

## EMTALA: Patient Wrongfully Sent Home To Have Miscarriage.

At sixteen weeks the mother called the E.R. when she started having contractions, as her ob/gyn had instructed her.

She was told she could come in if she wanted, although there was probably nothing they could do for her. After waiting an hour she had her husband drive her to the hospital, more than an hour's drive from their rural home.

She spoke with two nurses and the admissions clerk. The E.R. physician spoke with her, did an ultrasound and then told her he was unable to get a heartbeat. An ob/gyn came in, did another ultrasound, performed a pelvic exam and confirmed that her baby had died.

The ob/gyn told her she was not dilated enough to deliver the dead fetus, so he sent her home. No mental health or social work services were offered. The ob/gyn threatened to call hospital security if the husband refused to leave and stop insisting they call the patient's own ob/gyn.

The patient at this point reportedly was still terrified by what was going on and was still feeling waves of increasing abdominal pain.

### EMTALA Violation Found Jury Verdict Upheld

The US District Court for the District of Maine refused to disturb the jury's award of \$200,000 for the patient.

The Court based its decision on the testimony of two nurses who were called to testify on the patient's behalf over the hospital's strenuous objections.

The nurses' testimony established that the patient still faced considerable danger of medical complications delivering a still-born fetus at home, her home being more than a hour's drive away from the hospital.

That satisfied the legal standard that the patient was still in the throes of the emergency medical condition which brought her to the E.R. and had not been medically stabilized by delivery of the live or dead fetus and the placenta.

The nurses' testimony also elaborated for the judge and jury on the acute psychosocial aspects of the patient's needs which in the Court's opinion were callously ignored by the physicians in the E.R. **Morin v. Eastern Maine Med. Ctr.**, 2011 WL 1158386 (D. Me., March 25, 2011).

***The US Emergency Medical Treatment and Active Labor Act (EMTALA) does not distinguish between viable and non-viable pregnancies.***

***For a pregnant woman having contractions an emergency medical condition exists as long as transfer or discharge from the emergency department may pose a threat to woman's health or safety.***

***The hospital's obligation with respect to a pregnant woman having contractions is to stabilize her condition by delivering the fetus and the placenta, or, after a reasonable time for observation, to have a medical professional certify that the woman is in false labor.***

***One risk faced by a woman who delivers a non-viable fetus at home is the risk of hemorrhaging without medical supervision and having no means to stop the bleeding.***

***There is also a considerable danger of emotional damage, including post-partum depression.***

***After spending the day at home worrying about her impending miscarriage, she sent her husband out of the bathroom and miscarried alone on the floor.***

UNITED STATES DISTRICT COURT  
MAINE  
March 25, 2011