

## EMTALA: Hospital Can Set Own Policies Based On Own Capabilities.

The Emergency Medical Treatment and Active Labor Act (EMTALA) requires a hospital with an emergency department to provide an appropriate medical screening, and if there is an emergency condition the hospital must stabilize the condition before discharge or transfer, and transfer the patient before stabilization only if the benefits of transfer outweigh the risks.

The EMTALA says each emergency patient is to get the same level of care as other patients get in the same emergency room.

The US Circuit Court of Appeals for the Tenth Circuit ruled that a hospital can set its own policy, based on its own capabilities, for whether or not to insert chest tubes in a gunshot victim before transfer to a trauma center. As long as it follows its own policy with each patient there is no EMTALA violation. Ingram v. Muskogee Regional Medical Center, 235 F. 3d 550 (10th Cir., 2000).

## EMTALA: Hospital Must Follow Its Protocols With Each Patient.

The Emergency Medical Treatment and Active Labor Act (EMTALA) allows patients to sue in Federal or state court if the rights created by the EMTALA are violated.

In this case there was a nursing assessment protocol at the hospital for spinal injuries. That is, when a patient with back pain also reported weakness in a lower extremity a nurse was supposed to conduct a full nursing spinal assessment. According to the Court of Appeals of New Mexico, a full nursing spinal assessment was not done in the emergency room with the patient who sued in this case.

The EMTALA requires every emergency room case to be given the same medical screening as every other patient, including all nursing assessment protocols pertaining to the patient's signs and symptoms, the court ruled. Godwin v. Memorial Medical Center, 25 P. 3d 273 (N.M. App., 2001).

## Central Venous Lines: Hospital Had No Policy Or Procedure To Verify Placement, Court Says.

A patient went to the post anesthesia care unit (PACU) with a central venous line that had been inserted in the operating room by the anesthesiologist.

When she came to the PACU a surgical resident wrote an order for a portable chest x-ray to verify placement of the central line. The x-ray was done about thirty-five minutes after the order was written.

Several hours later the PACU nurse phoned the anesthesiology service to report the patient was still having a lot of pain. An on-call anesthesiologist came to the PACU and started an epidural. When the analgesic was started the patient appeared to go into arrest. The original anesthesiologist was called in. He decided to locate and review the chest x-ray.

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***A policy is a definite course or method of action selected from among alternatives and in the light of given conditions to guide and determine present and future decisions.***

***The hospital's policy, such as it was, for central venous lines was that only credentialed physicians could insert them and placement should be verified by x-ray as soon as clinically feasible.***

COURT OF APPEALS OF OREGON, 2001.

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It showed the line had been incorrectly inserted too far, into the pericardium. The patient arrested for forty minutes and was revived, but with hypoxic brain damage.

The court saw the PACU nurse manager's testimony as critical. The nurse manager admitted there were many different persons the x-ray department could call when the x-ray was ready, the nurse manager, the PACU staff nurse, the surgeon, a surgical resident, the anesthesiologist, a radiologist or a radiology resident. That is not a policy or procedure, the court ruled.

There should have been one person designated to read the x-ray and reposition the line immediately if necessary, the court said. Jennison v. Providence St. Vincent Medical Center, 25 P. 3d 358 (Or. App., 2001).