

EMTALA: Court Rules Patient's Transfer To Another Medical Facility Was Not Inappropriate.

The US District Court for the District of Puerto Rico has clarified the ruling we reported in February 2013. See *E.R.: Patient's EMTALA Lawsuit Dismissed*, Legal Eagle Eye Newsletter for the Nursing Profession (21)2, Feb. '13, p.6.

The pediatric patient was seen, medically screened and sent home.

Three weeks later in the same E.R. she was screened, determined to be in renal failure and transferred to another facility for treatment.

First E.R. Visit

Screening Met EMTALA Standard

The Court stuck by the magistrate's earlier ruling that the hospital did not violate the US Emergency Medical Treatment and Active Labor Act in the first E.R. visit.

Her parents brought her in with fever, vomiting, diarrhea, allergic eyes, a puffy face and grey urine. She had been seen in an outpatient clinic two days before for a "summer virus" and in a different hospital's E.R. the day before.

The patient was triaged by an E.R. nurse and seen by the E.R. physician. Lab tests were ordered and interpreted by the physician as normal. A second physician agreed with the diagnosis of gastroenteritis which was treated with Benadryl and IV fluids before the patient was sent home.

The patient's mother voiced her concerns to the physician about high levels of protein and creatinine in the lab results, but the physician took no action.

The Court acknowledged that the patient was sent home with an undiagnosed condition, possible kidney failure which the hospital had done nothing to stabilize.

However, the EMTALA was not meant to provide national standards for treatment in hospital emergency rooms. The intent was to address the problem of hospitals "dumping" certain patients without screening or necessary emergency medical stabilization.

The hospital gave the patient the same emergency medical screening it would have given any other patient with the same presenting signs and symptoms and discharged her under a good faith, although possibly erroneous belief that she did not have an emergency medical condition which required stabilization.

The US Emergency Medical Treatment and Active Labor Act (EMTALA) says that a hospital may transfer an unstabilized patient if a physician signs a certification that, based on the information available at the time, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risk to the individual, and if the transfer is carried out in an appropriate manner.

The transferring facility must provide medical treatment within its capacity to minimize the risks to the individual or a woman in labor's unborn child.

The receiving facility must have space and qualified personnel available for the patient's treatment.

The receiving facility must agree to accept the individual and provide appropriate medical treatment.

The transferring facility must send the receiving facility all the medical records for the emergency medical condition with which the patient presented.

The transfer must be carried out with qualified personnel and transport equipment for life support.

UNITED STATES DISTRICT COURT
PUERTO RICO
June 28, 2013

Second E.R. Visit

Screening Met EMTALA Standard Transfer Was Not Inappropriate

Three weeks later the lab tests performed as part of the patient's extensive emergency medical screening revealed that she was in renal failure. There could be no EMTALA violation in that, the Court said.

The hospital did not have the medication available the E.R. physician wanted to administer, did not have a pediatric nephrologist available and was not able to dialyze her.

The hospital obtained written consent from the mother for the patient's transfer.

The hospital contacted the hospital where she was to be transferred and that hospital affirmatively communicated that it would accept the transfer.

Physicians at that hospital had already begun advising the first hospital's E.R. of the measures that needed to be done and were being done to stabilize the patient pending transfer.

The first hospital arranged for the transfer to be done in a fully equipped ambulance staffed by qualified paramedics.

A nominal error may have occurred in the fact that the patient's entire chart from the first hospital did not accompany her to the second hospital.

However, according to the Court, the second hospital was provided with sufficient information to give the patient the treatment she needed. The physicians at the second hospital already were advising the first hospital in her care. They were fully aware she was in renal failure and needed to be seen by a pediatric nephrologist and were standing by for her arrival.

Mix Up With Ambulance Company Not the Hospital's Fault

The Court said that the first hospital could not be held responsible for the brief delay caused by the fact the first ambulance company they contacted balked at getting involved, allegedly over concerns about the parents' finances or insurance.

A nurse at the first hospital promptly contacted another ambulance provider and arranged necessary medically appropriate transportation for the patient. ***Kenyon v. Hosp. San Antonio***, __ F. Supp. 2d __, 2013 3243557 (D. Puerto Rico, June 28, 2013).