

# LEGAL EAGLE EYE NEWSLETTER

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*For the Nursing Profession*

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## Emergency Room: US Court Lets Patient Raise The Issue Of Timeliness Of Services.

The patient arrived at the hospital's E.R. at 5:00 p.m. with shortness of breath and severe chest pain.

Twenty minutes later the patient was seen by a hospital employee he assumed was a nurse who drew blood and started an EKG. Thirty minutes after that a chest x-ray was obtained.

Over the next several hours, the patient alleged, although the heart monitor was in place, no oxygen or "clot busting" medications were offered or provided to him.

A physician eventually saw the patient. The physician explained his options to the patient, clot busting medications or a stent. The physician recommended the latter. The patient agreed with the physician's recommendation and was taken to the heart catheterization lab. The catheterization procedure was completed about 11:30 p.m.

The patient sued the hospital. One of his allegations was that the hospital violated his rights as a patient under the US Emergency Medical Treatment and Active Labor Act (EMTALA).

The EMTALA was enacted to prevent disparate treatment of uninsured and indigent patients by private hospitals, patients who were sometimes sent off to public receiving hospitals or sent home without an appropriate screening examination or stabilizing treatment.



***The US Emergency Medical Treatment and Active Labor Act requires every hospital which has an emergency department to provide every emergency-department patient with the same examination and treatment as every other patient with the same presenting signs and symptoms, regardless of insurance or ability to pay privately.***

UNITED STATES DISTRICT COURT  
PENNSYLVANIA  
February 5, 2010

The appropriateness of a patient's examination and treatment in the emergency room is judged for purposes of the EMTALA by comparison with the standard examination and treatment the hospital gives to other patients with the same presenting signs and symptoms.

This patient received the same basic screening examination and stabilizing treatment as any other patient at that hospital for signs and symptoms of myocardial infarction, that is, nursing triage, lab tests, EKG, physician consultation and cardiac catheterization.

However, according to the US District Court for the Eastern District of Pennsylvania, when a patient sues for violation of the EMTALA the court must compare not only what basic services but also how promptly the same services were provided to the patient in comparison with other patients with the same presenting signs and symptoms.

Unreasonable delay in providing acutely needed care can be a factor that effectively amounts to denial of treatment, the Court said.

The Court declined to dismiss the hospital from the case simply for being able to show that the patient eventually did get all the same care as any other emergency chest-pain. ***Byrne v. Cleveland Clinic***, \_\_ F. Supp. 2d \_\_, 2010 WL 481007 (ED. Pa., February 5, 2010).

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