DEACONESS HOSPITAL, INC
Evansville, Indiana

Policy and Procedure No. 40-06

EMERGENCY MEDICAL TREATMENT AND ACTIVE LABOR (EMTALA) GUIDELINES

I. **SCOPE:** This policy and procedure applies to Deaconess Hospital, Inc. including Deaconess Midtown and Deaconess Gateway campuses.

II. **PURPOSE:** Deaconess Hospital, as a charitable institution, is committed to providing emergency care to patients coming to its Emergency Departments within their capabilities and capacities without regard to the patient's ability to pay for emergency care.

III. **DEFINITIONS:**

A. Hospital Capability is the ability of the hospital and medical staff to treat a particular patient's condition at any time rather than the availability of resources at a particular time of need.

B. Hospital Capacity is the ability of the hospital to accommodate the individual requesting examination or treatment of the transferred individual. Capacity encompasses such things as numbers and availability of qualified staff, beds and equipment and the hospital's past practices of accommodating additional patients in excess of its occupancy limits.

C. Comes to the emergency department with respect to an individual requesting examination or treatment and the individual is on the hospital property (property includes ambulances owned and operated by the hospital, even if the ambulance is not on hospital grounds).

1. An individual in a non-hospital-owned ambulance on hospital property is considered to have come to the hospital's emergency department.

2. An individual in a non-hospital-owned ambulance off hospital property is not considered to have come to the hospital's emergency department, 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.

3. In such situations, the hospital may deny access if it is in "diversionary status", that is, it does not have the staff or facilities to accept any additional emergency patients. If, however, the ambulance staff disregards the hospital's instructions and transports the individual on to hospital property, the individual is considered to have come to the emergency department. (Effective October 10, 2000.)

D. Deaconess-based Entity is a facility owned and controlled by Deaconess Hospital, Inc. and which is not separately licensed and separately qualified as a provider under Medicare.

1. The Women's Hospital, and Encompass are freestanding facilities and are not Deaconess-based entities.

2. Transfers of patients between Deaconess Hospital and Deaconess-based entities are not subject to this policy or the EMTALA regulations.

3. Transfers of patients between Deaconess Hospital (including Deaconess-based entities) and freestanding facilities or the facilities of other hospitals are subject to this policy and EMTALA regulations.

E. Deny is refusal of a requested transfer and includes any suggestion that other potential receiving institutions be solicited for acceptance before a proposed transfer is accepted or rejected.

F. EMTALA is the Emergency Medical Treatment and Active Labor Act, 42 USC §1395dd, and regulations promulgated thereunder 42 CFR § 489.24.

G. Emergency medical condition

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

   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. There is inadequate time to effect a safe transfer to another hospital before delivery; or

   b. Transfer may pose a threat to the health or safety of the woman or the unborn child.

H. Labor is 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 certifies that, after a reasonable time of observation, the woman is in false labor.

I. Patients Not Covered by EMTALA

1. Admission of a stabilized patient to Deaconess Midtown or Deaconess Gateway is not required by EMTALA.

2. Transfer of stabilized patients from Deaconess Midtown or Deaconess Gateway is not governed by EMTALA.

3. Discharge/disposition of non-emergent patients is not covered by EMTALA.

4. Disposition/discharge of stabilized patients may be based on payment considerations such as managed care agreements after screening and stabilization.

5. If a decision is made not to admit a patient to Deaconess Midtown or Deaconess Gateway based on lack of capability, capacity, or managed care agreements, the hospital will assist the patient as possible in finding alternative care to Deaconess Midtown or Deaconess Gateway by another facility.

J. Stabilized with respect to an emergency medical condition as defined in this section:

1. Under paragraph (1) of that definition, 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 "emergency medical condition."

2. Under paragraph (2) of that definition, the woman has delivered the child and the placenta.

K. To stabilize with respect to an emergency medical condition as defined in this section:

1. Under paragraph (1) of that definition to provide such medical treatment of the condition necessary to assure, within reasonable medical probability no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility or with respect to an “emergency medical condition”

2. Under paragraph (2) of that definition, the woman has delivered the child and the placenta.

L. Transfer is 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

1. Has been declared dead, or

2. Leaves the facility without the permission of any such person.

M. An appropriate transfer is one in which:

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

    a. Has available space and qualified personnel for the treatment of the individual; and

    b. Has agreed to accept transfer of the individual and to provide appropriate medical treatment;

3. The transferring hospital sends to the receiving facility

    a. All medical records (or copies thereof) related to the emergency condition which the individual has presented that are available at the time of the transfer, including:

        1) available history

        2) records related to the individual’s emergency medical condition

        3) observations of signs or symptoms

        4) preliminary diagnosis

        5) results of diagnostic studies or telephone reports of the studies

        6) treatment provided

        7) results of any tests and the informed written consent or certification (or copy thereof) required from the ED physician

        8) the name and address of any on-call physician who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment

9) Other records (e.g., test results not yet available or historical records not readily available from the hospital's files) must be sent as soon as practicable after transfer

b. The transfer is affected through qualified personnel and transportation equipment, as required, including the use of necessary and medically appropriate life support measures during the transfer.

IV. POLICY:

A. This policy does not establish the standard of care for the Emergency Departments, hospitals, or physicians for the proper care of patients. It applies only to the federal restrictions on initial evaluation of persons coming to the hospital seeking emergency care, transfers or discharge of patients from Deaconess Hospital Emergency Department or Deaconess Gateway Emergency Department when an emergency medical condition has been diagnosed, and handling of requests for transfers to the Emergency Departments from other institutions.

B. This policy is not intended to, nor does it restrict, the rights of physicians to request consultations from other physicians or to discuss cases with other physicians on a physician-to-physician basis. It applies only to situations in which physicians or institutions contact personnel of Deaconess Midtown Emergency Department or Deaconess Gateway Emergency Department and when personnel of the Deaconess Midtown Emergency Department or Deaconess Gateway Emergency Department contact other institutions regarding transfer of patients from Deaconess Midtown Emergency Department or Deaconess Gateway Emergency Department.

V. RESPONSIBILITY

Deaconess Midtown Emergency Department or Deaconess Gateway Emergency Department will accept requests for transfer of patients from another institution to Deaconess Midtown Emergency Department or Deaconess Gateway Emergency Department, which are medically appropriate and within the capabilities and capacities of Deaconess Midtown Hospital or Deaconess Gateway Hospital. However, requested transfers which exceed the hospital's capabilities or capacities or which are medically inappropriate will be denied on the basis of risk of harm to the patient.

A. The physician on duty in the Emergency Department of the hospital at the time of decision on acceptance or denial of a requested transfer to Deaconess Midtown Hospital or Deaconess Gateway Hospital is the sole individual responsible for making that decision as the representative of the hospital. That responsibility may not be delegated to any other person.

B. The ED physician will consult with the specialist(s) on call in the area of concern regarding capability and may request the physician requesting transfer to speak directly to the consulting physician(s) on call. In all cases in which the consultant on-call believes that the requested transfer is not medically appropriate because of lack of capability, the consultant must contact the ED physician and state the reasons on which that opinion is based. The ED physician will contact the physician requesting transfer and communicate the decision and reasons.

C. Decisions based on capacity may be made by the ED physician based on current knowledge of facilities in use and consultants available. When current capacity does not provide clear-cut grounds to deny the transfer because the hospital currently lacks capacity to treat the patient, the ED physician will contact the consultant on call or request the physician requesting transfer to contact the consultant directly to discuss availability of facilities and personnel, time-frames and alternative ways of addressing the patient's needs in light of any restrictions caused by capacities. The consultant on call will contact the ED physician and state any capacity concerns and discuss with the ED physician any available alternatives to address the patient's needs. The ED physician will make the final decision and will communicate it to the physician requesting transfer including the reasons.

D. Deaconess Cross Pointe (DCP) will adhere to DCP departmental Policy and Procedure, Patient Transfer to Another Facility, PC.134.

VI. PROCEDURE

Each and every person coming to the Emergency Department of Deaconess Midtown Hospital or Deaconess Gateway Hospital requesting emergency care will be provided with a medical screening examination by a qualified medical person (QMP) regardless of ability to pay unless the patient or patient representative refuses the examination after being advised of the obligation to provide it and the potential risks of refusal of the examination.

A. If an emergency medical condition is diagnosed following the screening examination, the hospital will provide care to stabilize the patient within its capabilities and capacities to do so unless:

1. The patient or patient representative refuses the stabilizing treatment after being informed of the hospital's obligations and the risks of refusing stabilizing treatment, or

2. The ED physician certifies that, based upon the information available at the time of transfer, 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 or the unborn child, from being transferred. The certification must contain a summary of the risks and benefits upon which it is based.

B. Required Screening Examination

1. This policy covers all persons coming for emergency medical care, but does not include patients coming for scheduled, non-emergent matters.

2. This policy covers all patients coming for emergency medical care at all portions of the main campus including Deaconess-based entities, but does not include patients coming to free-standing facilities such as Deaconess Cross Pointe which has its own policy.

3. All persons coming to the Emergency Department of Deaconess Midtown Hospital or Deaconess Gateway Hospital for emergency treatment will be provided an appropriate medical screening examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition exists.

4. An appropriate medical screening examination is one in which all necessary examination and investigation is performed to determine if the patient has an emergency medical condition.

5. All minors, unconscious or incompetent adults will receive the screening examination before any consent by a patient representative is sought if a patient representative is not immediately present to give or refuse consent on behalf of the patient. Stabilizing treatment will be instituted for all such patients before any consent by a patient representative is sought if a patient representative is not immediately present to give or refuse consent on behalf of the patient. However, patient representatives will not be allowed to refuse consent for the screening examination and/or any indicated stabilizing treatment when refusal of the examination and/or treatment could constitute abuse or neglect of the patient. If such a possibility exists and has been communicated to the patient representative and the representative still refuses to give consent, Child Protective Services and/or Adult Abuse Services will be notified as indicated.

C. Patients Not Covered by EMTALA

1. Admission of a stabilized Emergency Department patient to Deaconess Midtown Hospital or Deaconess Gateway Hospital is not governed by EMTALA guidelines since the patient is not being transferred to another facility and has received an appropriate medical screening examination in the Emergency Department.

2. Transfer of stabilized patients from Deaconess Midtown Hospital or Deaconess Gateway Hospital is not governed by EMTALA.

3. Discharge/disposition of non-emergent patients is not covered by EMTALA.

4. Disposition/discharge of stabilized patients may be based on payment considerations such as managed care agreements after screening and stabilization.

5. If a decision is made not to admit a patient to Deaconess Midtown Hospital or Deaconess Gateway Hospital based on lack of capability, capacity, or managed care agreements, the hospital will assist the patient as possible in finding alternative care to Deaconess Midtown Hospital or Deaconess Gateway Hospital by another facility.

D. Refusal of screening examination by patient/patient representative will be documented with observations as far as possible of the patient's condition without the examination, documentation of the patient's capacity to give or withhold consent, risks of foregoing the examination which were disclosed to the patient, and, where obtainable, the patient's signature on the documentation.

   1. If the patient refuses signature, a witness to the patient's refusal should document the refusal to sign.

   2. If in the opinion of the QMP, the patient appears to be a danger to himself or others because of mental disease or defect or acute intoxication, the patient may be assessed as incompetent, be restrained under the policies for emergency holds, and substituted consent will be sought. If medically appropriate, the screening examination will proceed.

E. Call Coverage

   1. A schedule of specialist physicians and surgeons providing coverage for emergency department patients in their areas of medical or surgical specialty will be posted prominently within the ED.

   2. The requirement of physicians on staff at Deaconess Midtown Hospital and/or Deaconess Gateway Hospital to provide call coverage is determined by the Medical Staff Bylaws and Board Bylaws.

   3. A physician who is providing call coverage must be quickly available by telephone to consult with the ED physicians providing services in the ED and must respond within a reasonable amount of time which is generally considered to be one hour or less when asked to come to the ED to examine and provide stabilizing treatment for a patient with an emergency medical condition.

   4. For category I or II pregnant trauma patients of 24 weeks or greater gestation, OB Services are on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed at the hospital.

   5. In the event the physician fails to respond within a reasonable period of time, the QMP will present the situation to the appropriate department or section chief. If the department or section chief is not available, the president-elect or the president of the Medical Staff will be contacted. If these contacts are not available, appropriate specialists will be called until one agrees to see the patient. If all else fails, the administrator of the hospital who is

on call will provide direction to the ED. This is in effect 24 hours a day, 7 days a week. The department chief will make arrangements to provide the needed service to the ED patient to meet the EMTALA requirements of a medical screening exam.

6. Any physician in solo practice providing call coverage may not also be on call at other facilities at the same time unless that specialty cannot otherwise provide coverage at Deaconess Midtown Hospital or Deaconess Gateway Hospital.

7. Any physician with one or more partners or associates in the same medical specialty who wishes to provide call coverage simultaneously at Deaconess Midtown Hospital or Deaconess Gateway Hospital and other facilities must have an arrangement for alternate call coverage with his or her partners or associates when he or she is occupied with providing care to another emergency patient.

F. Requests for Transfer of non-stabilized Patients from Deaconess Midtown Hospital or Deaconess Gateway Hospital to Other Facilities, Deaconess Midtown Hospital or Deaconess Gateway Hospital Emergency Department physicians may request transfer of non-stabilized patients from the Emergency Department to another facility in limited circumstances and will allow non-stabilized patients to initiate requests for transfer in similarly limited circumstances. The transfer/discharge disposition of stabilized patients and/or persons who do not have emergency medical condition are not governed by this policy.

1. ED physicians may request transfers of unstabilized patients from Deaconess Midtown Hospital or Deaconess Gateway Hospital Emergency Department to other facilities when

    a. The hospital lacks the capability or capacity to provide care for a patient, the patient agrees to the transfer, and the transfer is appropriate, or

    b. The hospital lacks the capability or capacity to provide care for a patient, the patient does not agree to transfer, but the ED physician has signed a certification that, based upon the information available at the time of transfer, 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 or the unborn child, from being transferred.

    c. The certification must contain a summary of the risks and benefits upon which it is based.

2. A non-stabilized patient may initiate a request for transfer if

    a. The transfer is appropriate and

    b. The patient/patient representative requests the transfer, after being informed of the hospital's obligations under this section and of the risk of transfer. The request must be in writing and indicate the reasons for the request as well as indicate that he or she is aware of the risks and benefits of the transfer.

3. Refusal of Stabilizing Treatment or Transfer by patient satisfies hospital obligations. The hospital is obliged under EMTALA to offer a patient with an emergency medical condition EITHER stabilizing treatment OR transfer.

    a. If such a patient refuses either alternative, after having been informed of the hospital's obligations and the risks of the refusal, the hospital's obligations are fulfilled.

b. The ED physician shall document the information given to the patient and shall seek to obtain the patient's signature. If the patient refuses to sign the document, a witness to the refusal shall document the refusal to sign.

c. If in the opinion of the ED physician, the patient appears to be a danger to himself or others because of mental disease or defect or acute intoxication, the patient may be assessed as incompetent, restrained under the policies for emergency holds and substituted consent will be sought. If appropriate medically, stabilizing treatment may be initiated while substituted consent is being sought after the patient has been assessed as incompetent.

VII. OPTIONAL SECTION: THIS SECTION INTENTIONALLY LEFT BLANK

VIII. AUTHORITY:

A. This policy and procedure is owned by the Director of the Emergency Department.

B. Coordinated with the Corporate Compliance Officer.

IX. REFERENCES:

A. CMS.gov. Emergency Medical Treatment and Labor Act (EMTALA)

B. The Emergency Medical Treatment and Active Labor Act, as established under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 (42 USC 1395 § dd) and 42 CFR § 489.24; 42 CFR § 489.20 (EMTALA regulations).

C. DCP Departmental Policy and Procedure PC.134, "Patient Transfer to Another Facility."

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Deaconess Health System CEO

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