

Emergency Medical Treatment And Active Labor Act: No Blood Pressure Taken, No Violation Of Act By Nurse.

The parents brought their young child to the hospital's emergency room with a fever of 106.5°. The family's pediatrician examined the child and ordered lab tests and a chest x-ray, which were carried out promptly by the hospital staff. Two hours later the child's temperature had dropped to 103.2°. The pediatrician consulted with a pediatrics intern at the hospital. Their consensus was the child suffered from constipation, and recommended at this point that the parents take the child home.

At 4:45 a.m. the next morning the child went into convulsions and stopped breathing. The parents called an ambulance to take the child back to the hospital. There the child died within an hour and one half.

The cause of death was ruled meningococemia on post mortem examination.

The parents sued the hospital. The rationale behind the parents' suit was the allegation the hospital's triage nurse had violated the Emergency Medical Treatment and Active Labor Act, 42 U.S.C. §1395dd (EMTALA).

The suit alleged the hospital had not provided an appropriate medical screening examination as required by the EMTALA, in that the triage nurse had not taken the patient's complete vital signs. The parents' expert witness claimed it is negligent for an emergency room nurse not to include the patient's blood pressure as part of taking vital signs.

The hospital countered this allegation by showing that it had a standard written policy for how the triage nurse was to assess patients in the emergency room. The hospital's policy was that vital signs should be taken on all urgent patients at the time of triage by the nurse, while non-urgent patients could be asked to wait in the lobby until the nurse became available to take vital signs.

It was not the hospital's actual practice for its policy regarding vital signs to be

The courts have established that an EMTALA violation is vastly different from medical negligence and that the appropriateness of a screening examination in the emergency room is not to be judged against a medical negligence standard.

The EMTALA is not a substitute for medical malpractice law. It is not intended to guarantee correct diagnosis or to provide a Federal legal remedy for misdiagnosis or medical negligence.

The EMTALA requirement of an "appropriate" screening examination in the emergency room means that hospitals must determine what their screening requirements will be, and then apply them uniformly to all individuals who come into the emergency room. Each patient is to be accorded the same level of treatment regularly provided in the emergency room to patients in similar circumstances.

The hospital's motive for disparate treatment of an emergency room patient is not relevant to whether the patient can file a successful lawsuit.

COURT OF APPEALS OF TEXAS, 1997.

interpreted by emergency room nurses to require blood pressures be taken on all pediatric patients at the time of initial triage in the emergency room.

The hospital offered the affidavit of its trauma services coordinator regarding its policies and practices. The affidavit satisfied the court that for this patient all of the hospital's policies and standard practices and procedures had been followed accurately and appropriately. Even though his blood pressure was not taken as part of his vital signs at the time of triage by the emergency room nurse, this patient received the same initial screening examination as any other patient would get who presented with the same complaints and symptoms.

The trial court found no EMTALA violation in the triage nurse's actions. The Court of Appeals of Texas agreed and ruled that dismissal of the case was proper.

An expert witness affidavit had been offered to the court by the parent's attorneys saying that it was professional negligence not to include a blood pressure along with the vital signs taken by a triage nurse in an emergency room. The court disregarded the expert's opinion as irrelevant under the EMTALA.

To decide whether the EMTALA has been violated, it is immaterial whether professional negligence or malpractice has been committed by medical, nursing or other healthcare personnel, the court ruled. The EMTALA was only meant to insure uniform, non-discriminatory treatment of emergency patients.

The key to the EMTALA is the hospital's policies and practices for E.R. patients with specific presenting complaints, and whether the hospital has screened, examined and treated the patient in question in the E.R. in line with its own policies and standard practices, according to the court. ***Casey vs. Amarillo Hospital District, 947 S. W. 2d 301 (Tex. App., 1997).***