

# EMTALA: Court Says Nurse Practitioner Properly Discharged ER Patient.

Based on her pediatrician's advice, the mother took her young son to the hospital's emergency room.

They had been to a different hospital's emergency room just three hours earlier where the boy's complaints of lower right quadrant pain were dismissed, with no diagnostic tests having been done, as nothing more than acute gastritis.

## **CT Done for Appendicitis Apparently Normal Patient Sent Home**

At the second hospital a nurse practitioner suspected appendicitis. He saw to it that a CT scan was done and read by the radiologist on call. The nurse practitioner called the radiologist for confirmation that the appendix was not an issue and then sent the boy home with pain medication.

The next day another radiologist and the pediatrician reviewed the CT and believed it was positive for acute appendicitis. At the same time the boy's symptoms had gone from bad to worse and the mother brought him back to the first hospital for an appendectomy to remove his ruptured appendix.

## **No EMTALA Violation**

The US District Court for the Western District of Louisiana ruled the hospital where the CT was done did not violate the US Emergency Treatment and Active Labor Act, but expressly left open the question whether the on-call radiologist committed malpractice, a separate legal issue from the EMTALA.

The essence of the EMTALA is that every emergency room patient with the same presenting signs and symptoms must receive the hospital's same predefined emergency medical screening and stabilizing care before being discharged.

Any other patient at the same hospital with symptoms suggesting appendicitis would have been sent home after an apparently normal CT, the court said. **Spillman v. Southwest Louisiana Hospital Assn., 2007 WL 1068489 (W.D. La., April 4, 2007).**

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***The US Emergency Medical Treatment and Active Labor Act (EMTALA) was enacted to outlaw "patient dumping," that is, hospitals refusing to treat emergency room patients who are uninsured or unable to pay.***

***The EMTALA requires a hospital which has an emergency department to provide an appropriate medical screening and necessary stabilizing treatment and restricts an unstabilized patient being transferred to another facility unless that will provide needed care that is not available at the hospital.***

***An appropriate medical screening is the same medical screening that would be provided to any other patient with the same signs and symptoms.***

***That is, to sue a hospital for violating the EMTALA, a patient must show that he or she was treated differently than other patients coming to the ER with the same signs and symptoms.***

***Whether or not the emergency medical screening was done negligently is not the focus of the EMTALA.***

UNITED STATES DISTRICT COURT  
LOUISIANA  
April 4, 2007