Entity-Department: MCH-Compliance	**Reviewed by:** **Judy Ware, CFO**	**Revision Date:** **3/5/20**
	Approved by: **Lorraine Smith, CEO**	**Effective Date:** **3/5/20**
Policy Name:	**Emergency Medical Treatment and Labor Act**	

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1. Purpose: To require, in conjunction with state-specific policies, that an acute care or specialty hospital enrolled in Medicare with an emergency department provide an appropriate medical screening examination and any necessary stabilizing treatment to any individual, including every infant who is born alive, at any stage of development, who comes to the Emergency Department and requests such examination, as required by the Emergency Medical Treatment and Labor Act ("EMTALA"), 42 U.S.C., Section 1395dd and all Federal regulations and interpretive guidelines promulgated thereunder.

2. Scope: This policy applies to all Monroe County Hospital employees, associates, and operating units

3. Terms & Definitions:

Terms & Definitions	Description
Appropriate Transfer	Occurs when: (i) 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 and safety of the unborn child; (ii) the receiving facility has the available 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; (iii) the transferring hospital sends to the receiving hospital all medical records (or copies thereof) related to the EMC for which the individual has presented, available at the time of Transfer, including records related to the individual's EMC, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of diagnostic studies or telephone reports of the studies, and the informed written consent for Transfer or certification if applicable, name and address of any On-Call Physician who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment when requested by the Emergency Physician to do so, and that any other records that are not readily available at the time of Transfer are sent as
Born Alive Infant Protection Act of 2002	Refers to Section 8 of the United States Code, Title 1, Chapter 1 which defines "person," "human being," "child" or "individual" to include an infant of the species homo sapien who is born alive at any stage of development. "Born alive" refers to an infant that has been completely expulsed or

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	extracted from the mother and who, after such expulsion or extraction, breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced Labor, cesarean section, or induced abortion. Infants who are born alive as such have all the rights extended by the U.S. Code, including the rights provided under EMTALA.
Capabilities	The capabilities of a medical facility or main Hospital provider means the physical space, equipment, supplies and services (e.g., trauma care, surgery, intensive care, pediatrics, obstetrics, burn unit, neonatal unit or psychiatry), including ancillary services available at the Hospital. The capabilities of the Hospital's staff mean the level of care that the Hospital's personnel can provide within the training and scope of their professional licenses, including coverage available through the Hospital's on-call roster. The Hospital is responsible for treating the individual within the capabilities of the Hospital as a whole, not necessarily in terms of the particular department at which the individual presented. The Hospital is not required to locate additional personnel or staff to off-campus departments to be on call for possible emergencies.
Capacity	Means the ability of the Hospital to accommodate the individual requesting examination or treatment of the transferred individual. Capacity encompasses the number and availability of qualified staff, beds, equipment and the Hospital's past practices of accommodating additional patients in excess of its occupancy limits, including if the Hospital has customarily accommodated patients by, for example, moving patients to other units, calling in additional staff, or borrowing equipment from other facilities.
Central Log	Log that a Hospital is required to maintain on each individual who "comes to the emergency department" seeking assistance that documents whether he or she refused treatment, was refused treatment, or whether he or she was transferred, admitted and treated, Stabilized and transferred or discharged. The purpose of the Central Log is to track the care provided to each individual where EMTALA is triggered. The Central Log includes, directly or by reference, logs from other areas of the Hospital that may be considered DEDs, such as labor and delivery where an individual might present for emergency services or receive an MSE instead of the "traditional" emergency department; as well as individuals who seek care for an EMC in other areas located on the Hospital Property other than a DED.
Dedicated Emergency Department ("DED")	means any department or facility of the Hospital, regardless of whether it is located on or off the main Hospital Campus, that meets at least one of the following requirements: 1. is licensed by the State in which it is located under applicable

	State law as an emergency room or emergency department; or 2. is held out to the public (by name, posted signs, advertising, or other means) as a place that provides care for EMCs on an urgent basis without requiring a previously scheduled appointment; or 3. during the calendar year immediately preceding the calendar year in which a determination is being made, based on a representative sample of patient visits that occurred during that calendar year, it provides at least one-third of all of its outpatient visits for the treatment of EMCs on an urgent basis without requiring a previously scheduled appointment. a. To meet the one-third criteria of being a DED, the Hospital must include those individuals in their case count who meet all three criteria: i. all outpatients ii. all walk-in individuals with unscheduled appointments iii. all individuals with EMCs who received stabilizing treatment b. If one-third of the total cases being reviewed meet all three criteria above, the Hospital has an EMTALA obligation in that department and it becomes a DED for EMTALA purposes.
Designated Representative	Means an individual who is designated by the patient or is otherwise legally responsible for making medical decisions for a patient when the patient is not able to make decisions for himself/herself, as permitted under state law. A Designated Representative may be (i) a parent or guardian of a minor, (ii) a person designated to make medical decisions if the patient is incapacitated under an advance directive in accordance with state law, such as a medical power of attorney, living will or similar document, or (iii) in the absence of an advance directive, a person designated in accordance with state law.
Diversionary Status	Means that the Hospital does not have the staff or facilities to accept any additional emergency patients. The Hospital has adopted written criteria and protocols which describe the conditions under which any or all of the Hospital's emergency services are deemed to be at maximum capacity and will maintain written records documenting the date and time of the commencement and conclusion of each period of diversion.
Emergency Medical Treatment and Labor Act ("EMTALA")	Refers to Sections 1866 and 1867 of the Social Security Act, 42 U.S.C. Section 1395dd, which obligate hospitals to provide medical screening, treatment and Transfer of individuals with EMCs or women in Labor. It is also referred to as the "anti-dumping" statute and COBRA.
Emergency Medical Condition ("EMC")	1. A medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances and/or symptoms of substance abuse) such 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;

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	b. Serious impairment to bodily functions; or c. Serious dysfunction of any bodily organ or part; or 2. With respect to a pregnant woman who is having contractions: a. that there is inadequate time to effect a safe Transfer to another hospital before delivery; or b. that Transfer may pose a threat to the health or safety of the woman or the unborn child; or 3. With respect to an individual with psychiatric symptoms: a. that acute psychiatric or acute substance abuse symptoms are manifested; or b. that individuals are expressing suicidal or homicidal thoughts or gestures and are determined to be a danger to self or others.
Encounter	Means a direct personal contact between a patient and a physician, or other person who is authorized by State licensure law and, if applicable, by Hospital staff bylaws, to order or provide Hospital services for diagnosis or treatment of the individual.
Hospital	Means a facility that has a provider agreement to participate in the Medicare Program as a Hospital, including a critical access hospital (sometimes referred to as a rural primary care hospital).
Hospital-Based Entity or Provider-Based Entity	Means a provider of health care services, or a rural health clinic (RHC), that is either created by, or acquired by, a Hospital for the purpose of providing health care services of a different type from those of the Hospital under the name, ownership, and administrative and financial control of the Hospital and that bills for services under the Hospital's Medicare provider number. Hospital-based entities may be located on or off the Hospital Campus.
Hospital Campus ("Campus")	Means the physical area immediately adjacent to the Hospital'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 Centers for Medicare and Medicaid Services (CMS) regional office to be part of the Hospital's Campus.
Hospital Department or Department of Hospital	Means a facility or organization that is either created by or acquired by a Hospital for the purpose of providing health care services of the same type as those provided by the Hospital under the name, ownership, and financial and administrative control of the Hospital and bills for services under the Hospital's Medicare provider number. A Hospital department may not by itself be qualified to participate in Medicare as a provider. Hospital departments may be located on or off the Hospital Campus.
Hospital Property	Means the entire main Hospital Campus, including parking lot, sidewalk, and driveway, but excluding other areas or structures of the Hospital 's main building that are not part of the Hospital , such as physician offices, rural health centers, skilled nursing facilities, or other entities that

	participate separately under Medicare, or restaurants, shops or other non-medical facilities. Hospital Property also includes ambulances owned and operated by the Hospital, even if the ambulance is not on the Hospital Campus.
Individual	Includes every person, including every infant who is born alive, at any stage of development pursuant to the Born Alive Infants Protection Act of 2002.
Inpatient	Means an individual who is admitted to a Hospital bed for purposes of receiving inpatient Hospital services with the expectation that he or she will remain at least overnight and occupy a bed even though the situation may later develop that the individual can be discharged or transferred to another hospital without actually occupying a Hospital bed overnight.
Labor	Means the process of childbirth beginning with the latent or early phase of labor and continuing through the delivery of the placenta. A woman experiencing contractions is in true labor unless a Physician or other QMP (as defined below) acting within his or her scope of practice as defined in Hospital medical staff bylaws and State law, certifies that, after a reasonable time of observation, the woman is in false labor.
Medical Screening Examination ("MSE")	The process required to reach with reasonable clinical confidence, the point at which it can be determined whether or not an EMC exists or with respect to a woman who could be in Labor, whether or not the woman is in Labor. Screening is to be conducted to the extent necessary, by Physicians and/or other QMP (defined below) to determine whether an EMC exists. The extent of the MSE may vary depending on the individual's signs and symptoms. An appropriate MSE can include a wide spectrum of actions ranging from a simple process only involving a brief history and physical examination to a complex process that also involves performing ancillary studies and procedures. The extent of the necessary examination to determine whether an EMC exists is generally within the judgment and discretion of the Physician or other QMP performing the examination consistent with algorithms or protocols established and approved by the Hospital medical staff and governing board. With respect to an individual with behavioral symptoms, an MSE consists of both a medical and behavioral health screening.
Off-Campus Provider-Based Emergency Department	Means a DED operating under the Medicare provider number of the main Hospital. While it may sometimes incorrectly be referred to as a Free- Standing Emergency Department, operationally it is considered a provider-based Department of the Hospital if it operates under the same provider number as the main facility.
On-Call List	Refers to the list that the Hospital is required to maintain that defines those Physicians who are on the Hospital's medical staff or who have

	privileges at the Hospital, or who are on staff or have privileges at another hospital participating in a formal community call plan and are available to provide treatment necessary after the initial examination to Stabilize individuals with EMCs. The list should be maintained in accordance with the resources available to the Hospital and should include the name and direct pager or telephone number of each Physician who is required to fulfill on-call duties. The purpose of the On-Call List is to ensure that the DED is prospectively aware of which Physicians, including specialists and sub-specialists, are available to provide treatment necessary to Stabilize individuals with EMCs. The services included in the On-Call List will be determined by the Hospital administration and Physicians in accordance with the resources available to the Hospital. Each Hospital that utilizes a Transfer Center to facilitate Transfers of individuals with EMCs shall provide to the Transfer Center, on a daily basis, an accurate On-Call List of Physician specialists and subspecialists available on-call.
On-Call Physician	Means a Physician who is listed on the On-Call List, who may be a specialist or subspecialist, who is scheduled to fulfill on-call responsibilities and is available to provide further medical screening and treatment necessary to Stabilize individuals with EMCs.
Outpatient	Means a person who has not been admitted as an inpatient but who is registered on the Hospital records as an outpatient and receives services (rather than supplies alone) directly from the Hospital.
Physician	Means: (i) a doctor of medicine or osteopathy; (ii) a doctor of dental surgery or dental medicine who is legally authorized to practice dentistry by the State and who is acting within the scope of his/her license; (iii) a doctor of podiatric medicine to the extent that he/she is legally authorized to perform by the State; (iv) a doctor of optometry to the extent that he/she is legally authorized to perform by the State with respect to services related to the condition of aphakia; or (v) a chiropractor who is licensed by the State or legally authorized to perform the services of a chiropractor, but only with respect to treatment by means of manual manipulation of the spine to correct a subluxation demonstrated by X-ray to exist.
Physician Certification	Refers to the written certification (i) signed by a Physician prior to ordering the Transfer of an individual with an EMC, or (ii) if a Physician is not physically present at the time of Transfer, signed by a QMP after consultation with a Physician, who subsequently signs the certification, which is based on information available at the time of Transfer and provides that the medical benefits reasonably expected to result from the individual's Transfer to another facility outweigh the risks presented by the Transfer to the individual and, in the case of a woman in Labor, to her unborn child. All Physician certifications shall include a summary of the

	benefits and risks upon which the certification is based.
Prudent Layperson Observer	A legal standard descriptive of a careful, attentive and diligent individual who is not a medical professional, who, theoretically, believes, based on the individual's appearance or behavior, that the individual present in a DED needs an examination or treatment for a medical condition or the individual present on Hospital Property, other than the DED, needs an examination or treatment for an EMC.
Qualified Medical Person or Personnel (QMP)	Means an individual who is licensed or certified and who has demonstrated current competence in the performance of MSEs and authorized by the governing body of the Hospital to perform MSEs, and may include the following practitioners: • Physician who is a Medical Doctor or Doctor of Osteopathy • Physician who is an Oral-Maxillofacial Surgeon • Registered Nurse in Perinatal Services, depending on State law • Psychiatric Social Worker, depending on State law • Registered Nurse in Psychiatric Services, depending on State law • Psychologist • Physician Assistant • Advanced Registered Nurse Practitioner • Certified Registered Nurse Midwife The above-referenced categories are examples of professionals that must be approved by a Hospital's governing board as qualified and authorized to administer one or more types of initial MSEs and complete/sign a certification for Transfer in consultation with a Physician when a Physician is not physically present in the DED. Each Hospital's governing board must make such a determination on behalf of the Hospital through the Hospital's by-laws or rules and regulations.
Signage	Refers to the Hospital requirement to post signs conspicuously in a DED or in a place or places likely to be noticed by all individuals entering the DED as well as those individuals waiting for examination and treatment in areas other than the DED located on Hospital Property, (e.g., outpatient departments, labor and delivery, waiting room, admitting area, entrance and treatment areas), informing individuals of their rights under Federal law with respect to examination and treatment for medical conditions, EMCs and women in Labor. The sign must also state whether or not the Hospital participates in the State's Medicaid program in a State plan approved under Title XIX.
Stabilized	With respect to an EMC means 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 the facility or in the case

	of a woman in Labor, that the woman delivered the child and the placenta.
To Stabilize	Means, with respect to an EMC to either provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the Transfer of the individual from a facility or, in the case of a woman in Labor, that the woman has delivered the child and the placenta. Exception applicable to inpatients: If a Hospital has screened an individual and found that the individual has an EMC and admits that individual as an inpatient in good faith in order to Stabilize the EMC, the Hospital has satisfied its special responsibilities with respect to that individual under EMTALA.
Transfer	Means the movement (including the discharge) of an individual outside a Hospital's facilities at the direction of any person employed by (or affiliated 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 the permission of any such person.
Transfer Center	Means an entity that is established by two or more hospitals to facilitate the Transfer of emergent patients in need of a higher level of care from a transferring facility to a receiving facility via ground or air ambulance transportation. Such Transfer Center provides staffing to facilitate making arrangements for the Transfer of such individuals, while the emergency physicians or other physicians in the transferring facility retain the decision- making responsibilities for determining to which receiving facility the individual is transferred and by what means, including personnel, transport type and equipment. The Transfer Center's main role is to facilitate the Transfer between the transferring and receiving hospitals and to be a resource for data on the individual hospitals and their Capability and Capacity to receive Transfers at any point in time.
Triage	A sorting process to determine the order in which individuals will be provided an MSE by a Physician or other QMP. Triage is not the equivalent of an MSE and does not determine the presence or absence of an EMC.

4. Standard Requirement:

Social Security Act, Section 1867, 42 U.S.C. 1395dd, Examination and Treatment for Emergency Medical Conditions and Women in Labor

CMS Site Review Guidelines

State Operations Manual

42 Federal Register 489.24 Special Responsibilities of Medicare Hospitals in Emergency Cases

42 Federal Register 489.20(l)(m)(q) and (r) Basic Commitments

42 Federal Register 413.65 Requirements for a determination that a facility or organization has provider-based status

5. Responsibilities: Each Hospital that participates in the Medicare program and has a DED must develop policies and procedures to insure compliance with EMTALA requirements relating to the medical screening process. Such policies should contain the following provisions:

A. General Requirements:

Any Hospital with an emergency department will provide to any individual who "comes to the emergency department" an appropriate MSE within the Capability of the Hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an EMC exists, regardless of the individual's ability to pay when a request is made by or on behalf of the individual for medical care, or a prudent layperson would observe that such care is needed, whether the individual is in the Hospital's DED or elsewhere on the Hospital's Campus. EMTALA requires the Hospital to do the following:

1. Provide an appropriate MSE to the individual within the Capability of the Hospital to determine whether or not an EMC exists.
2. If the Hospital determines that an individual does have an EMC, including Labor, the Hospital must provide necessary stabilizing treatment to the individual or provide for an Appropriate Transfer if the individual requests such or if the Hospital does not have Capacity or Capability to provide the treatment necessary to stabilize the EMC.
3. Not delay examination and/or treatment in order to inquire about the individual's insurance or payment status.

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4. Accept Appropriate Transfers of individuals with EMCs if the Hospital has the specialized Capabilities not available at the transferring Hospital and has the Capacity to treat the individuals.
5. Obtain or attempt to obtain in writing, an informed refusal of examination, or treatment or an Appropriate Transfer in the case of an individual who refuses Triage, examination, treatment or Transfer.
6. Not take adverse action against a Physician or other QMP who refuses to Transfer an individual with an EMC, or against an employee who reports a violation of EMTALA requirements.
7. Maintain a list of Physicians on call after the initial examination to provide further examination and/or treatment necessary to Stabilize an individual,
8. Maintain a Central Log tracking the care of all individuals who come to the emergency department.
9. Post conspicuously in the emergency department, emergency department waiting area and other places where individuals wait for examination and treatment a sign specifying their rights to examination and treatment for an EMC and whether the Hospital participates in the State Medicaid program.

B. No Delay in Medical Screening Examination (MSE) or Treatment

1. The Hospital may not delay providing an appropriate MSE within the Capabilities of the Hospital's DED or the initiation of necessary stabilizing treatment in order to inquire about the individual's method of payment or insurance status.
2. The Hospital may not seek, or direct any individual to seek, authorization from the individual's insurance company for screening or stabilization services to be furnished by the Hospital, a Physician, or non-physician practitioner to the individual until after the Hospital has provided an appropriate MSE and initiated any further medical examination and treatment that may be required to stabilize an EMC if one is determined to exist.
3. An emergency physician, other QMP and/or non-physician practitioner is

not precluded from contacting the individual's primary care or personal physician at any time to seek advice regarding medical history and health needs that may be relevant to the medical screening and treatment of the individual, as long as this consultation does not inappropriately delay services required.

4. The Hospital may follow reasonable registration processes for an individual for whom examination or treatment is required, including asking whether the individual is insured and, if so, what that insurance is, as long as that inquiry does not delay the MSE or treatment. Such reasonable registration processes may not unduly discourage the individual from remaining for further evaluation.
5. The Hospital will not request payment, co-payment, or obtain the individual's agreement to pay for services or provide the individual with financial responsibility forms or notices or Advance Beneficiary Notices, before the individual is stabilized.
6. A minor may request an examination or treatment for an EMC. In such case, the Hospital will not delay performing the MSE by waiting for consent by the minor's Designated Representative. If, following screening of the minor it is determined that no EMC exists, Hospital staff may wait for the Designated Representative's consent before proceeding with further examination and treatment.
7. The Hospital will not deliberately delay moving an individual from an EMS stretcher to an emergency department bed in an effort to delay the point in time at which the Hospital's EMTALA obligation begins. However, there may be reasonable situations (e.g., multiple trauma patients present simultaneously) when the Hospital does not have the Capacity or Capabilities at the time of the individual's presentation by EMS personnel to provide an immediate MSE and, if needed, stabilizing treatment or an Appropriate Transfer. Under such circumstances, it may be reasonable for Hospital staff to request the EMS provider to remain with the individual until such time as there are qualified Hospital staff available to provide care to the individual as long as Hospital staff have determined that the EMS

provider can appropriately monitor the individual's condition during this time. When the Hospital cannot immediately complete an appropriate MSE, it must still assess the individual's condition upon arrival to ensure that the individual is appropriately prioritized, based on his/her presenting signs and symptoms, to be seen by a Physician or other QMP for completion of the MSE.

C. Medical Screening Examination (MSE)

1. The Hospital will provide an MSE for an individual who:
    a. comes to an on-campus DED, requesting examination or treatment for a medical condition or has such request made on his/her behalf, or if based on the individual's appearance or behavior, the individual appears to need an examination or treatment for a medical condition; or
    b. comes to an off-campus department that is a DED, requesting examination or treatment for a medical condition or has such request made on his/her behalf, or if based on the individual's appearance or behavior, the individual appears to need an examination or treatment for a medical condition; or
    c. If the Hospital has a Labor and Delivery Department that functions as a DED and a pregnant woman requests unscheduled care and treatment related to her pregnancy while on the Hospital Campus that is other than a DED, the woman will be immediately transported in an appropriate manner to the Labor and Delivery Department for purposes of medical screening, stabilizing treatment and facilitation of Appropriate Transfer as required. If the Hospital has a Labor and Delivery Department which does not function as a DED, the woman in such case will be immediately transported to the Hospital's main DED for purposes of medical screening, stabilizing treatment and facilitation of Appropriate Transfer as required; or
    d. Requests care for an EMC while on Hospital Property that is other than a DED or has such request made on his/her behalf, or if

based on the individual's appearance or behavior, a prudent layperson would recognize the individual requires examination and/or treatment for an emergency condition although no request for treatment is made.

2. Except as provided above for a pregnant woman seeking unscheduled medical treatment related to pregnancy, An individual who requests care for an EMC while on Hospital Property that is other than the DED, has such request made on his/her behalf, or if based on the individual's appearance or behavior, a prudent layperson would recognize the individual requires examination and/or treatment for an emergency condition although no request for treatment is made, shall be immediately transported to the emergency department for an MSE, necessary stabilizing treatment and Appropriate Transfer as may be required. Such transport shall be by the method and with the personnel and equipment deemed appropriate under the circumstances by those who have responded to the individual, in accordance with applicable Hospital policies and procedures for intra-facility transport.
3. The MSE will be performed by a Physician or other QMP as designated by the Hospital's governing body, within the scope of the QMP's state license and privileges. The Physician or QMP will determine with reasonable clinical confidence whether the individual has an EMC, as defined by EMTALA, utilizing the services within the Capabilities of the DED and ancillary services and resources routinely available to the DED for individuals with similar symptoms.
4. The MSE is an ongoing process. The medical record will reflect an ongoing assessment of the individual's condition. Monitoring of the individual will continue until the individual (i) is Stabilized, (ii) is admitted to the Hospital, (iii) is appropriately transferred, if an EMC exists and the individual requires care and treatment that exceeds the Hospital's Capabilities, (iv) is discharged, or (v) expires. The MSE process must be documented in the medical record.

5. If, after institution of the MSE, the Physician or other QMP determines that the individual requires the services of an On-Call Physician, the On-Call Physician will be contacted and specifically requested to present to the DED to provide care and treatment. The On-Call Physician will not refuse to respond to such request 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.

6. If the MSE or stabilizing care requires utilization of ancillary services available only in an area located outside of the DED, the individual may be moved to the other on-campus location provided that: (i) other individuals with the same medical condition are moved to this location to receive ancillary services regardless of their ability to pay for the services; (ii) there is a medical reason to move the individual; and (iii) an appropriately trained healthcare professional accompanies the individual. However, an individual will not be moved to an off campus facility for purposes of the MSE.

7. Unique circumstances:

    a. If an individual comes to a Hospital's DED and a request is made on his/her behalf for treatment of a medical condition, but the nature of the request makes it clear that the medical condition is not of an emergency nature, the Hospital is required only to perform such screening as would be appropriate for any individual presenting in the same or similar manner, in order to determine that the individual does not have an EMC. Thereafter, the individual may be referred to the appropriate service.

    b. If it is unclear whether the individual is requesting a medical examination, then the Hospital will provide an MSE.

    c. If an individual comes to the Hospital's DED and makes it clear that the individual is inquiring about directions to another department (e.g., he/she came in through the wrong entrance and is lost), then an

MSE is not required, and the individual may be given directions to the appropriate area of the Hospital.

8. Once the Hospital provides the MSE, determines that the individual has an EMC, and admits the individual to the Hospital in good faith in order to Stabilize the EMC, the Hospital has satisfied its EMTALA responsibilities with respect to that individual.
9. The provisions of this policy are not applicable to an inpatient admitted to the Hospital for elective (non-emergency) diagnosis or treatment unless the patient otherwise develops an EMC. However, the Hospital is required to provide care to its inpatients in accordance with Medicare's Conditions of Participation.
10. An MSE is not typically required in the following circumstances:
    a. The individual or someone on his/her behalf requests services that are not the examination or treatment for a medical condition (e.g., preventative care services or a request for a medication that is not required to Stabilize or resolve an EMC).
    b. The individual or someone on his/her behalf requests services that are not for a medical condition, such as collecting evidence for legal purposes (sexual assault, blood alcohol testing), as long as the request is limited to the collection of evidence and not to analyze the results or otherwise examine or treat the individual. However, if an individual presents to the Hospital and the Hospital does not have the Capabilities to collect evidence for forensic purposes (i.e., rape kit) when one is indicated, the Hospital will provide an appropriate MSE taking precautions not to disturb the evidence and then Transfer the individual in accordance with this policy to a Hospital that has the Capabilities to perform the evidence collection. Likewise, when an individual who is obviously intoxicated or under the influence of drugs is brought to the DED by law enforcement for purposes of blood alcohol or drug testing and the individual or law enforcement officer requests an MSE, or if a prudent layperson would believe that the individual needs examination and/or treatment for a medical

condition, an appropriate MSE will be conducted.

c. An individual presents to the DED for non-emergency tests pursuant to a Physician's order.

d. An individual presents for a previously scheduled appointment, even if the location is a DED.

11. An individual in a non-Hospital-owned ambulance that is off Hospital Property is not considered to have come to the Hospital's DED (e.g., sidewalks, parking garage, non-DED Hospital Departments), even if a member of the ambulance staff contacts the Hospital by telephone or telemetry communications and informs the Hospital that they want to transport the individual to the Hospital for examination and treatment. The Hospital may direct the ambulance to another facility if it is in Diversionary Status. If, however, the ambulance staff disregards the Hospital's instructions and transports the individual onto Hospital Property, the individual is considered to have "come to the emergency department" and the Hospital's EMTALA obligations are triggered regardless of the Hospital's Diversionary Status.

12. For any Hospital with a helipad on its property, the use of the Hospital's helipad by EMS providers or other hospitals for the transport of an individual to a tertiary hospital located elsewhere does not trigger an EMTALA obligation for the Hospital, when the helipad is being used for the purpose of transit and the sending hospital previously conducted an MSE to determine the existence of an EMC prior to transporting the individual to the helipad for medical helicopter transport to a designated recipient hospital. If, however, while at the Hospital's helipad, the individual's condition deteriorates, the Hospital will conduct another MSE and provide stabilizing treatment within its Capacity, if requested by medical personnel accompanying the individual. Similarly, if as part of the local or regional EMS protocol, EMS activates evaluation of an individual with a potential EMC at the Hospital's helipad, the Hospital will not have an EMTALA obligation unless it is the intended recipient hospital or a request is made by EMS personnel, the individual or a Designated Representative acting on the individual's behalf for the examination and/or treatment of an EMC. Individual Determined Not to Have

an EMC

D. Individual Determined Not to Have an EMC

1. When a Physician or other QMP determines as a result of an appropriate MSE that an individual does not have an EMC, the individual may be Transferred to another health care facility (if in need of further care) or discharged; however, the Transfer or discharge of an individual who does not have an EMC shall be in accordance with the Hospital's Transfer and discharge policies and procedures for patients without an EMC.
2. EMTALA does not require a follow-up care plan for a discharged individual who does not have an EMC. The Medicare Conditions of Participation will apply to the Hospital's discharge of the individual who does not have an EMC, however, and the Hospital must follow its discharge planning protocols for such an individual.
3. If the discharged individual requires follow-up care and is unable to obtain an appointment for such follow-up care, he/she may be advised to return to the Emergency Department.

E. Individual Determined to Have an EMC

1. When a Physician or other QMP determines as a result of an MSE that an individual has an EMC, the Hospital will:
    a. within the Capabilities 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;" or
    b. provide for an Appropriate Transfer of the unstabilized individual to another medical facility in accordance with these procedures. The Transfer of an individual with an unstabilized EMC is permitted only pursuant to individual request, or when a Physician, or other QMP in consultation with a Physician, certifies that the expected benefits of the Transfer outweigh the risks of Transfer.
2. In performing stabilizing treatment to an individual with an EMC, the Hospital is responsible for treating the individual within the Capabilities of the Hospital as a whole and not necessarily within the scope of the

Capabilities of the particular department at which the individual presented. However, EMTALA does not require that the Hospital locate additional personnel to be on-call for off-campus departments in the event of an emergency.

F. Transfer Obligations of Each Hospital

1. A Hospital may Transfer an individual with an EMC that has not been Stabilized if the Transfer is appropriate; and if
   - the individual (or legally responsible person acting on the individual's behalf) requests the Transfer after being informed of the Hospital's obligations under EMTALA and of the risks of such a Transfer. Any such request must be in writing and must indicate the reasons for the requests as well as the risks and benefits of such a Transfer;
   - a Physician certifies in writing that based on the information available at the time, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual or, in the case of a woman in Labor, to the woman and unborn child, from being Transferred. A summary of the risks and benefits upon which the decision is based must be included along with a certification signed by the Physician that the benefits of Transfer outweigh the risks of Transfer; or
   - if a Physician is not physically present in the emergency department at the time of Transfer, a QMP may sign a certification after a Physician, in consultation with the QMP, agrees with the certification and subsequently countersigns the certification within 72 hours. A summary of risks and benefits upon which it is based must be included certification signed by the QMP that the benefits of Transfer outweigh the risks of Transfer.
2. A Transfer to another medical facility will be appropriate in those cases in which the receiving Hospital can provide medical treatment within its Capacity that can minimize the risks to the individual's health and, in the case of a woman in Labor, the health of the unborn child; and the

receiving facility has available space and qualified personnel for the treatment of the individual and has agreed to provide such care.

3. The transferring Hospital must send the medical records related to the EMC along with any history, preliminary diagnosis, results of diagnostic studies or telephone reports, and other medical records pertinent to the patient's presenting EMC and the informed written consent or certification required for the Transfer. Test results that become available after the individual is transferred should be telephoned to the receiving Hospital, and then mailed or sent via electronic transmission consistent with HIPAA provisions on the transmission of electronic data.
4. All Transfers must be effected through qualified personnel and appropriate transportation equipment including the use of necessary and medically appropriate life support measures during the Transfer. The Emergency Physician has the responsibility for medical decision making regarding appropriate mode of transportation, equipment needed and qualified personnel for the transport.
5. The receiving facility must accept Appropriate Transfers of individuals with EMCs if the Hospital has specialized Capabilities not available at the transferring Hospital and has the Capacity to treat those individuals.
6. The CEO designee in conjunction with the Emergency Physician has authority to accept the Transfer if the Hospital has the Capability and Capacity to treat the individual. The CEO must designate in writing the Hospital designee responsible for acceptance of Transfers in conjunction with the Emergency Physician.
7. Hospitals may utilize a Transfer Center to facilitate the Transfer of any individual from the Emergency Department of the transferring facility to the receiving facility. The transferring emergency physician, after discussion with the individual in need of Transfer or his or her legally authorized representative, determines the appropriate receiving facility with the Capability and Capacity for providing the care necessary to Stabilize and treat the individual's emergent condition. The Transfer Center may provide to the transferring facility, a listing of those facilities with the Capability and

Capacity to treat the individual requiring specialized care. The Transfer Center then facilitates the Transfer from the transferring facility to the receiving facility selected by the transferring Physician and/or the individual being transferred. Transfer Centers do not: 1) diagnose or determine treatment for medical conditions; 2) make independent decisions regarding the feasibility of Transfer; 3) make independent decisions as to where the individual will be transferred; or 4) determine how a Transfer shall be effected.

8. If the Transfer Center has real time access to those necessary data elements documenting Capability and Capacity, the Facility, the Emergency Physician and the Transfer Center representatives, may develop criteria and algorithms for allowing the Transfer Center to accept a Transfer request on behalf of the Facility and the Emergency Physician in order to expedite the Transfer process. Such documents allowing a Transfer Center to accept an individual on behalf of a facility shall be in writing in the ER and on file in the Transfer Center. However, prior to completing the Transfer process, the Transfer Center should validate the acceptance with the receiving emergency department and notify the facility of the Transfer to ensure that the On-Call Physician is available when needed.
9. The Transfer Center may make no independent decision to accept or to refuse a Transfer request.
10. The Transfer Center may not refuse a Transfer on behalf of a Facility. The Transfer Center must first contact the receiving facility ER and CEO designee to determine whether the receiving facility has the Capacity and Capability to accept the Transfer, and must be informed by the receiving facility that it will refuse the Transfer, before conveying refusal of such a Transfer request on the receiving facility's behalf.
11. At the Emergency Physician's request, the Transfer Center must facilitate a discussion between the Emergency Physician and the On-Call Physician of the Receiving Facility. The On-Call Physician does not have the authority to refuse an Appropriate Transfer on behalf of the Facility.
12. The Transfer Center may, at the transferring Emergency Physician's request, provide a list of those receiving facilities with Capability and Capacity for accepting the individual in need of Transfer. The Emergency Physician and the individual to be transferred then make the decision on

the receiving facility.

13. The Transfer Center may, at the request of the transferring facility, provide information on the availability of EMS or transport options for Transfer of an individual. However, the Transfer Center may NOT select the EMS or Transport service for the transferring facility. The Transfer acceptance cannot be predicated upon the transferring facility using a method of transportation chosen by the receiving facility or a Transfer Center.
14. Movement of an individual from an off-campus department to the main Hospital Campus is not considered a Transfer under EMTALA and does not need to meet EMTALA's Transfer requirements.

G. When the Individual Leaves Before the EMTALA Obligation is Met

If the Individual Does Not Consent to Examination or Treatment. If the Hospital offers Triage, a MSE, and/or stabilizing treatment and informs the individual or the person acting on the individual's behalf of the risks/benefits to the individual of the examination and treatment, but the individual or Designated Representative acting on the individual's behalf does not consent to the examination and treatment, the Hospital will take all reasonable steps to have the individual or the person acting on the individual's behalf sign a "Refusal to Permit Triage, Medical Examination, Treatment or Transfer" form. In the case of the individual who departs the DED prior to Triage (leaves without being seen) who does not yet have a medical record opened, reasonable attempts will be made to have the individual provide basic information for purposes of documenting his/her ED presentation. If such individual refuses to sign the Refusal to Permit Triage, Medical Examination, Treatment or Transfer form, Hospital staff will document the stepstaken to secure the individual's written informed refusal. In the case of the individual who refuses examination and/or treatment following Triage, the Hospital will use its best efforts to complete the individual's registration, open a medical record, document offers made to the individual that he or she undergo further medical examination and treatment as may be required to identify and Stabilize an EMC, log the individual into the Central Log (or EMTALA Log), document discussions with the individual regarding the risks and benefits involved in leaving prior to the medical screening and/or treatment and describe in the medical record the examination and treatment that was refused. If

such individual refuses to sign the Refusal to Permit Triage, Medical Examination, Treatment or Transfer form, Hospital staff will document the steps taken to secure the individual's written informed refusal. Hospital personnel involved with the individual's care and/or other personnel (for example, registrar personnel, triage nurse) who witness or are made aware that an individual has departed from the DED without signing the Refusal to Permit Triage, Medical Examination, Treatment or Transfer form may complete the forms.

1. If the Individual Does Not Consent to Transfer. If the Hospital offers an Appropriate Transfer to an individual determined to have an EMC and informs the individual or the person acting on the individual's behalf of the risks and benefits to the individual of the Transfer, but the individual or the Designated Representative acting on the individual's behalf does not consent to the Transfer, the Hospital will take all reasonable steps to have the individual or person acting on the individual's behalf sign a Refusal to Permit Triage, Medical Examination, Treatment or Transfer form. In addition to completing the Refusal to Permit Triage, Medical Examination, Treatment or Transfer document, the medical record will document details of the proposed Transfer that was refused by or on behalf of the individual.
2. Performance Improvement. Each Hospital will evaluate those situations where an individual leaves prior to a MSE or stabilizing treatment as part of its Performance Improvement process.

H. Record Keeping/Central Log Requirements

1. The medical records of individual's transferred to or from MCH must be retained in their original or legally-reproduced format for no less than five (5) years, but consistent with Georgia state law, from the date of transfer.
2. A central log must be maintained and include, directly or by reference, individual logs from all departments of the hospital including the emergency department or any other department where an individual might present for emergency medical services or receive a MSE. A patient encounter number is created which will trigger the patient being placed on the Central Log and creation of a medical record. The log

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must also contain the name of the individual who is seeking emergency medical treatment and whether the individual:

a. Was refused treatment
b. Refused treatment
c. Was transferred
d. Was admitted and treated
e. Was stabilized and transferred
f. Discharged

3. The Central Log is audited for inclusion of required data. When trending information indicates issues with the data, appropriate individuals will be delegated to identify root causes and develop/implement corrective action.

I. On Call Obligations

1. Each Hospital that has a DED and a Medicare provider participation agreement (including both the transferring and receiving hospitals and specialty hospitals) is required to maintain an on-call list of physician specialists who are available for additional evaluation and stabilizing treatment of individuals with EMCs.
2. Hospitals must have procedures in place to respond to situations in which a particular specialty is not available or the On-Call Physician cannot respond because of circumstances beyond the Physician’s control.
3. A Hospital may participate in a community call plan as delineated in the model state policies provided that such plan has been approved by General Counsel.
4. A current On-Call List of Physicians who are members of the medical staff and, if applicable, Physicians who participate in a community call plan must be available at all times to the Emergency Department.
5. On-Call Physician specialists have a responsibility to provide specialty care services as needed to any individual who comes to the Emergency Department either as an initial presentation or upon Transfer from another facility.
6. The On-Call List maintained for the main Hospital Emergency Department shall be the On-Call List for the Hospital, including any off-campus provider-based Emergency Departments.

7. Each Hospital must have in place policies and procedures that define the responsibilities of the On-Call Physician to respond, examine and treat patients with an EMC. Such policies and procedures must address those situations when a Physician cannot respond due to circumstances beyond his or her control or when a Hospital chooses to allow simultaneous call, community call, elective procedures or exemptions due to longevity.

J. Other EMTALA obligations

The following points, together with subject-matter and state-specific policies, more specifically define the EMTALA obligation:

1. In order for EMTALA to be triggered, Hospital personnel must be aware of the individual's presence and observe the appearance or behavior, or both, of that person. This also applies to presentments for off-campus DEDs and Hospital Property. The Hospital must be on notice of the individual's existence and condition for any EMTALA obligation to begin.
2. The Hospital shall permit the establishment of a policy that allows personnel to leave the Hospital to examine and/or treat an individual in need of emergency services on Hospital Property. Furthermore, a Hospital may not meet its EMTALA obligations merely by summoning emergency medical service (EMS) personnel, but may use EMS in conjunction with Hospital personnel to treat and move an individual who is already on Hospital Property.
3. A Hospital-based entity that is not a DED and participates separately in Medicare is not subject to the EMTALA obligations. A Hospital-Based Entity that is off the Hospital's Campus and does not have a DED is not subject to EMTALA obligations. Such Hospital-Based Entities must have written policies and procedures in place that set forth the process for handling patients in need of emergency care within the Capacity of the Hospital-Based Entity. If an individual comes to such a Hospital-Based Entity with an EMC, it may be appropriate for the entity to call EMS if it is incapable of treating the patient, and to furnish whatever available services it can to the individual while awaiting the arrival of EMS personnel, according to the facility's policies and procedures. .

4. A Hospital Department located off the campus of the Hospital, that is not a DED, is not subject to the EMTALA obligations of a DED. In off-campus Hospital Departments that are not DEDs, the Hospital is not required to locate additional personnel or staff to the off-campus department to be on call for possible emergencies. If an individual comes to a Hospital Department without a DED located off campus with an EMC, it would be appropriate for the department to call the EMS if it is incapable of treating the patient, and to furnish whatever assistance it can to the individual while awaiting the arrival of EMS personnel. The governing body of a Hospital must assure that the medical staff has approved written policies and procedures in effect with respect to an off- campus non-emergency Hospital Department(s) for appraisal of emergencies and referrals, when appropriate, as stated in 42 CFR section 482.12(f)(3).
5. A Hospital may place itself on Diversionary Status if Chief Medical Officer or his/her designee declares that circumstances exist at the Hospital for the Emergency Room or other Departments of the Hospital should go on Diversionary Status. A Hospital may direct the ambulance to another facility if it is in formal Diversionary Status. If, however, the ambulance staff transports the individual onto Hospital grounds despite Diversionary Status, the individual is considered to have come to the emergency department and all provisions of this policy apply.The Hospital shall develop and implement a diversion policy in consultation with the medical staff which describes the process of handling those times when the hospital must temporarily divert ambulances from transporting patients requiring emergency services to the hospital. The policy must include the following: when diversion is authorized to be called, who is authorized to call and discontinue diversion, efforts the hospital will make to minimize the usage of diversion, and how diversion will be monitored and evaluated. In connection with going on diversion status, the hospital shall:
    a. Notify the ambulance zoning system when it is temporarily unable to deliver emergency services and is declaring itself on diversion;

b. Notify the ambulance zoning system when diversion status is no longer determined to be necessary; and

c. Monitor and evaluate its usage of diversion status and make changes within its control to minimize the use of diversion status.

K. EMTALA and National Emergencies and Disasters

1. Waivers of Sanctions. Sanctions may be waived during an emergency or disaster declared by the President of the United States and declared by the Secretary of the Department of Health and Human Services to be a public health emergency for those facilities to which EMTALA applies that are located within the declared emergency or disaster area.

    a. In such cases, CMS is authorized to issue waivers for;

        i. the inappropriate Transfer arising out of the circumstances of the emergency of an individual who has not been Stabilized; or

        ii. the direction or relocation of an individual to receive an MSE at an alternate location pursuant to an appropriate and activated State emergency preparedness plan or State pandemic preparedness plan.

    b. Waiver of sanctions applies only to Hospitals with DEDs that are located in an emergency area during an emergency period.

2. Hospital Responsibility.

    a. For a waiver to apply the State must have activated an emergency preparedness plan or pandemic preparedness plan in the emergency area.

    b. The waiver of sanctions will be for the 72-hour period starting with the Hospital's activation of its disaster protocol.

    c. For an infectious pandemic disease, the waiver may continue past the 72-hour period and remain in effect until termination of the declared public health emergency.

    d. Hospitals that activate their disaster protocol must notify

the State Agency as soon as possible.

e. Typically, waivers are not automatic. Hospitals must request and be granted waivers from the regional CMS office.

L. EMTALA and Surges in Demand for Emergency Department Services During a Pandemic

The Emergency Department must outline measures in a procedure that Monroe County Hospital must take to address influenza-like illness (ILI) during pandemic situations.

M. EMTALA Policies and Procedures

All EMTALA policies and related guidance are available on the document control system (Policytech) at Monroe County Hospital. All Monroe County Hospital affiliates must review, adopt and implement these policies for their facilities.

6. References:

Requirement	Title & Description	Clause
Social Security Act	**Examination and Treatment for Emergency Medical Conditions and Women In Labor**	**Section 1867, 42 U.S.C. 1395dd**
CMS Site Review Guidelines		**State Operations Manual**
42 Federal Register	**Special Responsibilities of Medicare Hospitals in Emergency Cases**	**489.24**
42 Federal Register	**Basic Commitments**	**489.20(l)(m)(q) and (r)**
42 Federal Register	**Requirements for a determination that a facility or organization has provider- based status**	**413.65**