



## Policy and Procedure Manual

### Scope of Responsibility:

Main Campus, CRMC

## **EMTALA: Emergency Medical Treatment and Active Labor Act**

Policy #: 7.01.034

Chapter: Leadership

Effective Date: 11/26/1990

Date Revised: 09/26/2019

### **POLICY**

Any individual who presents to the main campus of Cheyenne Regional Medical Center (CRMC) seeking assistance or who is in active labor shall be offered a medical screening examination by qualified medical personnel to determine if an emergent medical condition or active labor exists. CRMC will treat or stabilize, within CRMC's capability and capacity, or appropriately transfer individuals with emergent medical conditions.

Cheyenne Regional Medical Center will provide emergency care described in this policy without regard to an individual's race, color, religion, sex (including pregnancy and gender identity), national origin, age, genetic information, sexual orientation, veteran's status, disability, handicap, diagnosis, financial status, or other protected status defined by Wyoming or Federal law, except to the extent that a circumstance is medically significant to the provision of appropriate medical care.

#### A. Applicability

1. This policy only applies to the main campus of CRMC, including any department on the main campus and CRMC property within 250 yards of the main building (e.g. parking lot, sidewalks).
2. This policy does not apply to individuals who develop a potential emergency medical condition after they have begun to receive outpatient services other than through the CRMC Emergency Department (ED).
3. This policy does not apply to individuals CRMC has admitted as inpatients.
4. Parts of this policy and/or EMTALA may be waived when a disaster has been declared under Section 1135 of the Social Security Act.

#### B. CRMC shall comply with the emergency care obligations imposed by EMTALA.

## **DEFINITIONS**

### A. Capabilities.

1. Staff Capabilities is the level of care that the personnel of CRMC can provide within the training and scope of their professional license, which includes on-call physicians.
2. Facility Capabilities include physical space, equipment, supplies, and specialized Capabilities that CRMC provides, as well as ancillary services routinely available to CRMC.

### B. Capacity. The ability of CRMC to accommodate patients with qualified staff, beds, and equipment.

### C. CRMC Main Campus. The physical area immediately adjacent to the building commonly known as the West Building of CRMC, at address 214 East 23<sup>rd</sup> Street, and other hospital-owned structures not strictly contiguous to the CRMC Main Campus but located within 250 yards of the CRMC Main Campus, including outside the CRMC dedicated ED, sidewalk, driveway, parking structures, the common areas of the Medical Office Building, and any other areas determined on an individual case basis, by the CMS regional office, to be part of the CRMC's campus.

### D. Hospital Property. "Hospital property" excludes other areas or structures of CRMC'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 nonmedical facilities. (42 CFR 489.24(b) and 413.65(a)(2)). See CRMC Main Campus, defined above.

### E. Off-Campus Department. Any facility, organization, or physician office located off of CRMC's Main Campus operating under CRMC's Medicare number, licensed as a part of CRMC, and furnishing some of the same health care services as are provided at the CRMC Main Campus. Services of the "same type" are those services in a category of Medicare covered services that are provided by CRMC at its Main Campus.

### F. Transfer. The movement of an individual in the ED or Main Campus to a facility outside CRMC. Transfer includes discharge, but does not include moving a patient who has been declared dead or who leaves without being seen or permission or against medical advice (AMA).



## **PROCEDURE**

### A. Relevant Terms:

1. An Emergency Medical Condition (EMC) is a condition manifesting itself by acute and severe 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 (including the health of an unborn child) in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.
  - b. A pregnant woman who is having contractions, that there is insufficient time to safely transfer the woman to another hospital before delivery, or the transfer may pose a threat to the health or safety of the woman or the unborn child.
    - i. A woman having contractions is presumed to be in labor unless a QMP certifies, after a reasonable time of observation that the woman is in false labor.
2. Qualified Medical Personnel (QMP) have been designated by the CRMC Medical Staff Rules and approved by the Board of Trustees as the following:
  - a. Physicians
  - b. Privileged nurse practitioners or physician assistants acting within the scope of their licensure.
3. Medical Screening Examination (MSE)
  - a. If an individual presents at CRMC seeking emergency care or is unable to communicate, and a reasonable person would believe that the individual is in need of emergency care, a QMP shall, within CRMC's capability and capacity, provide an appropriate MSE reasonably calculated to identify an emergency medical condition (EMC).
    - i. An individual presenting at CRMC for emergency care shall be offered an MSE, even when CRMC is on diversionary status.



- ii. Any patient returning to CRMC requesting emergency medical services shall be given an MSE regardless of the time interval since his/her prior visit.
  - iii. A MSE may be conducted on minors without waiting for parental consent when a minor presents with a possible EMC and the parents or guardians cannot be located.
    - If it is determined that the minor does not have an EMC, staff may await parental consent to conduct further assessment or treatment.
  - iv. If law enforcement brings an individual to the main campus of CRMC for clearance for incarceration, CRMC will perform an MSE to determine if an EMC exists.
- b. The ED triage is not an MSE.
- c. An appropriate MSE should address the presenting symptoms and comply with current policies and procedures for assessment of those presenting symptoms, including but not limited to:
- i. A history of the presenting problem.
  - ii. A documented physical examination of the involved area or system.
  - iii. The use of on-call physicians and ancillary tests or services routinely available to CRMC if needed, to determine whether an EMC exists.
  - iv. Continued monitoring, which shall be documented in the medical record until the patient is stabilized or transferred.
- d. CRMC shall not delay the MSE and/or stabilizing treatment described below in order to inquire about the individual's method of payment or insurance status.
- i. Reasonable registration processes may be followed (including asking for insurance information) if they do not delay or discourage the individual from receiving the emergency care described above.
  - ii. Preauthorization shall not be sought from insurers or primary care physicians before providing the examination and, if necessary, initiating stabilizing treatment as described below.



- iii. CRMC may not seek or receive payment as part of its routine request process prior to conducting the MSE and initiating stabilizing treatment.
  - iv. CRMC staff will defer questions about financial liability until after the MSE has been completed and stabilizing treatment (when necessary) is initiated.
  - e. A patient may be moved to a different location in CRMC (e.g. psychiatric screening or Labor and Delivery (L&D) Unit triage) for an MSE and stabilizing treatment, provided that:
    - i. The patient is moved in such circumstances regardless of ability to pay.
    - ii. There is a bona fide reason to move the patient.
    - iii. Appropriate personnel accompany the patient.
  - f. Contacting persons outside of CRMC. A physician, QMP, or other CRMC personnel may contact the individual's physician/provider to seek advice regarding the patient's medical history and needs that may be relevant to the MSE or treatment, provided that such consultation does not inappropriately delay the MSE or stabilizing treatment.
  - g. CRMC may notify managed care plans/payors of the patient's presence at CRMC and ask them to identify an attending physician, but CRMC will not request preauthorization until the patient has received an MSE and stabilizing treatment has been initiated. Sexual Assault Nurse Examiner (SANE) Registered nurses (RNs) may perform a nursing examination, if and only to the extent that the nature of the patient's request for examination and treatment is within the scope of their practice and the patient declines an MSE.
4. Situations that an MSE is not required
- a. Where an individual comes to the ED and requests services for a medical condition that is not of an emergent nature, CRMC will perform such screening as would be appropriate to determine that the individual does not have an EMC. After such determination is made, the individual may be advised of their options to seek non-emergent services elsewhere.



- b. Where an individual presents to the ED for outpatient services specified in an order from a physician or licensed practitioner (e.g., blood draws, diagnostic tests, scheduled procedures), CRMC is not required to perform an MSE.
- c. Where an individual requests preventive care services (e.g., immunizations, allergy shots, flu shots) or employer mandated testing (e.g., blood/breath alcohol testing), CRMC is not required to perform an MSE.
- d. Where an individual is brought to CRMC by law enforcement seeking only blood/breath alcohol testing or evidence collection for law enforcement purposes, does not request examination or treatment, and does not appear to need examination or treatment, CRMC is not required to perform an MSE.
- e. Where an individual comes to the ED and requests treatment during a national emergency or crisis, CRMC shall perform such screening as necessary to determine whether the individual falls into the category for which the community has a specified screening site (e.g., toxin exposure) and may refer the individual to a designated screening site.

## B. Stabilizing Treatment

1. If the MSE indicates that the individual has an EMC, CRMC will provide:
  - a. Treatment within the capabilities and capacity of the staff and facilities routinely available at CRMC (including on-call physicians and ancillary services routinely available) as required to stabilize the individual before the individual is discharged or transferred to another facility; or
  - b. An appropriate discharge or transfer as described below.

## C. Appropriate Discharge or Transfer

1. When the individual is stable, CRMC may discharge or transfer the individual as appropriate. The individual's stabilized condition shall be documented in the medical record. An individual is considered stable under the following circumstances:
  - a. The individual does not need continued care, or no material deterioration is likely to result if the patient receives continued care as an outpatient or later as an inpatient, and the patient is given a plan for appropriate follow-up care (Discharge).



- b. The individual's EMC is resolved, although the underlying medical condition may remain, and/or no material deterioration of the individual's condition is likely to result from or occur during a transfer (Transfer to another facility).
      - c. A pregnant woman having contractions has delivered the child and the placenta, or has been determined by a QMP to be in false labor after a reasonable period of observation.
      - d. An individual with psychiatric conditions is not in danger of harming themselves or others, or they are protected from harming themselves or others.
2. If the individual is not stable, CRMC shall not discharge or transfer the individual unless the following conditions are met:
  - a. The individual requests, in writing, a discharge or transfer to another facility after being informed of CRMC's EMTALA obligations and the risks of discharge or transfer;
  - b. A physician certifies, in writing, that the benefits of discharge or transfer outweigh the risks; and
    - i. If a physician is not physically present, a QMP may consult with a physician and certify, in writing, that the benefits of the discharge or transfer outweigh the risks. The physician is required to countersign the certification within 72 hours of the transfer.
3. When Transferring a patient to another facility, CRMC:
  - a. Continues to provide stabilizing treatment within its capability to minimize the risk to the individual's health or the health of the unborn child.
  - b. Contacts a receiving hospital to confirm the facility has space, personnel to receive the transfer, and a physician who agrees to receive the transfer.
    - i. Date and time of the transfer request and the name of the individual authorized to accept the patient on behalf of the receiving facility shall be documented.
  - c. Arranges appropriate means for the transfer, including qualified personnel and appropriate equipment.
  - d. Sends all medical records to the receiving facility related to the EMC for which the individual presented.

- i. Records (e.g. tests results) not available at the time of transfer shall be sent as soon as practicable after the transfer.
  - e. Completes the form Request for Transfer/Consent to Transfer/Certification for Transfer. Patient consent/request is documented on this form.
  - f. Sends the name of the on-call physician to the accepting facility, if the patient is transferred because of the refusal or failure of an on-call physician to come to CRMC within a reasonable period of time to provide necessary stabilizing treatment.
4. An unstable patient may be transferred to a physician's office only if:
- a. The physician has examined the patient and determined that it is in the individual's best interest to render further care in the office setting; or
  - b. CRMC does not have access to specialized equipment (e.g., ophthalmic equipment) to fully evaluate and treat the person.
- D. Individuals presenting away from the ED or L&D Department
1. If an individual presents at a CRMC hospital department other than the ED or L&D Department and requests an examination or treatment for a potential emergency medical condition or if the individual is unable to communicate, but a reasonable person would believe that the individual needs emergency care, CRMC personnel shall:
    - a. Provide such emergency care as the circumstances, experience, and training of the CRMC personnel allow; and
    - b. Immediately call the ED or 911 (as discussed below) for direction and appropriate disposition.
      - i. The ED may dispatch QMP, transport the individual to the ED, and/or take such other action that is in the individual's best interests.
  2. When appropriate, staff may call 911. For example, when a patient on hospital property requires rescue, stabilization, and/or transport and calling 911 is in the best interest of the patient.
- E. Patient's Refusal to Consent
1. An individual has the right to leave without being seen, refuse a medical examination, treatment, or an appropriate transfer.





- a. Left without being seen
  - i. If a patient leaves without an examination, reasonable attempts shall be made to locate the person in the ED or L&D Department.
  - ii. CRMC shall document information on any known individual who chooses to leave without examination.
- b. Elopement
  - i. If an individual has been seen by a QMP and leaves without informing CRMC staff during or after his/her MSE, CRMC shall make reasonable attempts to locate the individual in the ED or L&D Department.
  - ii. CRMC staff shall document information on any patient who chooses to elope.
- c. Patient refusal of an MSE
  - i. Offer the individual an examination, and document in the medical record the examination was refused.
  - ii. A QMP should attempt to explain to the individual the risks and benefits of the examination and document that such risks and benefits were explained.
  - iii. Take reasonable steps to obtain the individual's written informed refusal (see Patient Treatment Consent/Request/Refusal Form).
  - iv. If the individual refuses to sign a written informed refusal, two CRMC personnel shall document all attempts, including the steps taken to try to obtain the individual's written informed refusal.
- d. Against Medical Advice (AMA)
  - i. A QMP should attempt to explain to the individual the risks of going against medical advice and document that such risks were explained.
  - ii. Take reasonable steps to obtain the individual's written informed refusal (see Patient Treatment Consent/Request/Refusal Form) and have the patient (or representative) sign an AMA form.



- iii. If the individual refuses to sign a written informed refusal and/or AMA paperwork, two CRMC personnel shall document all attempts, including the steps taken to try to obtain the individual's written informed refusal.

#### F. Acceptance of Patient Transfers

1. The Transfer Center staff receives and addresses requests for patient transfers to CRMC. The transfer center staff:
  - a. Locate an accepting physician to determine if CRMC has the capability to accept the patient, and
  - b. Determine if CRMC has the capacity to accept the patient.
2. CRMC shall accept the transfer of an individual for emergency care if:
  - a. CRMC provides the specialized capabilities required by the patient, including:
    - i. Physician specialty
    - ii. Specialized equipment
    - iii. Facilities
    - iv. Ancillary services
  - b. CRMC has the capacity to treat the patient including:
    - i. Beds
    - ii. Staff
    - iii. Available equipment
  - c. The individual is in an ambulance en route to CRMC, unless CRMC is on diversionary status.
3. If CRMC does not have available capabilities or capacity, diversionary status may be considered.
  - a. Diversionary status is the period during which, in the good faith judgment of CRMC administration, after consultation with physicians and nursing staff, it is determined that CRMC lacks capability or capacity to handle additional patients and may refuse a transfer from an outside facility.

4. CRMC is not required to accept the transfer of an individual from a transferring hospital that has the capability and capacity to stabilize the individual.

#### G. On-Call Physicians

1. CRMC maintains a list of on-call physicians who are available to assist CRMC in providing emergency care as described above.
  - a. If an MSE indicates that a person has an EMC requiring the services of an on-call physician, CRMC shall contact the on-call physician to provide necessary consultation.
  - b. The on-call physician shall respond within the timeframe defined in Medical Staff Rules unless circumstances prevent an earlier response.
  - c. The physician may respond by telecommunication, provided that the physician will present at the Hospital if requested by the ED physician or QMP.
2. If an on-call physician fails or is unable to respond in a timely fashion, CRMC staff will:
  - a. Contact an alternative or back-up physician from the on-call list, if there are any.
  - b. If no alternative or backup physicians are available and the individual needs emergency care that is not available at CRMC, arrange for an appropriate transfer to another hospital or medical facility as described above.
    - i. Staff will send the name and address of the on-call physician who refused or failed to respond within a reasonable time to the receiving hospital or medical facility.
  - c. Notify the Medical Staff Office of the physician's failure to timely respond so that appropriate action may be taken. Depending on the circumstances, failure to respond may include corrective action against the physician or the physician's privileges.

#### H. Signs and Records

1. CRMC shall display signage in an open and conspicuous area within the ED, Patient Access, admitting area, and in other locations where patients are waiting for an MSE and treatment specifying:



- a. The rights of individuals with EMCs and women in labor; and
- b. CRMC participates in the applicable State Medicaid program.

## 2. Central Log

- a. CRMC maintains a central log of each individual who comes to CRMC seeking emergency assistance and whether he or she:
  - i. Left without being seen
  - ii. Refused examination or treatment by QMP
  - iii. Eloped
  - iv. Was refused treatment
  - v. Left against medical advice
  - vi. Refused transfer
  - vii. Was transferred, admitted and treated, stabilized and transferred or discharged
- b. CRMC also maintains a log of each individual who comes to an off-campus department seeking examination or treatment of a potential EMC.
- c. Logs may be maintained in areas other than the ED (e.g. L&D Department).
- d. The on-call physician list shall be maintained and reflect the specialties routinely available at CRMC.
- e. CRMC shall retain records related to EMTALA, including log, lists, medical and other records related to patients transferred to or from CRMC for a minimum of five (5) years.

## I. Reporting Violations and Non-Retaliation

1. No retaliatory action shall be taken against a physician or QMP who refuses to authorize the transfer of a patient with an EMC who has not been stabilized.
2. Suspected or known violations of EMTALA and/or this policy are required to be reported as soon as possible to the Compliance Office or Risk Department, including if the person believes an individual has been transferred to CRMC by another facility in violation of EMTALA.



- a. If a workforce member has knowledge of a violation and does not report, corrective action, including and up to termination may be taken.
- b. The Compliance Office is responsible for overseeing investigations related to EMTALA complaints.
  - i. All concerns shall be logged and addressed as appropriate, regardless if a violation occurred or not.
- c. Reporting can be done through the following methods
  - i. Reporting to supervisor/manager/director/vice president
  - ii. Calling the Compliance Office directly
  - iii. Calling the Risk Department directly
  - iv. Utilizing the compliance reporting hotline (reportit.net)
  - v. Making a report in the electronic occurrence reporting system (Midas)
3. If, after an appropriate investigation and consulting with the Legal Department, it is determined that a violation has occurred, the Director of Risk shall report the suspected violation to CMS within seventy-two (72) hours of the occurrence, if reporting is deemed necessary.
4. Anyone who reports a concern or suspected violation, in good faith, will not be retaliated against, in strict compliance with 7.03.008 Non-Retribution and Non-Retaliation Policy.
  - a. Cheyenne Regional shall not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against anyone exercising his/her right under this policy.
5. Corrective action may result from violations of this policy, up to and including termination and/or revocation of privileges.

**References:**

Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. 1395dd; 42 C.F.R. Parts 413, 482, and 489



Policy #:	7.01.034
Title:	EMTALA: Emergency Medical Treatment and Active Labor Act
Chapter:	Leadership

**Policy Cross Reference:**

- 7.03.008 Non-Retribution and Non-Retaliation Policy
- 13.10.007 Inter-hospital Transfer of Trauma Patients
- 13.10.006 Transfers from Outside Facilities – Trauma Patients

**This policy replaces the following policy:**

**Key Words:** transfer, treatment

Originator: Chief Compliance Officer	
<b>Signatures:</b>	
President, Board of Trustees:	<b>Date:</b>