



Re: Provider On-Call Responsibilities under EMTALA and Texas Statutes

Dear Provider:

Memorial Hermann is subject to the CMS (Medicare) *Conditions of Participation* including EMTALA (Emergency Medical Treatment and Labor Act). As Members of the Medical Staff, on-call providers are directly subject to applicable provisions and are subject to being fined or excluded from CMS program participation for violations related to call response.

The Interpretive Guidelines of the CMS *Conditions of Participation* require that a provider who is on-call must come to the hospital to examine the patient within a reasonable amount of time (generally 30 minutes) when asked to do so by the Emergency Room Physician.

The on-call provider cannot make the determination whether or not a patient needs to be seen or when. The goal of the statute is that patients with emergency medical conditions receive definitive care without delay. If the Emergency Room Physician requests an on-call provider to come in to examine a patient, that on-call provider must come immediately or must contact a covering provider to come in his or her place. Likewise, it is prohibited to base decisions on payor status (insured vs. uninsured). There can be no discussion of an emergency patient’s financial class or payor.

If the on-call provider is unavailable due to circumstances beyond his or her control such as already being in surgery or Labor & Delivery with another patient, then the newer patient can be transferred. An on-call provider must not be unavailable because of social functions unless the on-call provider has arranged for coverage and makes the contact him- or herself. If an on-call provider becomes unavailable due to illness or a family emergency, he or she must so advise the emergency department provider or manager.

An on-call provider must immediately return a call from the Emergency Room. Medical Staff Rules and Regulations identify thirty (30) minutes as being the outside allowable time, but statutes actually use “reasonable” and “under the circumstances” with thirty (30) minutes being the outside limit, and less if a patient’s condition warrants more immediate action in the judgment of the Emergency Room Physician. If required to come in, the expectation is that the provider responds immediately because emergency care should not be delayed. If the on-call provider is unsure of whether he or she has been requested to come to the ED, the on-call provider should ask the Emergency Room Physician or staff member to be clear. Although not explicitly stated in EMTALA, for our doctors’ protection, it is important that you understand that there are cases in Texas where even though the Emergency Room Physician did not explicitly request the on-call provider to come in, the on-call provider was held to be responsible by CMS for determining whether he/she should have seen a particular patient in the Emergency Department based upon the information provided to them. In addition, CMS surveyors have stated that an on-call provider’s obligation to provide care under EMTALA does not end when the patient is admitted, but rather when the on-call provider examines the patient and documents his/her findings in a timed and dated note, which must be within the time frame set by the rules and regulations of the hospital.

I have read and understand the contents of this informational letter.

Printed Name: _____

Signature: _____ Date: _____