Dedicated Emergency Department.
6. Where appropriate and permitted by Medical Staff policies, the on-call physician may direct a physician extender with privileges to go to the Hospital for the physician (e.g., physician assistant or nurse practitioner). The on-call physician remains ultimately responsible for providing the necessary services to the Patient, regardless of whether the physician extender provides the services. In the event that the Emergency Department physician disagrees with the physician's decision to send a physician extender and requests the actual appearance of the on-call physician, the on-call physician must appear in person.
7. The Hospital shall maintain policies and procedures to respond to situations in which a particular specialty is not available or the on-call physician cannot respond because of circumstances beyond his/her control.
8. The Hospital may permit on-call physicians to schedule elective surgery or other procedures during the time they are on call provided that the physician and the Hospital have a back-up plan when the on-call physician is unable to respond in a reasonable time.
9. The Hospital may permit on-call physicians to serve on the on-call roster of another hospital simultaneously provided that physicians are required to notify the Hospital of their simultaneous obligations and the Hospital has a back-up plan to follow when the on-call physician is not available.
10. The Hospital may permit exemptions from call for senior physicians provided that such exemptions do not affect patient care adversely.
11. Attending physician or on-call physicians may use telemedicine services for further evaluation and/or treatment necessary to stabilize an EMC.
12. The Hospital may not permit a physician who is required, but refuses to serve on the on-call list to selectively take calls when on-call coverage in the physician's specialty is inadequate.

E. **Call Coverage through a Community Call Plan.**

1. The Hospital may participate in a community call plan to provide on-call physician coverage for one or more specialties. The community call plan should allow the Hospital to be able to provide more on-call specialty coverage than it could provide on its own.
2. A Community Call Plan will include:
   a. A clear delineation of responsibilities, including specification as to which hospital is obligated for coverage for which days and times;

i. The plan must articulate which on-call services will be provided on which dates/times by each hospital participating in the plan.

b. A description of geographic coverage area to which the plan applies;
c. A signature of appropriate representative from each participating hospital;
d. Assurances that local EMS system protocols formally includes information on-call arrangement or documentation that the plan has been communicated to the local EMS system and has updated as appropriate;
e. A statement that the Hospital has a duty to perform MSEs and stabilizing care for each Patient even if the Hospital is not the designated on-call hospital; and

3. The Hospital will conduct an annual assessment of plan using a quality assurance approach and will modify the plan based on the assessment.
4. The Hospital participating in a community call plan will include in its on-call roster the names of physicians at the other participating hospitals who are on-call pursuant to the plan and the names of the participating hospitals for which they are on call.
5. The Hospital shall provide a medical screening examination and stabilizing care to all Patients, but may transfer the patient to the hospital providing the on-call service pursuant to the plan.
6. The Hospital has a duty to accept appropriate transfers from hospitals not participating in the plan.
7. The Hospital may appropriately transfer a patient to a nonparticipating hospital.

F. **Lack of Capacity or Physician On-Call Coverage.**

1. Where the Hospital lacks Capacity, it will respond as it customarily does to accommodate patients in excess of its occupancy limits.
2. The Hospital may notify emergency medical services and, as appropriate, other healthcare providers, as appropriate, in the event the Hospital is on Diversionary Status or lacks physician coverage.
3. The Hospital shall maintain policies and procedures to respond to situations in which a particular specialty is not available or the on-call physician cannot respond because of circumstances beyond his/her control.

G. **Discharge Requirements.**

1. A Patient will be discharged if, following the MSE, the physician or QMP determines that the Patient does not have an EMC or is Stable for Discharge.
2. Prior to discharge, the Patient with an EMC is given a plan of care and discharge instructions, including a plan for appropriate follow-up care, if necessary.

H. **Re-Screening.**

1. Any individual returning to the Hospital requesting emergency medical services will be re-screened, regardless of the time interval since his/her prior visit, to determine whether an EMC exists.

I. **Transfer Requirements for the Patient**

1. Transfer of a Patient may be considered under the following circumstances:
   a. The Patient is Stable for Transfer; or
   b. The Patient or Patient Representative requests Transfer after being informed of the Hospital's obligation to provide stabilizing care and the risks and benefits of transfer; or
   c. The Patient requires a higher level of care; or
   d. The Hospital lacks Capacity to treat the Patient.
2. The Patient may be Transferred to another Hospital if:

   a. The physician in attendance or QMP determines that the Patient is Stable for Transfer; or
   b. The physician in attendance or QMP in consultation with the physician determines that the benefits of Transfer outweigh the risks; or
   c. The Hospital is unable to stabilize the Patient within its capacity;
   d. The Patient or his/her Representative requests Transfer after being advised of the Hospital's obligation to provide care and the risks and benefits of Transfer.
   e. A woman in labor may not be transferred unless she or her Representative request transfer as provided in section 1.b above per the physician or QMP, in consultation with a physician, certifies that the benefits to the Patient and/or the unborn child outweigh the risks.
3. The Hospital must provide medical treatment within its Capacity that minimizes the risks to the Patient's health, and in the case of a woman in labor, the health of the unborn child likely to occur or result from transfer.
4. Transfer of the Patient who is not Stable for Transfer is accomplished as follows:
   a. The form "Request for Transfer/Consent to Transfer/Certification for Transfer" is required and fully completed for Patients. The Patient's or Patient Representative's written consent/request is documented on this form.
   b. There is an accepting facility with available space and qualified personnel and documentation noting the date and time of the transfer request and the name of the individual authorized to accept the Patient on behalf of the facility.
   c. The Transfer is affected through appropriate means consisting of the necessary, qualified personnel and transportation equipment including the use of life support measures.
   d. Copies of all medical records related to the EMC are sent with the Patient to the accepting facility. Other records, including test results, not available at the time of Transfer must be sent as soon as practicable after Transfer.
   e. Where the Patient is Transferred because of the refusal or failure of the on-call physician to come to the Hospital within a reasonable period of time to provide necessary Stabilizing Treatment, the name and address of the on-call physician will be sent to the accepting facility with the Patient.
5. If the physician who certifies the Transfer of a Patient who is not Stable for Transfer is not physically present in the emergency department at the time of Transfer, such physician must subsequently sign the Request for Transfer/Consent to Transfer/Certification for Transfer form. Such form must be signed within 72-hours of the Patient's Transfer.
6. A Patient who is not Stable for Transfer will not be Transferred for the convenience of the physician. A Patient who is not Stable for Transfer may be Transferred to the physician's office only if:
   a. A physician has examined the Patient and determined that it is in the Patient's best interest to render further care in the office setting,
   b. The Hospital does not have access to specialized equipment, e.g., ophthalmic equipment, to fully evaluate and treat the Patient, or
   c. The physician's office is a provider-based part of the Hospital (i.e., a department of the Hospital sharing the same CMS certification as the Hospital), provided that all Patients with the same medical condition, regardless of ability to pay, are similarly moved to the physician's office, that there is a genuine medical reason to move the Patient, and that appropriate medical personnel accompany the Patient to the office.
7. Where the Hospital transfers the Patient who is not Stable for Transfer to another hospital for a diagnostic procedure not available at the Hospital, the transfer requirements must be met.

8. These transfer requirements do not apply to Patients who are Stable for Transfer or to those moved to another part of the Hospital, including when a Patient is moved from an off-campus DED to the main Hospital Emergency Department.

J. **Refusal of Examination/Treatment or Transfer.**

1. If an individual or his/her Representative has refused examination/treatment or Transfer, the following will occur:
   a. The individual will be informed of the Hospital's obligations under the EMTALA law, and the willingness of the Hospital to provide a MSE and render Stabilizing Treatment.
   b. The risks and benefits of refusing Stabilizing Treatment are explained by the physician or QMP.
   c. The Refusal of Treatment or Transfer form is signed, indicating what aspects of care are refused, the risks of refusal and the reasons for the refusal. If the individual/Representative refuses to sign, documentation relative to the above is noted in the medical record along with the steps taken to try to secure the written informed refusal.
2. If an individual leaves without examination, attempts will be made to locate the individual in the Hospital. The Hospital will document information on any known individual who chooses to leave without examination.

K. **Hospital Obligation To Accept Transfers.**

1. Any hospital with Specialized Capabilities or Facilities or regional referral centers that serve rural areas and that has Capacity, regardless of whether the hospital has a Dedicated Emergency Department, must accept an appropriate transfer of an unstable patient who requires the specialized capabilities of the hospital from any referring hospital, regardless of financial consideration or proximity of other Hospitals. The Hospital may not delay acceptance of a Patient with an unstabilized EMC pending receipt or verification of financial information.
2. The Hospital with Specialized Capabilities or Facilities cannot delay or refuse the transfer based on the transport services selected by the Transferring hospital.
3. The Hospital may not deliberately delay moving the Patient from an EMS stretcher or releasing EMS personnel unless warranted by the other circumstances in the Hospital.
4. After the Patient has been accepted and the acceptance has been documented, financial information may be requested and alternative Transfer sites may be suggested which are consistent with the Patient's insurance. A Patient with an unstable EMC will not be refused care because of any financial or insurance concerns, and the Transfer will not be delayed to obtain financial/insurance information.
5. The Hospital need not accept the Transfer of a Patient from a Transferring hospital that has the Capability and Capacity to stabilize the individual.
6. The Hospital may not refuse to accept the Patient because it does not have a DED.

L. **Reporting Obligations.**

1. If the Hospital has reason to believe it has received a Patient with an unstable EMC who has been Transferred by another hospital in violation of EMTALA requirements, the Legal Department or Risk Management must be informed immediately.
2. The Legal Department notifies CMS/state agency within 72 hours if reporting is deemed necessary.

M. **Signage and Documentation Requirements.**

1. <u>Signage</u>. Each Hospital shall conspicuously post signage that specifies the rights of individuals under the law with respect to examination and treatment for an EMC and of

women who are pregnant and are having contractions. The signage must also specify whether or not the Hospital participates in the Medicaid program. Signage must be posted in a place or places likely to be noticed in all Dedicated Emergency Department(s), Patient admitting locations, and in such other locations where individuals are waiting for examination and treatment.

2. Central Log (i.e., Launch Point in Cerner). Each Dedicated Emergency Department that receives an individual seeking examination or treatment of a medical condition and each other department on the Hospital's Campus (including, for example, an obstetrical department or psychiatric intake office) that receives an individual seeking examination or treatment for what may be an EMC shall maintain a log that documents the following information:
   a. The individual's name;
   b. The date and time of presentation to the Dedicated Emergency Department or other department;
   c. Whether the individual refused treatment, was refused treatment, or whether he or she was Transferred, admitted and treated, stabilized and Transferred, or was discharged. Logs may be maintained in areas other than the emergency department (i.e., obstetrical department or psychiatric intake office). Such logs are a part of the Hospital's Central Log and will be retained for five years.
3. Record Keeping Requirements. The Hospital is required by law to maintain all forms, records, and other documentation required under this Policy for a minimum of five (5) years, including, but not limited to:
   a. On-Call Physician Lists, maintained by the Hospital and reflecting the specialties routinely available at the Hospital;
   b. All Refusal of Examination, Treatment or Transfer forms and Certification of Transfer forms, completed as appropriate;
   c. Medical and other records related to patients transferred to or from the Hospital; and
   d. Central Logs.
4. Documentation. The documentation applicable to the following events should contain, at a minimum, the following information:
   a. Triage:
      i. Clinical assessment of the presenting signs and symptoms at the time of arrival.
      ii. Presenting complaint including extent, frequency and duration.
      iii. Re-question when concerned about a change in the individual's condition.
      iv. Re-question when there is a prolonged wait for an EMC.
   b. Medical Screening Exam:
      i. Physician/QMP assessment and orders.
      ii. Intervention/treatments.
      iii. Patient/fetus response to treatment.
      iv. Continued monitoring.
   c. Refusal of Examination:
      i. Patient Name, encounter date and time.
      ii. Patient signature or legally authorized representative (if willing).
      iii. Time of attempt(s) made to locate Patient (if applicable).
   d. Refusal of Treatment or Transfer:
      i. Risk and/or Benefits.
      ii. Patient signature or legally authorized representative (if willing).
      iii. Reason for refusal (if obtained).
   e. If applicable, name of the On-Call Physician who refused or failed to respond when requested:
      i. Physician name(s).
      ii. Time or attempt(s) of contact.

iii. Reason they could not respond or failure to respond.
iv. Any other physician(s) contact made.

f. Transfer of Unstable Patient to Another Facility:
   i. Certification.
      (i) Risk and benefits upon which the certification is based for Transfer.
   ii. Patient Request/Consent to Transfer.
   iii. Transfer Acceptance by a Receiving Facility:
      (i) Accepting Physician or authorized person.
      (ii) Person contacted in admission department.
      (iii) Time contacted.
   iv. Notification to Receiving Facility:
      (i) Patient report given to staff.
      (ii) Time of report.
      (iii) Copies of relevant portions of Medical Records sent.
      (iv) If applicable, name of the On-Call physician who refused or failed to respond when requested.
      (v) Mechanism of Transfer, and any special equipment or personnel being utilized to facilitate a safe Transfer.

N. **Off-Campus Departments and Hospitals without a Dedicated Emergency Room.**
   1. Off-Campus Departments that meet the definition of a Designated Emergency Department must provide an appropriate MSE and Stabilizing Treatment within its Capability to any individual who requests emergency medical services or on whose behalf such services are requested or whose appearance or conduct would suggest to the prudent layperson observer that such individual needs examination or treatment for a medical condition.
   2. Hospitals without a Dedicated Emergency Room and Off-Campus Departments, other than a Department that is a Dedicated Emergency Department, must maintain written policies and protocols for appraisals of emergencies and referral when appropriate.

O. **Practitioner and Employee Protection.**
   1. No action shall be taken against a physician or QMP who refuses to authorize the Transfer of a Patient with an EMC that has not been stabilized.
   2. No action shall be taken against any employee because such employee reports an EMTALA violation.

P. **Applicability.**
   1. This policy applies to all BH Hospitals, all provider-based locations of a BH Hospital located on a Hospital’s Campus and all BH Off-Campus Departments.
   2. This policy does not apply to Patients who have begun to receive outpatient services other than through the Dedicated Emergency Department.
   3. This policy does not apply to Patients who have been admitted as inpatients.
   4. The Hospital has no EMTALA obligation to a Patient who has been determined not to have an EMC, whose EMC has been stabilized or who has been admitted.

IV. Procedure/Interventions:

A. Refer to Hospital and off-campus department policies and procedures that support this policy.

V. Procedural Documentation:

A. See Section II.L for documentation and forms requirements. Each Hospital may adopt its own forms; provided, however, that such forms have been approved by the state agency with licensing jurisdiction over the Hospital or by the Legal or Risk Departments.

VI. Additional Information:

A. N/A

VII. References:

A. **Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), 42 U.S.C. Statute 1395 dd (1986)**
B. Born Alive Infants Protection Act 2002.

VIII. Other Related Policies/Procedures:

A. See specific procedures adopted for individual facilities.
B. Qualified Medical Personnel Authorized to Perform Medical Screening Examinations

IX. Keywords and Keyword Phrases:

A. Board
B. Legal
C. COBRA Guidelines, Emergency Services (OB)
D. Reporting obligations under COBRA, OB
E. Violations reporting under COBRA, OB
F. Assessment Emergency
G. Transfer to other Facilities, OB

X. Appendix:

A. N/A