

EMTALA: Patient Admitted To ICU Through The ER, Then Transferred, Has No Basis To Sue, Court Rules.

The Emergency Medical Treatment and Active Labor Act says that a hospital emergency room must provide an appropriate medical screening examination for every person who comes to the emergency department and requests care or on whose behalf another requests care for an emergency medical condition.

If the hospital determines that an emergency-room patient has an emergency medical condition, the hospital must either: (1) Through its staff and available facilities provide the medical treatment necessary to stabilize the patient's emergency medical condition; or (2) Transfer the patient to another facility for care, in accordance with Federal regulations.

To decide whether it had been appropriate for purposes of Federal regulations to transfer the patient in this case to another facility, it was sufficient for the U.S. District Court in Kansas to note that the patient's mother had requested on his behalf that he be transferred to the trauma department at a big-city medical center, rather than continue to receive care in the rural facility's intensive care unit.

The first hospital was not responsible for failing to detect the patient's torn renal artery prior to his transfer. There was no proof offered to the court that the first hospital could have detected the torn renal artery, or that the kidney could have been saved with prompt surgical intervention.

The first hospital had taken all appropriate measures to screen the patient, and then, in light of the apparent seriousness of his condition, had admitted him to the unit providing the highest level of care it could offer. This satisfied the intent behind the EMTALA that hospitals not engage in tactics designed to dump patients whom, for one reason or another, they do not want to care for. **Green vs. Reddy**, 918 F. Supp. 329 (D. Kan., 1996).

The patient was badly hurt in a motorcycle accident on a rural highway. He was taken to the nearest hospital's emergency department.

Due to the severity of his injuries, he was admitted to the hospital's intensive care unit for further evaluation and treatment.

The next morning, at his mother's request, the patient was transferred to a medical center in a large city, where a torn renal artery was detected which resulted in loss of a kidney.

The first hospital did not violate the Emergency Medical Treatment and Active Labor Act. The patient received an appropriate medical screening in the emergency department. It was noted he had sustained multiple serious injuries.

He got appropriate medical treatment for his emergency medical condition. He was admitted to the intensive care unit for close observation and further care. The hospital was not proven to be at fault for not catching the renal artery tear.

UNITED STATES DISTRICT COURT,
KANSAS, 1996.

Transfer Of Resident: Nursing Home Or Skilled Facility Must Provide Notice Of Right To Appeal, Court Says.

When the decision is made to transfer a resident from one nursing home or skilled nursing facility to another nursing home, skilled nursing facility, acute-care hospital or other care setting, whatever the reason, Federal law requires that the nursing home or skilled nursing facility give proper prior written notice to the resident and an appropriate family member, of its intent to transfer the resident, the Court of Appeals of Kentucky recently ruled, assuming the facility making the transfer is one which participates in Medicaid or Medicare.

According to the court, the Nursing Home Reform Law of 1987 was enacted by Congress to provide a comprehensive framework for regulation of nursing homes and skilled nursing facilities that participate in the Medicare and Medicaid programs throughout the country. Each state must see that nursing care providers conform to the standards specified in this law.

In this case, a resident of a nursing home who suffered from numerous physical and psychiatric disorders, including schizophrenia, emphysema and seizures, was abruptly discharged from a nursing home and admitted to a psychiatric hospital. He was not given notice of the nursing home's intent to discharge and transfer him until the very day it was to take place, in violation of state and Federal regulations, and his family member, a sister, who was also legally entitled to prior written notice, was not told until three days later.

The time limit under state and Federal laws within which to contest a nursing home's actions administratively or in court does not start to run until proper written notice is given pursuant to the law. **Anderson vs. Cabinet for Human Resources**, 917 S.W. 2d 581 (Ky. App., 1996).