

LEGAL EAGLE EYE NEWSLETTER

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Emergency Department: Nurses Discharged Patient Still In Pain, EMTALA Violation Found.

Fifteen months after [gastric bypass surgery](#) the patient came to the emergency room with abdominal pain.

Her labs were normal and an x-ray showed a large amount of stool and gas in her intestines. She was given opioid pain medication and sent home.

Later that same morning she came back with abdominal pain that was much worse than before. The physician ordered Ativan, [Haldol](#) and a soap suds enema.

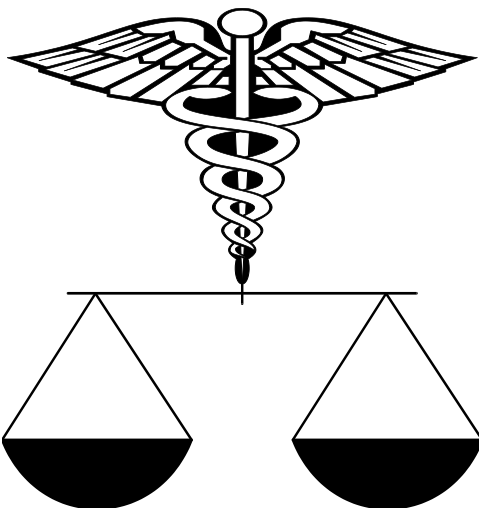
Five hours later the nurses discharged the patient home per the physician's order, even though her abdominal pain was still 8 on a scale of 1-10.

That same evening the patient went into cardiac arrest at home. She was brought back by ambulance and resuscitated but died the next day after a second cardiac arrest in the hospital.

The cause of death was ruled septic shock from peritonitis due to an internal hernia.

Discharge Violated the EMTALA

The US District Court for the Northern District of California ruled the hospital violated the US Emergency Medical Treatment and Active Labor Act (EMTALA) when the patient was discharged before the emergency medical condition that brought her to the emergency department, severe abdominal pain, had been stabilized.



The emergency department nurses discharged the patient while her abdominal pain was still 8/10.

Having identified an emergency medical condition, severe abdominal pain, the hospital could not discharge or transfer the patient until the patient's emergency medical condition had been stabilized.

UNITED STATES DISTRICT COURT
CALIFORNIA
January 25, 2017

There was no violation of the EMTALA's requirement that the patient receive an appropriate [medical screening examination](#).

A hospital emergency department must provide a medical screening examination sufficient to determine if an emergency department patient has an emergency medical condition.

This hospital did give this patient a sufficient examination, as shown by the physician's note of severe abdominal pain the physician expressly identified as an emergency medical condition.

However, if the emergency department's medical screening examination reveals that the patient has an emergency medical condition, the hospital must [stabilize](#) that condition before the patient can be discharged or transferred to another facility, or the hospital violates the EMTALA.

In this case a nurse's note of pain 8/10 at the time of discharge was proof in and of itself that the hospital should not have discharged this patient.

Discharging this patient while she was still suffering from the emergency medical condition which brought her to the emergency department in the first place was an EMTALA violation by the hospital, the Court ruled. [Munoz v. Hospital](#), 2017 WL 363330 (N.D. Cal., January 25, 2017).

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