

# EMTALA

| Self-Assessment Questions  | YES                      | NO                       | N/A                      | Date/Initials | Comments |
|--|--------------------------|--------------------------|--------------------------|---------------|----------|
| <p>Medicare participating hospitals must meet the Emergency Medical Treatment and Labor Act (EMTALA) statute codified at <a href="#">§1867</a> of the Social Security Act, the accompanying regulations in 42 CFR §489.24 and the related requirements at 42 CFR 489.20(l), (m), (q), and (r). <a href="#">Appendix V</a> of the Medicare State Operations Manual provides hospitals with extensive guidance on the investigative procedures and the interpretive guidelines used by surveyors to determine compliance with the EMTALA regulations. The EMTALA checklist only provides a general overview of the requirements. Because the EMTALA survey process is complaint driven and subject to wide variation in interpretation depending on the unique circumstances of each complaint, we strongly encourage hospitals to closely review <a href="#">Appendix V</a> and Survey and Certification memos <a href="#">14-06</a> and <a href="#">13-38</a>.</p> |                          |                          |                          |               |          |
| <p>Does your hospital have a dedicated emergency department? <b>If no, answer only the next question. If yes, skip the next question and continue with the following questions.</b></p> <p>If your hospital does not have an emergency department, does your hospital have written policies and procedures for the appraisal of emergencies, initial treatment within its capability and capacity, and making appropriate referrals to a hospital that is capable of providing the necessary emergency services?</p>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Do your medical staff bylaws, rules and regulations and your hospital policies and procedures reflect that your hospital has adopted and enforces EMTALA requirements?</p>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Do the signs posted in the ED specify the rights of individuals with emergency medical conditions and women in labor who come to the ED for health care services and indicate whether the hospital participates in the Medicaid program?</p>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Are these signs worded in clear and simple terms and in a language(s) that are understandable by the populations served by the hospital?</p>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Are these signs conspicuously posted in places likely to be noticed by all individuals entering the emergency department as well as those individuals waiting for examination and treatment in other areas besides the ED such as entrances, admitting, waiting and treatment areas?</p>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Does your hospital maintain a list of physicians (by name not group) who are on call to provide further evaluation and/or treatment necessary to stabilize an individual with an emergency medical condition?</p>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Does your hospital maintain a central log, for at</p>   |                          |                          |                          |               |          |

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| <p>least five years, of individuals who come to the ED seeking treatment and indicate whether these individuals:</p> <p>a. refused treatment?</p> <p>b. were denied treatment?</p> <p>c. were treated, stabilized, admitted and/or transferred or discharged?</p>   | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> |               |          |
| Does your hospital on-call physician appear at the hospital within a reasonable period of time if requested by the treating physician?  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| If the physician on call is seeing regularly scheduled patients in his/her office, does the physician come to the ED in a reasonable amount of time when called to examine the ED patient?  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| <p>If it is medically appropriate for the treating emergency physician to send the ED patient to the on-call physician's office (physician office must be a hospital-owned facility on the hospital campus sharing the hospital's provider number), does the hospital assure that:</p> <p>a. all persons with the same medical condition are moved in such circumstances, regardless of their ability to pay for treatment?</p> <p>b. there is a bona fide medical reason to move the patient?</p> <p>c. appropriate medical personnel accompany the patient?</p> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> |               |          |
| If a physician simultaneously takes calls at more than one hospital, does your hospital have policies and procedures to follow when the on-call physician is not available to respond because he has been called to another hospital?   | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| If your hospital uses telemedicine, do the on-call physicians make an in-person appearance in the ED when requested to do so by the treating physician?   | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| Does your hospital have written policies and procedures in place to handle situations in which a particular specialty is not available or the on-call physician cannot respond because of circumstances beyond the physician's control?   | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| In your policies and/or medical staff bylaws, do you define the reasonable period of time (in minutes) in which the on-call physician must respond?   | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |

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| If your hospital allows on-call physicians to schedule elective surgery during the time that they are on call, does the hospital assure that emergency services are available to meet the needs of patients?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Does your hospital provide necessary stabilizing treatment for emergency medical conditions and women in labor within the hospital's capability and capacity?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Do your hospital policies define 'capability' as the level of care that the personnel of the hospital can provide within the training and scope of their professional licenses?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Do your hospital policies define facility capacity as the physical space, equipment, supplies and specialized the hospital can provide?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Do your hospital policies define staff 'capacity' as whatever the hospital customarily does to accommodate patients in excess of its occupancy limits?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Does the necessary stabilizing treatment include ancillary services routinely available to the hospital?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Does your hospital provide a medical emergency screening for any individual who comes on hospital property with an emergency medical condition?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Does your hospital provide evidence of an ongoing medical record to reflect continued monitoring of an individual's health needs until discharged or transferred?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| If your hospital is included in a community wide plan that identifies specific hospitals to treat certain emergency medical conditions, does your hospital assure that appropriate screening and stabilization occur prior to the transfer to the specified hospital? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |

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| <p>If your hospital participates in a formal Community Call Plan (CCP) does your CCP have written procedures that include:</p> <p>a. a clear delineation of on-call responsibilities?</p> <p>b. a specific description of the geographic area served?</p> <p>c. a hospital representative signature from each hospital?</p> <p>d. assurances that EMS services protocol includes CCP arrangements?</p> <p>e. a specific statement that the hospital has an obligation to provide screening and stabilizing to individuals who arrive at the hospital?</p> <p>f. an annual assessment of the CCP?</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| If you participate in the CCP, does your hospital have a back-up plan when the CCP is not operational?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| If you participate in a CCP, does your on-call physician list include physicians from other hospitals participating in the CCP?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| If an individual comes to the E.D. with a medical request, but it is not of an emergency nature, does the hospital E.D. perform an adequate medical screening to determine that the individual does not have an emergency medical condition?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Is the hospital's definition of "labor", "person" and "individual" consistent with EMTALA definitions in rule: section §489.24(a)?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Does your hospital accept appropriate transfers, if your hospital has specialized capabilities?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Are you knowledgeable of EMTALA obligations for hospitals with specialized capabilities?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |

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| <p>Does your hospital provide an appropriate transfer of any medically unstable individual to another medical facility only under the following conditions:</p> <p>a. the individual or person acting on his or her behalf, after being informed of the risks and the hospital's obligations, requests a transfer?</p> <p>b. a physician has signed the certification that the benefits of the transfer of the patient to another facility outweigh the risks?</p> <p>c. in the absence of a physician, a qualified medical person, as defined by hospital bylaws or rules, signs the certification after consulting with the physician and the physician countersigns the certification in a timely manner?</p> <p>d. treatment to minimize the risks of transfer has been provided?</p> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Is the transfer of the unstable patient only done after the receiving hospital accepts the transfer?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Do your hospital policies define 'stabilized' to mean:</p> <p>a. that no material deterioration of the condition is likely, within reasonable medical probability, to result from, or occur during, the transfer of the individual from a facility?</p> <p>b. with respect to an "emergency medical condition" that a woman has delivered the child and the placenta?</p>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>If an individual comes to your E.D. and is admitted as an inpatient, is there an expectation that the patient will remain at least overnight and will receive:</p> <p>a. acceptable medical care upon admission?</p> <p>b. diagnostic and therapeutic services for medical diagnosis, treatment, and in case of the injured, disabled or sick persons with the intention of treating the patient?</p>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Does your hospital assure that medical screening examination and/or stabilizing treatment is not delayed in order to inquire about payment status?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| Does the hospital assess and treat the patient in a timely manner so as not to engage in the practice of "parking" the patient and thereby  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |

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| tying up EMS personnel and EMS equipment?  |  |  |  |               |          |
| Does your hospital know when EMTALA waivers are allowed during a public health emergency?  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| Under the national emergency conditions, do you notify the State Agency when activating the hospital disaster plan?  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| During a declared emergency or disaster, are you knowledgeable with EMTALA requirements when setting up screening sites:<br>a. on-campus?<br>b. off-campus screening sites for influenza-like illness?<br>c. non-hospital screening sites?   | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/>                             |  |  |               |          |
| Does your hospital have and enforce written policies and procedures to assure that the hospital does not seek or direct an individual to seek authorization from the individual's insurance company prior to providing screening or stabilization services?  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| Do your hospital policies and procedures allow the emergency physician or practitioner to contact the individual's physician at any time to seek advice regarding the individual's medical needs and history relevant to the medical treatment and screening of the patient, as long as this consultation does not inappropriately delay services to assess and/or treat the emergency medical condition?  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| Does your hospital assure that registration procedures do not delay screening, treatment or unduly discourage individuals from remaining for further evaluation?   | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| If an individual comes to your E.D. but he/she or the person acting on their behalf, does not consent to examination and/or treatment, does the medical record contain:<br>a. a description of the examination or treatment that was refused?<br>b. the risks/benefits of the examination and/or treatment?<br>c. the reasons for refusal?<br>d. a written informed refusal signed if possible by the individual or the person acting on their behalf or the steps taken to obtain the | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> |               |          |

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| signature?   |                          |                          |                          |               |          |
| <p>If an individual in the E.D. or their representative refuses your offer of transfer, does the medical record contain:</p> <ul style="list-style-type: none"> <li>a. the risks and benefits of the transfer?</li> <li>b. the reasons why the offer was refused?</li> <li>c. a signed document that indicates that the individual (or their representative) has been informed of the risks and benefits of the transfer and a statement of the reasons for the refusal?</li> <li>d. documentation of the attempt to obtain the signature if the individual or their representative refuses to sign the refusal document?</li> </ul> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>If an individual comes to your E.D. but he/she or their representative requests a transfer, does your hospital:</p> <ul style="list-style-type: none"> <li>a. obtain the request in writing?</li> <li>b. indicate the reasons for the request as well as that he/she is aware of the risks and benefits of the transfer?</li> <li>c. include the risks and benefits on the transfer request form?</li> </ul>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>If a medically unstable individual is transferred to another facility, has a physician or, if the physician is not physically present in the ED a qualified medical person, signed a certification that, based upon the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual (or in the case of a pregnant woman, to the woman or the unborn child) from being transferred?</p>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>If a medically qualified individual has certified the transfer, was a physician consulted prior to the transfer, and subsequently the physician countersigns the certification?</p>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Does the certification contain a summary of the risks and benefits upon which it is based?</p>  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |
| <p>Are transfers from your hospital to another hospital only done when:</p> <ul style="list-style-type: none"> <li>a. your hospital has provided medical treatment within its capacity that minimizes</li> </ul>   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |               |          |

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| <p>the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child?</p> <p>b. the receiving facility has available space and qualified personnel for the treatment of the individual?</p>   |  |  |  |               |          |
| <p>Does your hospital provide all of the following information to the receiving hospital:</p> <p>a. available history?</p> <p>b. records related to the individual's emergency medical condition?</p> <p>c. observations of signs or symptoms?</p> <p>d. preliminary diagnosis, result of diagnostic studies or telephone reports of studies?</p> <p>e. treatment provided?</p> <p>f. results of any tests?</p> <p>g. 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?</p> <p>h. informed written consent or certification required for the transfer?</p> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> | <input type="checkbox"/><br><input type="checkbox"/><br><input type="checkbox"/> |               |          |
| <p>Are other records, not yet available at the time of the transfer, sent as soon as practical after the transfer?</p>  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| <p>Does your hospital assure that physicians or qualified medical personnel are protected from adverse action if they refuse to authorize the transfer of an individual with an emergency medical condition that has not been stabilized or against any hospital employee who reports a violation of these requirements?</p>  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| <p>Does your hospital assure that it does not refuse a transfer if:</p> <p>a. your hospital has specialized capabilities or facilities that are required by an individual?</p> <p>b. your hospital has the capability to treat the individual?</p>  | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |
| <p>If your hospital has reason to believe that it may have received an individual who has been transferred in an unstable emergency medical condition from another hospital, does the hospital report this information to CMS or the state within 72 hours of the occurrence?</p>   | <input type="checkbox"/>   | <input type="checkbox"/>   | <input type="checkbox"/>   |               |          |



**Helpful Hints**

- [Appendix V](#) (7-16-10)

**Key Resources and Links**

- [42 CFR 482.24](#)
- [42 CFR 489.20](#)
- [Survey and Certification Memo 14-06](#)
- [Survey and Certification Memo 13-38](#)
- [19 CSR 30-20.092 Emergency Services in Hospitals](#)
- [19 CSR 30-40.600 Outside the Hospital Do-Not-Resuscitate \(OHDNR\)](#)