

IMPORTANT-----PLEASE READ-----IMPORTANT-----PLEASE READ

To: Members of the Medical, Dental, Podiatry,
Allied Health Staff

From: Daniel Silverman, MD
Chief Medical Officer

Re: Revised EMTALA and Transfer Policies

It is vital that all members of the medical staff are aware of recent changes to the policies regarding compliance with the Emergency Medical Active Labor and Transport Act (EMTALA) as well as the hospital transfer policy. Compliance with these policies is vital to the provision of proper care, and also to meet stringent regulatory requirements.

Copies of both policies are enclosed. Below are key points of the policies, and although you are asked to read and be familiar with the contents, the points below represent the major points that will affect you as a medical staff member.

- **Everyone** who presents to the emergency department (ED) must undergo a "medical screening examination". If you are seeing a private patient in the ED, they must **also** be seen by the ED physician (this is an existing policy).
- Anyone who is present on the grounds of any Seton facility or within 250 feet of our facility who appears to require emergency care, or who requests such care must be transported to the ED.
- ED on call lists for specialists are now detailed by physician name, rather than group name. If there is a change in the on call schedule, please notify the ED.
- **When called by the ED or OB unit to provide care, you must respond by telephone within 30 minutes, and if your presence is required, you must be at the bedside within 60 minutes.** Procedures have been established for extenuating circumstances, e.g. if the on call physician is in surgery at another facility.
- We are required to provide stabilizing medical treatment for anyone who requires such treatment, regardless of their ability to pay.
- Patients may be transferred to another facility IF the hospital or medical staff is not capable of treating the patient, AND the benefit of such transfer must outweigh the risks specific to the patient and their condition. The procedures for appropriate transfer are complex, and transfers should be discussed with and handled by the ED staff.

If you have questions about these policies, please contact me. In keeping with the importance of this subject, we ask that you **return the enclosed post card** indicating your understanding and intent to comply.

As always, we thank you for providing excellent care to our patients, and understanding our need to comply with these important statutes.

SETON HEALTH

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| Policy No: SH-0000-0101 | Effective Date: 1/95 |
| Title: Emergency Medical Care, Provision of (EMTALA, Transfer) | Review Dates: 1/01, 7/06 |
| Approved By: Chief Executive Officer: Chief Nurse Executive: | Revision Dates: 1/01, 7/06 |
| In Concurrence With: Medical Executive Committee | |

PURPOSE:

This policy is to ensure compliance with the EMTALA requirements for any individual seeking emergency services from the Hospital or any Hospital-owned and operated facility, and any other entity which operates under the Hospital's license and bills under the Hospital's Medicare Provider Number, and to comply with Federal Regulations as well as Ascension Health's Core Values.

POLICY:

It is the policy of Seton Health that any individual who comes to the Hospital (Hospital-owned and operated facility, or any other entity which operates under the Hospital's license and bills under the Hospital's Medicare Provider Number), who is in need of or requests emergency medical services regardless of diagnosis, race, ethnicity, national origin, or payor source, receive as appropriate:

- Medical Screening Examination by a physician or Qualified Medical Person (QMP) to determine if the individual has an Emergency Medical Condition (EMC). Patients with psychiatric symptoms must receive a Medical Screening Examination sufficient to assure that a medical condition that mimics a psychiatric condition is not present.
- If an Emergency Medical condition exists, provide further medical examination and treatment as required to stabilize the Emergency Medical Condition within the capability of the facility, or to arrange for transfer or movement to another medical facility.
- There shall be no delay with the provision of a Medical Screening Examination, stabilizing treatment, or appropriate transfer in order to inquire about the individual's method of payment or insurance status. However, the facility may follow general registration processes for patients who come to the emergency department, including requesting information concerning insurance, as long as these procedures do not delay the medical screening or treatment.
- The facility shall not request, or direct the individual to seek, prior authorization for services before the individual has received a Medical Screening Examination and stabilizing treatment for an Emergency Medical Condition.

- For individuals who are enrolled in a managed care plan, prior authorization from the plan must NOT be required or requested before providing an appropriate Medical Screening Examination and/or necessary stabilizing treatment. Neither the performance of the Medical Screening Examination nor the provision of stabilizing treatment will be conditioned on an individual's completion of a financial responsibility form or payment of a co-payment. Once the managed care insured is examined, treated, and stabilized, the managed care insured may be transferred to another facility as required by the managed care organization for the completion of his or her care, even though the transfer is for financial, not medical reasons.

In no event shall a provision of emergency services and care be based upon or affected by an individual's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services.

- It is the policy of the facility to report to the appropriate regulatory agency when it has reason to believe that it received an individual who was transferred in an unstable condition from another facility in violation of the requirements of Federal Law regarding the transfer of an individual with an Emergency Medical Condition.

DEFINITIONS:

Federal Law places great importance on several important definitions which, if not clearly understood, can result in sanctions for the Hospital, (including all Hospital locations), and/or the physician. The following are several important definitions you should be aware of:

Hospital Campus is defined as the physical area immediately adjacent to the provider's main buildings, other areas and structures that are not strictly contiguous to the main buildings but are located within 250 yards of the main buildings, and any other areas determined on an individual case basis by the HCFA regional office to be part of the provider's campus. This will include all areas owned and/or operated by the Hospital, which operate under the Hospital license and bill under the Hospital's Medicare/Medicaid provider number. This may include off-site clinics, physician practices, employee health clinics.

Hospital Property is defined as the entire Hospital campus, which would include the hospital's parking lot, sidewalks and driveway(s).

Comes to the Emergency Department or "Comes to the Hospital" is defined when an individual presents anywhere on the Hospital Campus. (e.g. labor & delivery, radiology laboratory, parking lot, sidewalk, driveway).

If an individual arrives on Hospital Campus in a non-hospital-owned helicopter, ambulance or ground ambulance the individual has "come to the Hospital" for purposes of EMTALA. If an ambulance staff disregards the Hospital's instructions that it is in "diversionary status" and transports the individual onto the Hospital campus, the individual is still considered to have "Come to the Hospital" for purposes of triggering EMTALA's requirements.

Medical Screening Examination is the process required to determine within reasonable clinical confidence whether an Emergency medical Condition does or does not exist and whether a woman having contractions is in need of immediate medical attention. The Medical Screening Examination is an ongoing process and must be done within the facility's capabilities (e.g., equipment and other technical resources) and the availability of qualified medical personnel.

Emergency Medical Condition means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbance, and symptoms of substance abuse) that the absence of immediate medical attention could reasonably be expected to result in:

- a. Placing the health of the individual (or with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
- b. Serious impairment to any bodily functions;
- c. Serious dysfunction of any bodily organ or part;
- d. With respect to a pregnant woman who is having contractions:
 - i. That there is inadequate time to effect a safe transfer to another hospital before delivery; or
 - ii. That the transfer may pose a threat to the health or safety of the woman or the unborn child.

Labor means the process of childbirth beginning with the latent or early phase and continuing through the delivery of the placenta. A woman is in true labor unless a physician or Certified Nurse Midwife certifies, after a reasonable period of observation, that she is in false labor.

Qualified Medical Person means an individual who is licensed or certified by the Hospital's Bylaws or Medical Staff Rules and Regulations in the following professional categories and who has demonstrated current competence in the performance of the Medical Screening Examination: MD, CNP, PA, CNM or qualified OB RN.

The above-referenced categories of professionals have been approved by the Hospital's governing body as qualified to administer one or more types of Medical Screening Examinations and complete/sign a certification for transfer in consultation with a physician, if appropriate. This approval was based upon a recommendation from the executive committee of the medical staff. The performance of Medical Screening Examinations by Qualified Medical Persons must be in accordance with Hospital policies and procedures.

Stabilized means, with respect to any emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result from or occur during the transfer of the individual from a facility; or, the Emergency Medical Condition has been resolved; or with respect to a pregnant woman in labor, that the woman has delivered the child and the placenta.

Stable for Discharge means the physician has determined that the individual has reached the point where his continued medical treatment could reasonably be performed as an outpatient or later as an inpatient, as long as the individual is given a plan for appropriate follow-up care with discharge instructions. With respect to an individual with a psychiatric condition, the physician has determined that the individual is no longer considered to be a threat to himself/herself or others.

NOTE: "Stable For Discharge" does not require the final resolution of the Emergency Medical Condition. However, the individual is never considered "Stable for Discharge" if within a reasonable medical probability the individual's condition would materially deteriorate after discharge.

Stable for Transfer means the physician, or a Qualified Medical Person in consultation with the physician, determines within a reasonable medical probability that the individual will sustain no material deterioration in his/her medical condition as a result of the transfer, and that the receiving facility has the capability to manage the Emergency Medical Condition and any reasonably foreseeable complications.

With respect to an individual with a psychiatric condition, the physician or Qualified Medical Person in consultation with a physician determines that the patient is protected and prevented from injuring himself/herself or others (e.g., chemical or physical restraints or secured vehicles).

Transfer means the movement, including the discharge, of an individual outside the Hospital's facilities at the direction of any person employed by or associated, directly or indirectly, with the Hospital, but does not include such a movement of an individual who has been declared dead, or who leaves the facility without permission or against medical advice.

Appropriate Transfer occurs when: (1) the transferring hospital provides medical treatment within its capacity that minimizes the risks to the individual's health and in the case of a woman in labor, the health of the unborn child; (2) the receiving facility has the appropriate space and qualified personnel for the treatment of the individual and has agreed to accept transfer of the individual and to provide appropriate medical treatment; (3) the transferring hospital sends to the receiving hospital all medical records (or copies thereof) related to the Emergency Medical Condition including history that are available at the time of transfer pertaining to the individual's Emergency Medical Condition, observations of signs or symptoms, preliminary diagnosis, results of diagnostic studies or telephone reports of the studies, treatment provided and the informed written consent or certification required, name and address of any on-call physician who has refused or failed to appear within 60 minutes to provide necessary stabilizing treatment, and any other records that are not readily available at the time of transfer are sent as soon as practical after the transfer; and (4) the transfer is effected through a Qualified Medical Person, transportation, and equipment, as required, including the use of necessary and medically appropriate life support measures during the transfer.

Appropriate Transfer, as it pertains to off-site locations, will apply when the location assumes the transfer responsibilities pursuant to the EMTALA requirements.

Triage is a sorting process to determine the order in which individuals will be provided a Medical Screening Examination by a physician or Qualified Medical Person. Triage is NOT the equivalent of a Medical Screening Examination and does not determine the presence or absence of an Emergency Medical Condition.

Rights to Treatment means that even if an individual cannot pay, does not have medical insurance, or is not entitled to Medicare or Medicaid, the Hospital recognizes the right of the individual to receive, within the capabilities of the Hospital's staff and facilities:

- An appropriate Medical Screening Examination;

- Necessary stabilizing treatment for an Emergency Medical Condition (including treatment for an unborn child);
- If necessary, an appropriate transfer to another facility.

No Delay for Inquiry means that a Medical Screening Examination, stabilizing treatment for an Emergency Medical Condition, or appropriate transfer will not be delayed to inquire about the individual's method of payment or insurance status.

Within the Capability of the Hospital means those services which the Hospital routinely has available or is required to have as a condition of its license, as well as on-call physician specialists and Hospital ancillary services routinely available.

Legally Responsible Person means: a parent or guardian of a minor; an Attorney-in-Fact appointed by the patient pursuant to a valid Durable Power of Attorney for Health Care when the individual lacks decision-making capacity; a conservator with medical decision-making authority for an incompetent adult; a person appointed by a court order authorizing treatment; or if none of the foregoing are available, the individual's closest available family member or close friend, if there is no available family member.

On-Call List refers to the list that the hospital is required to maintain that defines those physicians who are "on-call" for duty after the initial Medical Screening Examination to provide further evaluation and/or treatment necessary to stabilize an individual with an Emergency Medical Condition. The purpose of the on-call list is to ensure that the emergency department is prospectively aware of which physicians, including specialists and subspecialists, are available to provide treatment necessary to stabilize individuals with Emergency Medical Conditions. If a hospital offers a service to the public, the service should be available through on-call coverage of the emergency department.

Physician Certification refers to written certification by the treating physician ordering the transfer and prior to the individual's transfer, that based on the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another facility outweigh the increased risks to the individual or in the case of woman in labor, to the woman or the unborn child, from effecting the transfer. The certification must include a summary of the risks and benefits upon which the certification is based and the reason(s) for the transfer. If the physician is not physically present at the time of transfer, a Qualified Medical Person can sign the certification as long as the Qualified Medical Person is in consultation with and the physician is in agreement with the certification and subsequently, countersigns the certification.

Signage refers to the hospital's requirement to post signs conspicuously in any emergency department or in a place or places likely to be noticed by all individuals entering the emergency department as well as those individuals waiting for examination and treatment in areas other than the traditional emergency department, (e.g., labor and delivery, waiting room admitting area, entrance and treatment area). The signage must inform the individuals of their rights under Federal Law with respect to examination and treatment for Emergency Medical Conditions and women in labor. The sign must also state whether or not the hospital participates in the State's Medicaid program.

Central Log is a log that a hospital is required to maintain of all individuals who come to its emergency room seeking assistance and the disposition of such individual, whether persons were or are

refused treatment, transferred, admitted and treated, stabilized and transferred or discharged. The purpose of the central log is to track the care provided to each individual who comes to the hospital seeking care for an emergency Medical Condition. The central log includes directly or by reference, patient logs from other areas of the hospital, such as pediatrics and labor and delivery, where an individual might present for emergency services or receive a Medical Screening Examination instead of in the emergency department.

PROCEDURES:

Medical Screening Examination

The Hospital shall provide a Medical Screening Examination for every individual who comes to the emergency department seeking medical treatment, and shall also provide such an examination for every person who comes to another area of the Hospital campus to seek treatment for any apparent Emergency Medical Condition.

An individual who comes to another department or area of the Hospital (other than the emergency department) seeking treatment for an apparent emergency condition shall be immediately transported to the emergency department. Such transport shall be by the method and with the personnel and equipment deemed appropriate under the circumstances by those who are with the individual, in accordance with applicable Hospital policies and procedures for intra-facility transport. The staff will continue to stabilize the individual, within their capability, until the transport team arrives. This also includes any **EMPLOYEE** who comes to an **EMPLOYEE HEALTH CLINIC** seeking treatment for an apparent emergency condition. The exception to this process is for pregnant women seeking unscheduled medical treatment related to their pregnancy; in the case of a pregnant woman immediately transport to labor and delivery for screening examination and necessary stabilizing treatment.

Any off-site location ROUTINELY staffed by physicians, RNs, or LPNs has trained facility personnel to handle emergency cases and the Hospital has established protocols that provide for handling emergency cases. The protocols include the designation of at least one Qualified Medical Person to initiate the screening of individuals who present with a potential Emergency Medical Condition. This includes urgent care clinics and ambulatory clinics.

Any off-site location NOT ROUTINELY staffed by physician, RNs, or LPNs have established protocols that direct personnel to contact the emergency department at the main Hospital for directions. The personnel should describe the individual's appearance and report the individual's symptoms. The off-site personnel will arrange for, or assist with, the movement of the individual to the main Hospital. Movement can occur as long as the main Hospital has the capability to meet the individual's needs and movement to the Hospital would not significantly jeopardize the life or health of the individual. Moving the individuals between hospital departments and from an off-site location to the main Hospital **DOES NOT** constitute a transfer under EMTALA. Consequently, transport of an individual from an off-site department to the main Hospital **WILL NOT** require you to meet the routine EMTALA regulations relating to patient transfer.

Within the capability of the emergency department, using the resources routinely available in the Hospital, the Medical Screening Examination shall determine within reasonable clinical confidence whether an Emergency Medical Condition does or does not exist. The Medical Screening Examination shall be

performed by a physician or a Qualified Medical Person who has been appointed by the hospital governing board; approved by the medical staff in bylaws, rules and regulation; and is within the scope of practice per state law.

The Medical Screening Examination is an ongoing process. The medical record must reflect continued monitoring, according to the individual's condition, which must continue until he is stabilized or appropriately admitted or transferred. The screening examination must be documented in the medical record.

If, as part of the Medical Screening Examination, a physician or Qualified Medical Person determines that the individual required the services of an on-call physician, the on-call physician shall be contacted. The on-call physician shall not refuse to respond to a call on the basis of the individual's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status or ability to pay for medical services.

If the Medical Screening Examination requires utilization of ancillary services available only in an area located outside the emergency department, then the individual may be moved to the other location as long as: (1) other persons with the same medical condition are moved to this location regardless of their ability to pay for the treatment; (2) there is a medical reason to move the individual; and (3) an appropriately trained medical professional accompanies the individual. However, individuals shall not be moved to an off-site facility for the purpose of performing the Medical Screening Examination.

Individuals Who Do NOT Have An Emergency Medical Condition:

When a physician or Qualified Medical Person determines as a result of a Medical Screening Examination that an individual does not have an Emergency Medical Condition, the individual may be admitted, transported to another health care facility or practitioner (if in need of further care) or discharged; however, the transport or discharge of an individual who does not have an Emergency Medical Condition shall be in accordance with the Hospital's transfer and discharge policies and procedures for non-emergency individuals. All discharged individuals without an Emergency Medical Condition must receive a follow-up care plan with written discharge instructions.

Evidence of such a determination made by the Qualified Medical Person (subsequently certified by the physician) or the physician, shall be documented in the appropriate medical record.

Individuals Who HAVE An Emergency Medical Condition:

When it is determined that the individual has an Emergency Medical Condition, the Hospital shall:

- within the capability of the staff and facilities available at the Hospital, stabilize the individual to the point where the individual is either "stable for discharge" or "stable for transfer: as defined; or
- provide for an appropriate transfer of the unstabilized individual to another medical facility in accordance with these procedures.

- Transfers of unstabilized individuals are allowed only pursuant to an individual's request or when a physician or a Qualified Medical Person in consultation with a physician certifies that the expected benefits to the individual from the transfer outweigh the risks of transfer (see EMTALA Transfer Form attachment A).

If an individual has an Emergency Medical Condition which has not been stabilized, the individual may be transferred only if the transfer is carried out in accordance with the procedures set forth below. The individual may be transferred:

On Patient Request – The individual may be transferred if the individual or the legally responsible person acting on the individual's behalf is first fully informed of the risks of the transfer, the alternatives (if any) to the transfer, and of the Hospital's obligations to provide further examination and treatment sufficient to stabilize the individual's Emergency Medical Condition, and to provide for an appropriate transfer. The transfer may then occur if the individual or legally responsible person: (1) makes a request for transfer to another medical facility, stating the reasons for the requests (document reasons in medical record); and (2) acknowledges his/her requests and understanding of the risks and benefits of the transfer, by signing the Patient Transfer Request portion of the EMTALA Transfer Form (see attachment A); or

With Certification – The individual may be transferred if a physician or, if a physician is not physically present at the time of the transfer, a Qualified Medical Person in consultation with a physician who has documented on the Physician Assessment and Certification portion of the EMTALA Transfer Form that the medical benefits expected from transfer outweigh the risks. A certification that is signed by a qualified Medical Person shall be countersigned by a physician within twenty-four (24) hours. The date and time of the certification should be close in time to the actual transfer.

It is the policy of the Hospital to cooperate and participate in regional treatment agreement plans. Individuals will be transferred to appropriate medical centers consistent with the regional agreement guidelines. All individuals transferred under the guidelines will be deemed to have Emergency Medical Conditions. All stabilization within the capabilities of the Hospital/Facility will be provided to such individuals prior to transfer.

The transfer from this Hospital to a receiving facility of an individual with an unstabilized Emergency Medical Condition shall be carried out in accordance with the following procedure:

- The Hospital shall, within its capability, provide medical treatment which minimizes the risks to the individual's health and, in the case of a woman who is having contractions, the health of the unborn child.
- A representative of the receiving facility must have confirmed that:
 - the receiving facility has available space and qualified personnel to treat the individual; and
 - the receiving facility has agreed to accept the transfer of the individual and to provide appropriate medical treatment.

- The Hospital shall send the receiving facility copies of all pertinent medical records available at the time of transfer, including: (1) history; (2) records related to the individual's Emergency Medical Condition, (3) observations of signs and symptoms; (4) preliminary diagnoses; (5) results of diagnostic studies or telephone reports of the studies, (6) treatment provided; (7) results of any tests; and (8) a copy of the completed applicable sections of the EMTALA Transfer Form (see attachment A). Records received after the transfer should be immediately forwarded to the receiving facility.
- If an on-call physician has refused or failed to appear within 60 minutes after being requested to provide necessary stabilizing treatment the emergency department physician or his or her designee shall provide the name and address of that physician to the receiving facility on the EMTALA Transfer Form (see attachment A).
- The transfer shall be effected through appropriately trained professionals and transportation equipment, including the use of necessary and medically appropriate life support measures during the transfer. The physician is responsible for determining the appropriate mode of transport, equipment, and transporting professionals to be used for the transfer.
- Unless the individual or a legally responsible person requested the transfer, the Hospital shall, if at all possible, notify the person or, where applicable, the individual's legally responsible person, both orally and in writing, of the decision and reasoning for the transfer. The individual or the legally responsible person should then be asked to sign the Transfer Consent portion of the EMTALA Transfer Form (see attachment A). If the individual's physical or mental condition is such that it is not possible to give notice of the transfer decision, and the individual is unaccompanied, the Hospital shall make a reasonable effort to locate a legally responsible person in order to notify that person of the intended transfer. If there is no legally responsible person available to give consent to the transfer of an incompetent individual and the welfare of the individual will be jeopardized if the transfer is delayed, the individual may be transferred without consent, based upon the benefits/risks certification of the physician or a
- Qualified Medical Person in consultation with the physician.

Individuals Who Have An Emergency Medical Condition But Refuse To Consent To Treatment Or To Transfer

If the individual refuses the examination or treatment, advise the individual or legally responsible person of the risks of refusal. Document the refusal and risks in the medical record.

If the Hospital offers an appropriate transfer but the individual refuses to be transferred, the hospital shall take all reasonable steps to have the individual or legally responsible person sign the Transfer Refusal portion of the EMTALA Transfer Form (see attachment A). Hospital personnel should document the individual's refusal to sign on the transfer form. In addition, the medical record shall contain a description of the reasons for the proposed transfer and the risks explained to the individual associated with the refusal of transfer.

On-Call Physicians

The Hospital shall maintain an on-call list of physician, including specialists and sub-specialists that are available to examine and treat individuals with Emergency Medical Conditions. On-call physician shall respond to Hospital calls for Emergency coverage within 30 minutes after receiving communication indicating that their attendance is required. If a scheduled on-call specialist or sub-specialist fails to respond, the services of another appropriate specialist or subspecialist from the Hospital's medical staff, shall be called enlisting the support of medical staff officers as deemed appropriate. If the necessary on-call services remain unavailable despite these efforts, such that the individual requires transfer in order to obtain the necessary services at another facility, the emergency department or his or her designee shall document the name and address of the on-call physician who failed to appear on the EMTALA Transfer Form (see attachment A).

Recordkeeping

The Hospital, whether transferring or receiving patients, must maintain the following for a minimum period of six (6) years:

- medical and other records related to individuals transferred to or from the date of the transfer,
- on-call schedules that list the individual on-call physicians who are on duty after the initial examination to provide treatment necessary to stabilize the individual with an Emergency Medical Condition; and
- a central log on each individual who comes to the Hospital, the emergency department, or any other location in the Hospital seeking examination. The log must include an indication whether the individual refused treatment or transfer, or was transferred, admitted and treated, stabilized and transferred, or discharged. Logs that are maintained in other departments that perform Medical Screening Examinations, such as labor and delivery, shall be deemed a part of the central log and are subject to the same requirements as the central log.

NOTE: Outpatient sign-in, appointment, or other lists utilized for registration are not a part of the central log. However, if an individual presents to other non-emergency Medical Screening Examination, then this individual shall be entered on the central log even though the initial treatment was not for emergency medical treatment.

Obligation To Accept Certain Transfers

The Hospital shall accept appropriate transfers of individuals if the Hospital has the capacity to treat the individual.

"Capacity" means the ability of the Hospital to accommodate an individual who has been referred for transfer from another facility, and encompasses such things as numbers and availability of qualified staff, beds and equipment, as well as the Hospital's past practices of accommodating additional individuals in excess of its occupancy limits to meet its anticipated emergency needs. For example, if the Hospital in the past has called in additional staff and moved individuals to other units, then these actions define the capacity.

Reporting the Receipt of Inappropriate Transfers

All Hospital medical staff and employees, in particular those who work in the emergency, labor and delivery or admitting departments and who have "reason to believe" that the Hospital received an inappropriate transfer in violation of the law, shall immediately report the incident to the Chief Executive Officer of the Hospital or designee and the Risk Management Department for investigation. Staff who report a suspected violation will not be penalized.

Factors that might give rise to "reason to believe" that an apparent inappropriate transfer may have occurred include, but are not limited to, the following:

- a transfer was made even though: (1) the risks of transfer outweighed the expected medical benefits of the medical treatment; (2) the individual transferred did not request or consent to the transfer; and (3) neither a physician nor a Qualified Medical Person of the transferring hospital certified that the benefit of medical treatment at the receiving Hospital outweighed the increased risks of the transfer;
- the transferring Hospital did not provide sufficient stabilizing medical treatment, within its capability, prior to the transfer;
- the transfer was made even though the transferring Hospital was notified that the Hospital did not have available capacity for the treatment of the individual;
- the transfer was made without the appropriate level of qualified medical personnel and/or transportation equipment;
- representatives of the transferring Hospital have stated to the Hospital personnel the transfer was made for financial reasons, or for any nonmedical reason;
- the Hospital was not notified at all in advance of the transfer of the individual; or
- the transferring hospital did not provide the appropriate medical records, test results, etc.

The Chief Executive Officer or designee and the Risk Manager shall promptly investigate all reports of apparent inappropriate transfers. The investigation may include, but not be limited to, the following:

- interviewing the reporting individual to elicit additional information;
- contacting the transferring Hospital to elicit additional information, including copies of all pertinent medical records;
- requesting the Chief of Emergency Medicine, in consultation with the appropriate Medical Staff chairperson, review the case for medical appropriateness (provide a copy of the transferring facility's medical record if obtained), if applicable;
- discussing the transfer circumstances with the transferred individual and/or his or her family; and
- consulting with Hospital legal counsel.

At the conclusion of the investigation regarding the apparent inappropriate transfer, the CEO or his/her designee shall determine whether there is reason to believe that an inappropriate transfer occurred. In making this determination, the CEO or his/her designee shall consider the factors listed above.

If, based on the investigation, the CEO or his/her designee determines there is "reason to believe" that an apparent inappropriate transfer occurred, the CEO or his/her designee shall contact a member of senior administration of the sending Hospital and inform them of the legal obligation to report to the Health Care Financing Administration (HCFA) the transfer and the conclusory facts that led to the decision.

If, based on the investigation, the CEO or his/her designee determines there is a "reason to believe" there was an inappropriate transfer, it shall be reported to HCFA at: New York State Department of Health (518) 408-5329.

The report should be made to HCFA as soon as possible after the CEO or his/her designee determines that there is "reason to believe" the transfer appears to have been inappropriate. The report shall include the name of the transferring Hospital, the date of transfer, and the basis of the report.

Posting Signs

The Hospital shall conspicuously post, in the emergency department as well as all areas in which individuals routinely present for treatment of an emergency medical examination and wait prior to examination and treatment, signs in the format of attachment B that specify rights of individuals under the law with respect to examination and treatment for Emergency Medical Conditions and of women who are pregnant and having contractions.

The Hospital shall conspicuously post signs stating whether or not the Hospital participates in the Medicaid program.

The wording of the signs must be clear and in simple terms and language that are understandable by the population served by the Hospital.



**SETON
HEALTH**
St. Mary's Hospital

1300 Massachusetts Avenue 518/268 5000
Troy, New York 12180

Addressograph

Authorization for Transfer

This is a 2-sided form - Please copy both sides

I have been informed of my rights regarding examination, treatment and transfer.

I. TRANSFER CONSENT

I acknowledge that my medical condition has been evaluated and explained to me by the physician, who has recommended

that I be transferred to the service of Dr. _____ at _____.

The potential benefits of such transfer, the potential risks associated with such transfer, and the problem risks of not being transferred have been explained to me and I fully understand them. With this knowledge and understanding, I agree and consent to be transferred.

Signature of patient or legally responsible individual signing on patient's behalf

Witness

Relationship to Patient

Date and Time

I have been informed of my rights regarding examination, treatment and transfer.

II. TRANSFER REQUEST

I acknowledge that my medical condition has been evaluated and explained to me by the physician, who has recommended and offered to me further medical examination and treatment at **SETON HEALTH - ST. MARY'S HOSPITAL**. The potential benefits of such further medical examination and treatment as well as the potential risks associated with transfer to another facility have been explained to me and I fully understand them. Nevertheless, I refuse to consent to the further medical examination and treatment which has been offered to me at **SETON HEALTH - ST. MARY'S HOSPITAL**, and request transfer to: _____

Signature of patient or legally responsible individual signing on patient's behalf

Witness

Relationship to Patient

Date and Time

I have been informed of my rights regarding examination, treatment and transfer.

III. TRANSFER REFUSAL

I acknowledge that my medical condition has been evaluated and explained to me by Dr. _____, who has recommended that I be transferred to the service of Dr. _____ at _____.

The potential benefits of such transfer, the potential risks associated with transfer, and the probable risks of not being transferred have been explained to me and I fully understand them. Even though Dr. _____ believes it is in my best interests to be transferred, I refuse to be transferred and I request instead to continue receiving treatment at **SETON HEALTH - ST. MARY'S HOSPITAL**.



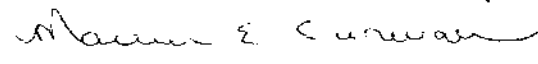
Signature of patient or legally responsible individual signing on patient's behalf

Witness

Relationship to Patient

Date and Time

SETON HEALTH

| | |
|---|------------------------|
| Policy No: SM-6170-0148 | Effective Date: 8/1/06 |
| Title: Transfer of Patients Requiring Specialty Services (ER) | Review Dates: |
| Approved By: ER Medical Director:  Chief Nurse Executive:  ER Nurse Manager:  | Revision Dates: |
| In Concurrence With: Emergency Services Committee | |

POLICY:

Individuals requiring specialty services not provided at Seton Health will be transferred to a facility which offers the specialty services required according to EMTALA requirements.

Appropriate transfer requires the following criteria:

1. The transferring facility shall, within its capability, provide medical treatment which minimizes the risk to the individual's health prior to transfer.
2. The receiving facility has the capability and qualified personnel for the treatment of the individual.
3. The receiving facility agrees to accept the transfer of the individual and to provide appropriate medical treatment.
4. All medical records (or copies) related to the individual's emergency medical condition are sent at the time of transfer to the accepting facility.
5. The transfer is effected through a Qualified Medical Person.
6. Authorization for transfer is completed and sent at the time of transfer to the accepting facility. (See Attachment A.)
7. Physician certification includes risks/benefits specific to the patient's pathology.
8. Transportation and equipment as required including the use of necessary and medically appropriate life support measures during the transport are secured by the transferring facility.

**** Mandatory Acknowledgement****

I have read, understand and agree to comply with the EMTALA policies provided to me. If I have questions, I can contact the Chief Medical Officer at any time.

Signature

Date