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## *Interpretation of EMTALA in Medical Malpractice Litigation*

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The Emergency Medical Treatment and Labor Act (EMTALA) prohibits the discharge or transfer of medically unstable, emergency department patients from one hospital to another unless the benefit of the transfer outweighs the potential risk. Patients may be transferred, upon their request, once they have undergone a medical screening examination and been stabilized within the capabilities of the emergency department and available ancillary services. In addition, a patient may be transferred in order to obtain a higher level of care not available at the transferring facility. The original intent of the law was to prevent the “dumping” of medically unstable, indigent patients for economic reasons (e.g. inability to pay).

Over the years, potential uncertainty has arisen regarding the meaning of the terms “emergency medical condition” and “to stabilize.” EMTALA investigators, as well as trial courts dealing with medical malpractice litigation, have broadened the interpretation of these terms far beyond the legislative intent and legal definitions cited in Title 42, Chapter 7, Subchapter 18, Part E, Section 1395dd of the U.S. Code, “Examination and Treatment for Emergency Medical Conditions and Women in Labor:”

### “e) Definitions

In this section:

(1) The term “emergency medical condition” means—

(A) a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

- (i) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy,
- (ii) serious impairment to bodily functions, or
- (iii) serious dysfunction of any bodily organ or part; or

(B) with respect to a pregnant woman who is having contractions—

- (i) that there is inadequate time to effect a safe transfer to another hospital before delivery, or

(ii) that transfer may pose a threat to the health or safety of the woman or the unborn child.”

“(3)(A) The term “to stabilize” means, with respect to an emergency medical condition described in paragraph (1)(A), to provide such medical treatment of the condition as may be necessary to assure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual from a facility, or, with respect to an emergency medical condition described in paragraph (1)(B), to deliver (including the placenta).”

It is the policy of the American College of Emergency Physicians that the Emergency Medical Treatment and Labor Act should not be interpreted to extend beyond the actual statutory language with respect to an EMTALA investigation or when considered in conjunction with medical malpractice litigation.