

# LEGAL EAGLE EYE NEWSLETTER

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## EMTALA: BP Still High At Discharge, Court Says Hospital Failed To Stabilize The Patient.

The patient was brought to the hospital's emergency department by ambulance from her home after experiencing episodes of syncope. According to the court record she had also been falling and had poorly controlled high blood pressure.

In the emergency department her blood pressure was taken frequently by two physicians and a nurse in addition to her being placed on an automatic blood-pressure cuff monitoring device.

After three hours of close observation her blood pressure had dropped from 200/110 to 133/91 and a physician ordered her discharged. The physician instructed her to stop taking her atenolol and to follow up in her primary-care physician's office. He also cautioned her to get in the habit of sitting on the side of the bed for five minutes before trying to stand up.

It took more than two hours after the physician discharged her for an ambulance to come to take her home. During that time she twice fell off the bed where she was sitting. The nurse took her blood pressure both times, got readings of 180/110 and 170/100, but did not notify the physician.

The patient left and then came back to the hospital two days later. She had had a stroke.



***The US Emergency Medical Treatment and Active Labor Act (EMTALA) requires a hospital to stabilize a patient's condition before discharge from the E.R.***

***When she fainted, after being discharged but before actually leaving, her BP was back up to 180/110. Her medical condition was not stabilized.***

UNITED STATES DISTRICT COURT  
NEW JERSEY  
June 29, 2005

The patient had to undergo comprehensive rehab for the sequelae of her stroke and now has significant residual functional limitations.

She sued the hospital for violation of the US Emergency Medical Treatment and Active Labor Act (EMTALA) and in the same lawsuit sued the two physicians and the nurse for common-law medical malpractice.

### **Preliminary Ruling EMTALA Does Apply**

The hospital asked the US District Court for the District of New Jersey for a preliminary ruling whether this case comes under the EMTALA. The court ruled that it does.

The court has not yet ruled on the malpractice allegations filed against the nurse, the physicians and the hospital as the nurse's employer.

### **EMTALA Liability Defined**

The EMTALA is a US Federal statute which can hold hospitals and physicians liable for the handling of emergency cases whether or not there is also common-law liability for professional malpractice.

In a nutshell, a patient who seeks treatment in a hospital emergency department with an emergency medical condition or in active labor must get an

(Continued on page 5)

Inside this month's  
issue ...

August 2005  
New Subscriptions  
See Page 3

# EMTALA: Blood Pressure Elevated, Court Says Hospital Failed To Stabilize Patient (Continued.)

(Continued from page one)

appropriate medical screening examination, as defined by the EMTALA, and cannot be discharged or transferred to another facility before the emergency medical condition has been stabilized.

(The EMTALA does contain language, not relevant to this case, to permit an emergency patient to be transferred to another facility, like a regional trauma center or university teaching hospital, in less than stable condition, if it can be documented medically that the other facility is better able and will better take care of the patient's particular medical needs.)

## **Patient Had Not Been Stabilized**

The hospital conceded that this patient had an emergency medical condition when she arrived at the hospital. That was not an issue in the patient's lawsuit.

The patient admitted that the hospital did provide her with an appropriate medical screening examination for her emergency medical condition as required by the EMTALA. That also was not an issue in the patient's lawsuit.

The issue was whether the patient's emergency medical condition had been stabilized, as required by the EMTALA, before she was allowed to leave.

The hospital conceded that one of the emergency physicians would admit in his testimony that a patient who had presented with a history of hypertension and a recent history of syncope whose blood pressure was 180/110 would not be considered to be in stable condition.

The court ruled that should be the endpoint of the legal analysis in an EMTALA case. The hospital's remaining arguments were dismissed by the court as invalid.

## **Uninsured/ Indigent Patient Not Relevant to EMTALA Case**

The hospital's lawyers pointed to the legislative history of the EMTALA. It was originally enacted in 1986 by the US Congress as a response to public outcry over private for-profit hospitals "dumping" uninsured and/or indigent emergency-room patients by discharging them without treatment or sending them to other facilities such as publicly funded receiving hospitals.

***In relevant part, EMTALA provides:***

***(a) Medical screening requirement ...***

***(b) Necessary stabilizing treatment for emergency medical conditions and labor (1) In general***

***If any individual (whether or not eligible for benefits under this subchapter) comes to a hospital and the hospital determines that the individual has an emergency medical condition, the hospital must provide either--***

***(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition, or***

***(B) for transfer of the individual to another medical facility in accordance with subsection (c) of this section.***

***(c) Restricting transfers until individual stabilized***

***(1) If an individual at a hospital has an emergency medical condition which has not been stabilized (within the meaning of subsection (e)(3)(B) of this section), the hospital may not transfer the individual....***

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Although the intent of Congress was not expressly stated in the EMTALA, Federal courts in some parts of the US required the patient to show that he or she was an indigent or uninsured individual, or perceived as such by hospital staff, to be able to sue under the EMTALA. Federal courts in other parts of the US took the tack that the EMTALA applies to all patients, insured or uninsured, medically indigent or able to pay, eligible for Medicare or Medicaid or not, as long as the hospital itself participates in Medicare.

In this case the Federal Court in New Jersey pointed to a case from the Fourth US Circuit Court of Appeal upholding the requirement the patient be uninsured or indigent or so-perceived to sue under the EMTALA, which was overruled by the US Supreme Court in 1999, setting a national standard that all patients have the same rights under the EMTALA regardless of their financial status or the perception of that status by hospital staff.

No patient who comes to a hospital with an emergency medical condition can be discharged, that is, allowed to leave the hospital (unless against medical advice) if the patient's presenting emergency medical condition has not been stabilized.

## **Patient Left Two Hours After Discharge**

The court in this case expected the nurses to stay on top of the patient's condition while the patient is still on the premises waiting to leave, even after technically being medically discharged.

Recurrence of the signs and symptoms which brought the patient in in the first place would clearly indicate the patient is probably not stabilized and that the physicians' decision to discharge the patient was not correct, at least in hindsight. The nurse has an obligation to take action in this situation. Love v. Rancocas Hosp., 2005 WL 1541052 (D.N.J., June 29, 2005).