

EMTALA: E.R. Nurses Failed To Get EKG For Patient With Chest Pains, Court Sees Basis For Lawsuit Against Hospital.

The US District Court for the District of Puerto Rico looked carefully at all that happened in the emergency room on the day in question, Christmas Day, 2000.

Commenting at length on the evidence against the hospital, the court ruled that the hospital was not entitled to summary judgment of dismissal.

The deceased patient's family were entitled to their day in court before a civil jury to argue their case that the hospital violated the US Emergency Medical Treatment and Active Labor Act (EMTALA).

Court Questions Triage Nurse's Assessment

Standard procedure at the hospital was for emergency room patients first to be seen by the triage nurse.

Triage, as the court pointed out, means quickly placing the patient into one of three categories: unstable needing urgent care, stable yet needing attention, or ambulatory, that is, one who can wait.

In EMTALA court cases the emergency room triage nurse's triage is often the first step in the hospital's effort to provide the appropriate medical screening examination the EMTALA requires and the first step in the legal analysis after the fact whether the EMTALA was violated.

Even before triage, how long does the patient have to wait to be seen by the triage nurse? In this case the triage nurse did not even take vital signs for almost thirty minutes, too long, the court felt.

Then how did the triage nurse categorize the patient? If wrongly categorized by the triage nurse a patient who needs and is entitled to a physician's care and prompt diagnostic tests as part of the usual emergency room work-up will not get the appropriate medical screening examination the EMTALA requires.

Although emergency room nurses' actions can lead to EMTALA liability, by the express wording of the law only a hospital or a physician can be sued, unlike ordinary medical malpractice.

The Emergency Medical Treatment and Active Labor Act was enacted in 1986 to prevent hospitals from "dumping" indigent or uninsured emergency-room patients by turning them away or sending them to public hospitals.

However, even when the patient is not turned away the hospital has specific legal obligations.

The hospital must perform an appropriate medical screening examination to determine if an emergency medical condition exists.

An appropriate medical screening examination means more than just hands-on attention by the emergency room medical and nursing staff.

As part of the screening of each emergency room patient the hospital must make use of the ancillary services routinely available to the emergency department customarily used to identify and rule out critical medical conditions.

That is, if patients with chest pains routinely get EKG's, every patient with chest pains must get one.

UNITED STATES DISTRICT COURT
PUERTO RICO
March 20, 2003

Signs / Symptoms of Heart Attack Should Be Triage'd as Urgent

The court commented that the patient's family's case would begin by focusing on the patient's chest pains, headache, light headedness, nausea and vomiting, which would tend to show he was having a heart attack, was unstable and needed care urgently, contrary to what the triage nurse believed.

EKG Was Routine Procedure For E.R. Patients With Chest Pains

The court noted it was standard procedure at this hospital for an emergency patient with chest pains to get an EKG right away and for the EKG to be read immediately by the emergency room nurse.

In legal terms the EKG would be considered part of the ancillary services the EMTALA requires hospitals to incorporate into the appropriate medical screening examination every patient must receive in the emergency room, as were the routine blood tests ordered by the physician.

Lab Tests Delayed

It was not clear from the records, after the patient was actually seen by a physician, whether or not and if so when the lab tests (CBC) and the EKG ordered by the physician were done and evaluated.

That would be an argument in favor of the patient's family's case when they went before the jury, the court indicated.

Responsibility Placed on Nurses

The court put responsibility on the emergency room nurses to orchestrate the medical tests being done and interpreted by a trained nurse or physician to be sure the hospital did not violate the EMTALA.

Duty to Stabilize

The EMTALA also requires a hospital to stabilize the patient medically before discharge. It was questionable whether this patient was stable, but it is not a nursing responsibility to certify the patient as stable.

Marrero v. Hospital Hermanos Melendez, Inc., ___ F. Supp. 2d ___, 2003 WL 1597837 (D. Puerto Rico, March 20, 2003).