Educational support materials for ABIM’s Care for the Underserved Module

Question 18

The Emergency Medical Treatment and Active Labor Act (EMTALA), a section of the broader Comprehensive Omnibus Budget Reconciliation Act (COBRA) of 1986, is the federal legislation governing the transfer of patients in unstable condition or women in active labor.[1,2] The original intent of this law was to stop the practice of inappropriate transfer of unstable patients for economic reasons, a practice known as patient “dumping.”[3,4] This became particularly notorious for women in active labor. COBRA and specifically EMTALA have undergone numerous amendments, and has evolved into a federally mandated standard of care for hospitals and physicians.[2] EMTALA applies only to "participating hospitals," which are hospitals that have entered into "provider agreements" under which they will accept payment from HHS, Centers for Medicare and Medicaid Services under the Medicare program for services provided to beneficiaries of that program. In practice this applies to virtually all hospitals in the United States. Although Congress passed EMTALA because hospitals were denying the poor and uninsured the same treatment provided to paying patients, EMTALA applies to all patients, not just patients who lack the required financial resources or medical insurance.[5] In short, EMTALA is generally a nondiscrimination statute that imposes affirmative obligations on hospitals to ensure that all unstable patients receive the same health care treatment irrespective of their financial status.[5]

To comply with EMTALA, a participating hospital must first provide an appropriate medical screening examination within the capability of the hospital’s emergency department to determine whether an emergency medical condition exists.[1,2,6] The screening examination must be the same for all persons coming to the emergency department with similar signs and symptoms and must be more comprehensive than the triage process.[6] In cases where an emergency medical condition is found, the hospital must provide either the necessary medical treatment to stabilize the medical condition, or transfer the patient to another facility within the specific parameters of EMTALA’s transfer rules.[5,7] These transfer rules include written consent from the patient to transfer; an accepting physician at the transfer facility; the transfer must be by appropriate medical vehicle; there must be qualified transport personnel to meet the level of care needed by the patient; and copies of medical records and radiographic studies must be sent with the patient.[5,7]

The emergence of the human immunodeficiency virus (HIV) in the 1980’s rekindled debate about individual physicians’ duty to treat potentially contagious patients. The Americans with Disabilities Act created through federal civil rights mechanisms made it a legal duty to treat patients with HIV and if violated there are considerable penalties.[8]

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For further information, see the following:


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