

## **EMTALA: Patient Elopes, Returns, Cannot Sue Under Over Screening Exam.**

An eighty year-old patient was slurring her speech so her family brought her to the emergency room.

She was admitted for observation and cerebral vascular accident work-up. Over the next two days the medical work-up indicated her stroke symptoms had stabilized and she could probably go home in another day or two.

However, her physician had to spend a good deal of time and effort trying to convince her to stay in the hospital rather than leaving immediately.

Late that night the patient put on her clothes, left against medical advice and was later found by a nursing assistant in a ditch across the street from the back of the hospital. She was brought back to the emergency room, but refused to allow the triage nurse to take vital signs, assess her mental status or examine or treat a bruise from falling in the ditch. Two nurses told her family members they could not force her to stay, so the family members took her home, where she stroked.

The family sued the hospital under the US Emergency Medical Treatment and Active Labor Act (EMTALA) for not providing a medical screening exam when she was brought back and then inappropriately discharging her without treatment.

The US District Court for the Northern District of California dismissed the lawsuit. One, she was still an inpatient when she was brought back right after the elopement, not a new E.R. case.

Two, the EMTALA does not impose liability on a hospital when a person for whom there is no proof of mental incompetency refuses an appropriate medical screening examination and necessary stabilizing treatment offered in the emergency department. **Cavender v. Sutter Lakeside Hosp., 2005 WL 2171714 (N.D. Cal., September 6, 2005).**