SIGNATURE HEALTHCARE
BROCKTON HOSPITAL
Emergency Department

Subject: EMTALA – Emergency Medical Treatment and Labor Act Screening and Stabilization Policy		Page 1 of 8
Original Effective Date: 5/14	Revised Date: 3/18 Reviewed Date:	Classification Code: 100.508
References:	Policy Section: Administrative Issuing Department/Committee: Compliance/Medical Staff	

Purpose: To establish guidelines for providing appropriate medical screening examinations ("MSE") and any necessary stabilizing treatment or an appropriate transfer for the individual 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 and with any applicable state legal requirements as well as to ensure compliance with relevant Internal Revenue Code provisions applicable to tax-exempt hospital organizations.

Policy: An EMTALA obligation is triggered when an individual comes to a dedicated emergency department ("DED") and:

1. the individual or a representative acting on the individual's behalf requests an examination or treatment for a medical condition, or
2. a prudent layperson observer would conclude from the individual's appearance or behavior that the individual needs an examination or treatment of a medical condition.

Such obligation is further extended to those individuals presenting elsewhere on hospital property requesting examination or treatment for an emergency medical condition ("EMC"). Further, if a prudent layperson observer would believe that the individual is experiencing an EMC, then an appropriate MSE, within the capabilities of the hospital's DED (including ancillary services routinely available and the availability of on-call physicians), shall be performed.

The MSE must be completed by an individual:

(i) qualified to perform such an examination to determine whether an EMC exists, or with respect to a pregnant woman having contractions, whether the woman is in labor and whether the treatment requested is explicitly for an EMC. If an EMC is determined to exist, the individual will be provided necessary stabilizing treatment, within the capacity and capability of the facility, or an appropriate transfer as defined by and required by EMTALA. Stabilization treatment shall be applied in a non-discriminatory manner *(e.g.,* no different level of care because of diagnosis, financial status, race, ethnicity, insurance status, color, national origin, sexual orientation, disease, handicap or any other basis prohibited by federal or state law.)

Procedure:

1. When an MSE is Required
   A hospital must provide an appropriate MSE within the capability of the hospital's emergency department, including ancillary services routinely available to the DED, to determine whether or not an EMC exists: (i) to any individual, including a pregnant woman having contractions, who requests such an examination; (ii) an individual who has such a request made on his or her behalf; or (iii) an individual whom a prudent layperson observer would conclude from the individual's appearance or

behavior needs an MSE. An MSE shall be provided to determine whether or not the individual is experiencing an EMC or a pregnant woman is in labor. An MSE is required when:

a. The individual *comes to a dedicated emergency department* of a hospital and a request is made by the individual or on the individual's behalf for examination or treatment for a medical condition, including where:
   i. The individual requests medication to resolve or provide stabilizing treatment for a medical condition.
   ii. The individual arrives as a transfer from another hospital or health care facility. Upon arrival of a transfer, a physician or qualified medical person ("QMP") must perform an appropriate MSE. The Physician or QMP shall provide any additional screening and treatment required to stabilize the EMC. The MSE of the individual must be documented. This type of screening cannot be performed by the triage nurse. If an emergency medical condition is determined to exist and the hospital admits the individual as an inpatient for further treatment, the hospital's obligation under EMTALA ceases.

2. Extent of the MSE
   a. Determine if an EMC exists. The Hospital must perform an MSE to determine if an EMC exists. It is not appropriate to merely "log in" or triage an individual with a medical condition and not provide an MSE. Triage is not equivalent to an MSE. Triage entails the clinical assessment of the individual's presenting signs and symptoms at the time of arrival at the hospital in order to prioritize when the individual will be screened by a physician or other QMP.

   b. Definition of MSE. An MSE is the process required to reach, with reasonable clinical confidence, the point at which it can be determined whether the individual has an EMC or not. It is not an isolated event. The MSE must be appropriate to the individual's presenting signs and symptoms and the capability and capacity of the hospital.

   c. An on-going process. The individual shall be continuously monitored according to the individual's needs until it is determined whether or not the individual has an EMC, and if he or she does, until he or she is stabilized or appropriately admitted or transferred. The medical record shall reflect the amount and extent of monitoring that was provided prior to the completion of the MSE and until discharge or transfer.

   d. **Judgment of physician or QMP.** 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 function according to algorithms or protocols established and approved by the medical staff and governing board.

   e. **Extent of MSE varies by presenting symptoms.** The MSE may vary depending on the individual's signs and symptoms:
      i. Depending on the individual's presenting symptoms, an appropriate MSE can involve a wide spectrum of actions, ranging from a simple process involving only a brief history and physical examination to a complex process that also involves performing ancillary studies and procedures such as (but not limited to) lumbar punctures, clinical laboratory tests, CT scans

and other diagnostic tests and procedures.

ii. *Pregnant Women:* The medical records should show evidence that the screening examination includes, at a minimum, on-going evaluation of fetal heart tones, regularity and duration of uterine contractions, fetal position and station, cervical dilation, and status of membranes *(i.e.,* ruptured, leaking and intact), to document whether or not the woman is in labor. A woman experiencing contractions is in true labor unless a physician, certified nurse-midwife or other QMP acting within his or her scope of practice as defined by the hospital's medical staff bylaws and State practice acts, certifies in writing that after a reasonable time of observation, the woman is in false labor. The recommended timeframe for such certification is within 24 hours of the MSE, however, the medical staff bylaws, rules and regulations can provide guidance on the timeframe.

iii. *Individuals with psychiatric or behavioral symptoms:* The medical records should indicate both medical and psychiatric or behavioral components of the MSE. The MSE for psychiatric purposes is to determine if the psychiatric symptoms have a physiologic etiology. The psychiatric MSE includes an assessment of suicidal or homicidal thoughts or gestures that indicates danger to self or others.

iv. Non-discrimination. The hospital must provide an MSE and necessary stabilizing treatment to any individual regardless of diagnosis *(e.g.,* labor, AIDS), financial status *(e.g.,* uninsured, Medicaid), race, age, sex, color, ethnicity, national origin *(e.g.,* Hispanic or Native American surnames), sexual orientation, disability or any other basis prohibited by federal or state law.

3. **Who May Perform the MSE**
   a. Only the following individuals may perform an MSE:
      i. A qualified physician with appropriate privileges; or
      ii. Other qualified licensed independent practitioner (LIP) with appropriate competencies and privileges; or
      iii. A qualified staff member who:
         a. is qualified to conduct such an examination through appropriate privileging and demonstrated competencies;
         b. is functioning within the scope of his or her license and in compliance with state law and applicable practice acts *(e.g.,* Medical or Nurse Practice Acts);
         c. is performing the screening examination based on medical staff approved guidelines, protocols or algorithms; and
         d. is approved by the facility's governing board as set forth in a document such as the hospital bylaws or medical staff rules and regulations, which document has been approved by the facility's governing body and medical staff. It is not acceptable for the facility to allow informal personnel appointments that could change frequently.

   b. **Qualified Medical Personnel.** QMP may include licensed or certified clinical social workers, advanced practice registered nurses ("APRN's), physician assistants ('PA"s), registered nurses, psychologists, and other professionals delineated as such in the hospital's governing bylaws ifthe scope of the EMC is within the individual's scope of practice.

L The designation of qualified medical personnel is set forth in a document approved by the governing body of the hospital. Each individual QMP approved to provide an MSE under EMTALA must be appropriately credentialed and must meet the requirements for annual evaluations set forth in the protocol agreements with physicians and the State's medical practice act, nurse practice act or other similar practice acts established to govern health care practitioners. Only appropriately credentialed APRNs, PAs and physicians may perform medical screening examinations in the DED.

11. **Limitations.** The Hospital has established a process to ensure that:
    a) a physician examines all individuals whose conditions or symptoms require physician examination;
    b) an emergency physician on duty is responsible for the general care of all individuals presenting themselves to the emergency department; and
    c) responsibility remains with the emergency physician until the individual's private physician or an on-call specialist assumes that responsibility, or the individual is discharged.

4. **No Delay in Medical Screening or Examination**
    a. **Reasonable Registration Process.** An MSE, stabilizing treatment, or appropriate transfer will not be delayed to inquire about the individual's method of payment or insurance status, or conditioned on an individual's completion of a financial responsibility form, an advance beneficiary notification form, or payment of a co-payment for any services rendered. The facility may follow reasonable registration processes for individuals for whom examination or treatment is required. Reasonable registration processes may include asking whether the individual is insured, and if so, what that insurance is, as long as these procedures do not delay screening or treatment or unduly discourage individuals from remaining for further evaluation. The hospital may seek non-payment information from the individual's health plan about the individual, such as medical history. In the case of an individual with an EMC, once the hospital has conducted the MSE and has initiated stabilizing treatment, it may seek authorization for all services from the plan as long as doing so does not delay completion of the stabilizing treatment.

    b. **Managed Care.** For individuals who are enrolled in a managed care plan, prior authorization from the plan shall NOT be required or requested before providing an appropriate MSE and initiating any further medical examination and necessary stabilizing treatment

EMS. A hospital has an obligation to see the individual once the individual presents to the DED whether by EMS or otherwise. A hospital that delays the MSE or stabilizing treatment of any individual who arrives via transfer from another facility, by not allowing EMS to leave the individual, could be in violation EMTALA and the Hospital Condition of Participation for Emergency Services. Even if the hospital cannot immediately complete an appropriate MSE, the hospital must assess the individual's condition upon arrival of the EMS

service to ensure that the individual is appropriately prioritized based on his or her presenting signs and symptoms to be seen for completion of the MSE.

c. There is **NO** delay in the provision of an MSE or stabilizing treatment if:
   (i) there is not an open bed in the DED;
   (ii) there are not sufficient caregivers present to render the MSE and/or stabilizing treatment; and
   (iii) the individual's condition does not warrant immediate screening and treatment by a physician or QMP.

d. **Contacting the individual's physician.** An emergency physician or non-physician practitioner may contact the individual's personal physician at any time to seek advice regarding the individual's medical history and needs that may be relevant to medical treatment and screening of the individual, so long as this consultation does not inappropriately delay services.

e. **Financial Responsibility Forms.** The performance of the MSE and the provision of stabilizing treatment will NOT be conditioned on an individual's completion of a financial responsibility form, an advance beneficiary notification form, or payment of a co-payment for any services rendered.

f. **Financial Inquiries.** The hospital shall provide care for emergency medical conditions to individuals regardless of their eligibility under the hospital's Financial Assistance Policy, 400.115 ("FAP"). It is prohibited for any employee or agent of the hospital to engage in any action that discourages an individual from seeking emergency care. Individuals who inquire about financial responsibility for emergency care should receive a response by a staff member who has been well trained to provide information regarding potential financial liability. The staff member who provides information on potential financial liability should clearly inform the individual that the hospital will provide an MSE and any necessary stabilizing treatment, regardless of his or her ability to pay. Individuals who believe that they have an EMC should be encouraged to remain for the MSE.

Limitation on Charges. The hospital shall limit amounts charged for emergency or other medically necessary care provided to individuals eligible for assistance under the financial assistance policy described in the FAP to not more than the Medicare fee for service rate, and in the case of other care, an amount less than gross charges. The hospital prohibits the use of gross charges.

Written Refusal- Partial Refusal of Care or Against Medical Advice. If a Physician or QMP has begun the medical screening examination or any stabilizing treatment and an individual refuses to consent to a test, examination or treatment or refuses any further care and is determined to leave against medical advice, after being informed of the risks and benefits and the hospital'sobligations under EMTALA, reasonable attempts shall be made to obtain a written refusal to consent to examination or treatment using the form provided for that purpose or document the individuals refusal to sign the Partial Refusal of Care or the Against Medical Advice Form (see Refusal of Care

or Against Medical Advice Forms). The medical record must contain a description of the screening and the examination, treatment, or both if applicable, that was refused by or on behalf of the individual.

a. **Waiver of Right to Medical Screening Examination.** If an individual refuses to consent to examination or treatment and indicates his or her intention to leave prior to triage or prior to receiving a medical screening examination or if the individual withdrew the initial request for Medical Screening Exam, the Physician will document the reason for failure to obtain a medical screening exam in the patient's medical record.

b. **Documentation of Information.** If an individual refuses to sign a consent form, the physician or nurse must document that the individual has been informed of the risks and benefits of the examination and/or treatment but refused to sign the form.

c. **Documentation of Unannounced Leave.** If an individual leaves the facility without notifying facility personnel, this must be documented upon discovery. The documentation must reflect that the individual had been at the facility and the time the individual was discovered to have left the premises. Triage notes and additional records must be retained. If the individual leaves prior to transfer or leaves prior to an MSE, the information should be documented on the individual's Sign-In Sheet. If an individual has not completed a Sign-In Sheet, an ED staff member should complete a sheet and if the individual's name is not known a description of the individual leaving should be entered on the form. All individuals presenting for evaluation or treatment must be entered into the Central Log.

7. **Stabilizing Treatment Within Hospital Capability.**
The determination of whether an individual is stable is not based on the clinical outcome of the individual's medical condition. An individual has been provided sufficient stablilizing treatment when, the physician treating the individual in the DED has determined within reasonable clinical confidence 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 with respect to an EMC of a woman in labor, that the woman has delivered the child and placenta; or in the case of an individual with a psychiatric or behavioral condition, the individual is protected and prevented from injuring himself or herself or others. For those individuals who are administered chemical or physical restraints for purposes of transfer from one facility to another, stabilization may occur for a period of time and remove the immediate EMC but the underlying medical condition may persist if not treated for longevity the individual may experience exacerbation of the EMC.

Stable. The physician or QMP providing the medical screening and treating the emergency has determined within reasonable clinical confidence, that the EMC that caused the individual to seek care in the DED has been resolved although the underlying medical condition may persist. Once the individual is stable, EMTALA no longer applies. (The individual may still be transferred; however, the "appropriate transfer" requirement under EMTALA does not apply.)

a. **Stabilizing Treatment Within Hospital Capability and Transfer.**
Once the hospital has provided an appropriate MSE and stabilizing treatment within its capability, an appropriate transfer may be effected by following the appropriate transfer provisions. (See Transfer Policy) If there is a disagreement between the physician providing emergency care and an off-site physician *(e.g.,* a physician at the receiving facility or the individual's primary care physician if not physically present at the first facility) about whether the individual has been provided sufficient stabilized treatment to effect a transfer, the medical judgment of the transferring physician takes precedence over that of the off-site physician.

Refer to the hospital's Transfer Policy for additional directions regarding transfers of those individuals who are not medically stable. If a hospital has exhausted all its capabilities and is unable to stabilize an individual, an appropriate transfer should be implemented by the transferring physician.

b. **Stabilizing Treatment and Individuals Whose EMC's Are Resolved.** An individual is considered stable and ready for discharge when, within reasonable clinical confidence, it is determined that the individual has reached the point where his or her continued care, including diagnostic work-up and/or treatment, could reasonably be performed as an outpatient or later as an inpatient, provided the individual is given a plan for appropriate follow-up care with the discharge instructions. The EMC that caused the individual to present to the DED must be resolved, but the underlying medical condition may persist. Hospitals are expected within reason to assist/provide discharged individuals the necessary information to secure follow-up care to prevent relapse or worsening of the medical condition upon release from the hospital.

8. **When EMTALA Obligations End.**
The hospital's EMTALA obligation ends when a physician or qualified medical person has made a decision:
   a. That no emergency medical condition exists (even though the underlying medical condition may persist);
   b. That an emergency medical condition exists and the individual is appropriately transferred to another facility; or
   c. That an emergency medical condition exists and the individual is admitted to the hospital for further stabilizing treatment; or
   d. That an emergency medical condition exists and the individual is stabilized and discharged.

Note: A hospital's EMTALA obligation ends when the individual has been admitted **in good faith** for inpatient hospital services whether or not the individual has been stabilized. An individual is considered to be "admitted" when the decision is made to admit the individual to receive inpatient hospital services with the expectation that the patient will remain in the hospital at least overnight. A hospital continues to have a responsibility to meet the patient emergency needs in accordance with hospital Conditions of Participation. A patient in observation status is not considered admitted as an inpatient. Therefore, EMTALA obligations continue.

REFERENCES:

EMTALA 42 CFR 489.24 (d) (4) (iv)
I.R.C.501(r)

REVIEWED BY:	**DATE:**
Chief of Emergency Medicine	1/18
Chief Nursing Officer	1/18
Corporate Compliance Officer	2/18
Tax Compliance Officer	2/18
Administrative Policy Committee	2/18
Medical Executive Committee	3/18
Board of Trustees	2/18

SIGNATURE HEALTHCARE
BROCKTON HOSPITAL
POLICY APPROVAL SIGNATURE PAGE

TYPE OF DOCUMENT: __X__ Administrative Policy # 100.508

NEW DOCUMENT: ____Yes __X__ No

NAME OF DOCUMENT: EMTALA – ED

DEPARTMENT: Compliance/Medical Staff

APPROVED BY	SIGNATURE	PRINT NAME	DATE APPROVED
POLICY REVIEW COMMITTEE CHAIR	K Walsh	Kim Walsh, RN	3/19/18
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