

authority to make health care decisions on behalf of the patient.

(b) Any licensee, physician, medical director, or emergency medical technician or paramedic who acts under the direction of a medical director is not subject to criminal prosecution or civil liability, and has not engaged in negligent or unprofessional conduct, as a result of the withholding or withdrawal of resuscitation from a patient pursuant to this subsection and rules adopted by the department.

(c) The department, in consultation with the Department of Elderly Affairs and the Agency for Health Care Administration, shall develop a standardized do-not-resuscitate identification system with devices that signify, when carried or worn, that the possessor is a patient for whom a physician has issued an order not to administer cardiopulmonary resuscitation. The department may charge a reasonable fee to cover the cost of producing and distributing such identification devices. Use of such devices shall be voluntary.

(4) Any licensee or emergency medical technician or paramedic who in good faith provides emergency medical care or treatment within the scope of their employment and pursuant to oral or written instructions of a medical director shall be deemed to be providing emergency medical care or treatment for the purposes of s. 768.13(2)(b).

(5) The department shall adopt and enforce all rules necessary to implement this section.

History

s. 26, ch. 73-126; s. 3, ch. 76-168; s. 1, ch. 77-174; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 24, 25, 27, ch. 82-402; s. 13, ch. 83-196; ss. 26, 36, ch. 92-78; s. 8, ch. 99-331; s. 5, ch. 2000-295.

Statutes » Title 29 » Ch. 401 » Sec. 401.27

Personnel; standards and certification.

(1) Each permitted ambulance not specifically exempted from this part, when transporting a person who is sick, injured, wounded, incapacitated, or helpless, must be occupied by at least two persons, one of whom must be a certified emergency medical technician, certified paramedic, or licensed physician and one of whom must be a driver who meets the requirements for ambulance drivers. This subsection does not apply to interfacility transfers governed by s. 401.252(1).

(2) The department shall establish by rule educational and training criteria and examinations for the certification and recertification of emergency medical technicians and paramedics. Such rules must require, but need not be limited to:

(a) For emergency medical technicians, proficiency in techniques identified in s. 401.23(7) and in rules of the department.

(b) For paramedics, proficiency in techniques identified in s. 401.23(1) and in rules of the department.

(3) Any person who desires to be certified or recertified as an emergency medical technician or paramedic must apply to the department under oath on forms provided by the department which shall contain such information as the department reasonably requires, which may include affirmative evidence of ability to comply with applicable laws and rules. The department shall determine whether the applicant meets the requirements specified in this section and in rules of the department and shall issue a certificate to any person who meets such requirements.

(4) An applicant for certification or recertification as an emergency medical technician or paramedic must:

(a) Have completed an appropriate training course as follows: 1. For an emergency medical technician, an emergency medical technician training course equivalent to the most recent emergency medical technician basic training course of the United States Department of Transportation as approved by the department; 2. For a paramedic, a paramedic training program equivalent to the most recent paramedic course of the United States Department of Transportation as approved by the department;

(b) Certify under oath that he or she is not addicted to alcohol or any controlled substance;

(c) Certify under oath that he or she is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties;

(d) Within 1 year after course completion have passed an examination developed or required by the department;

(e) 1. For an emergency medical technician, hold either a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent as defined by department rule; 2. For a paramedic, hold a certificate of successful course completion in advanced cardiac life support from the American Heart Association or its equivalent as defined by department rule;

(f) Submit the certification fee and the nonrefundable examination fee prescribed in s. 401.34, which examination fee will be required for each examination administered to an applicant; and

(g) Submit a completed application to the department, which application documents compliance with paragraphs (a), (b), (c), (e), (f), (g), and, if applicable, (d). The application must be submitted so as to be received by the department at least 30 calendar days before the next regularly scheduled examination for which the applicant desires to be scheduled.

(5) The certification examination must be offered monthly. The department shall issue an examination admission notice to the applicant advising him or her of the time and place of the examination for which he or she is scheduled. Individuals achieving a passing score on the certification examination may be issued a temporary certificate with their examination grade report. The department must issue an original certification within 45 days after the examination. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department shall provide challenged examination questions and answers to the administrative law judge. The department shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers in accordance with s. 119.071(1)(a).

(6)

(a) The department shall establish by rule a procedure for biennial renewal certification of emergency medical technicians. Such rules must require a United States Department of Transportation refresher training program of at least 30 hours as approved by the department every 2 years. The refresher program may be offered in multiple presentations spread over the 2-year period. The rules must also provide that the refresher course requirement may be satisfied by passing a challenge examination.

(b) The department shall establish by rule a procedure for biennial renewal certification of paramedics. Such rules must require candidates for renewal to have taken at least 30 hours of continuing education units during the 2-year period. The rules must provide that the continuing education requirement may be satisfied by passing a challenge examination.

(7) A physician, dentist, or registered nurse may be certified as a paramedic if the physician, dentist, or registered nurse is certified in this state as an emergency medical technician, has passed the required emergency medical technician curriculum, has successfully completed an advanced cardiac life support course, has passed the examination for certification as a paramedic, and has met other certification requirements specified by rule of the department. A physician, dentist, or registered nurse so certified must be recertified under this section.

(8) Each emergency medical technician certificate and each paramedic certificate will expire automatically and may be renewed if the holder meets the qualifications for renewal as established by the department. A certificate that is not renewed at the end of the 2-year period will automatically revert to an inactive status for a period not to exceed 180 days. Such certificate may be reactivated and renewed within the 180 days if the certificateholder meets all other qualifications for renewal and pays a \$25 late fee. Reactivation shall be in a manner and on forms prescribed by department rule. The holder of a certificate that expired on December 1, 1996, has until September 30, 1997, to reactivate the certificate in accordance with this subsection.

(9) The department may suspend or revoke a certificate at any time if it determines that the holder does not meet the applicable qualifications.

(10) The department may provide by rule for physically disabled persons to take and be provided with the results of the written portion of the emergency medical technician certification examination or paramedic certification examination. However, such persons may not receive any special assistance in completing the examination. An individual who achieves a passing grade on the emergency medical technician certification examination or paramedic certification examination may be issued a limited emergency medical technician certificate or a limited paramedic certificate. An individual issued a limited certificate may not perform patient care or treatment activities.

(11)

(a) A certificateholder may request that his or her emergency medical technician certificate or paramedic certificate be placed on inactive status by applying to the department before his or her current certification expires and paying a fee set by the department not to exceed \$50.

(b) 1. A certificateholder whose certificate has been on inactive status for 1 year or less following the date his or her emergency medical technician certificate or paramedic certificate expired may renew his or her certificate pursuant to the rules adopted by the department and upon payment of a late renewal fee set by the department not to exceed \$100. 2. A certificateholder whose certificate has been on inactive status for more than 1 year may renew his or her certificate pursuant to rules adopted by the department. To renew, the certificateholder must pass the certification examination and complete continuing education requirements and a field internship.

(c) A certificate which has been inactive for more than 6 years automatically expires and may not be reinstated.

(12) An applicant for certification who is an out-of-state trained emergency medical technician or paramedic must provide proof of current emergency medical technician or paramedic certification or registration based upon successful completion of the United States Department of Transportation emergency medical technician or paramedic training curriculum and hold a current certificate of successful course completion in cardiopulmonary resuscitation (CPR) or advanced cardiac life support for

emergency medical technicians or paramedics, respectively, to be eligible for the certification examination. The applicant must successfully complete the certification examination within 1 year after the date of the receipt of his or her application by the department. After 1 year, the applicant must submit a new application, meet all eligibility requirements, and submit all fees to reestablish eligibility to take the certification examination.

(13)The department shall adopt a standard state insignia for emergency medical technicians and paramedics. The department shall establish by rule the requirements to display the state emergency medical technician and paramedic insignia. The rules may not require a person to wear the standard insignia but must require that if a person wears any insignia that identifies the person as a certified emergency medical technician or paramedic in this state, the insignia must be the standard state insignia adopted under this section. The insignia must denote the individual's level of certification at which he or she is functioning.

History

s. 7, ch. 73-126; s. 3, ch. 76-168; s. 251, ch. 77-147; s. 1, ch. 77-257; s. 2, ch. 77-347; s. 1, ch. 77-457; s. 19, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 10, 24, 25, ch. 82-402; ss. 6, 12, 13, ch. 83-196; s. 9, ch. 84-317; s. 1, ch. 86-74; s. 59, ch. 86-220; ss. 9, 36, ch. 92-78; s. 794, ch. 95-148; s. 46, ch. 97-237; s. 30, ch. 99-397; s. 18, ch. 2001-53; s. 42, ch. 2004-335; s. 49, ch. 2005-251.

Administrative Rule – Emergency Care

59A-3.255 Emergency Care.

(1) SIGNAGE REQUIREMENTS.

(a) Each hospital offering emergency services and care shall post, in a conspicuous place in the emergency service area, a sign clearly stating a patient's right to emergency services and care as set forth in Section 395.1041, F.S. The sign shall be posted in both English and in Spanish.

(b) Each hospital offering emergency services and care shall post a sign identifying the service capability of the hospital. The categories of services listed on the sign may be general in nature if the sign refers patients to another location within that facility where a list of the subspecialties is available. The sign identifying the service capability of the hospital and the additional listing of subspecialties, if a separate subspecialty list is maintained, shall be in both English and in Spanish.

(c) The signs required by this rule section shall be posted in a location where individuals not yet admitted to the hospital would reasonably be expected to present themselves for emergency services and care.

(2) TRANSFER PROCEDURES. Each hospital providing emergency services and care shall establish policies and procedures which incorporate the requirements of Chapter 395, F.S., relating to emergency services. The policies and procedures shall incorporate at a minimum:

(a) Decision protocols identifying the emergency services personnel within the hospital responsible for the arrangement of outgoing and incoming transfers;

(b) Decision protocols stating the conditions that must be met prior to the transfer of a patient to another hospital. These conditions are:

1. If a patient, or a person who is legally responsible for the patient and acting on the patient's behalf, after being informed of the hospital's obligation under Chapter 395, F.S., and of the risk of transfer, requests that the transfer be effected; or

2. If a physician has signed a certification that, based upon the reasonable risks and benefits to the patient, and based upon the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another hospital outweigh the increased risks to the individual's medical condition from effecting the transfer; or

3. If a physician is not physically present in the emergency services area at the time an individual is transferred, a qualified medical person may sign a certification that a physician with staff privileges at the transferring hospital, in consultation with such personnel, has determined that the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual's medical condition from effecting the transfer. The certification shall summarize the basis for such determination. The consulting physician must sign the certification within 72 hours of the transfer.

(c) A provision providing that all medically necessary transfers shall be made to the geographically closest hospital with the service capability, unless another prior arrangement is in place or the geographically closest hospital is at service capacity as stated in Section 395.1041(3)(e), F.S.

(d) Protocols for maintaining records of patient transfers made or received for a period of five years. Patient transfer information shall be incorporated separately in transfer logs and into the patient's permanent medical record as stated in Section 395.1041(4)(a)1, F.S.

(e) Documentation of all current transfer arrangements that have been made with other hospitals and physicians.

(f) A copy of Section 395.1041, F.S., Access to Emergency Services and Care, and a copy of these rules.

(g) Provisions for informing hospital emergency services personnel and medical staff of the hospital's emergency service policies and procedures, having at a minimum, the requirement to provide emergency services and care pursuant to Section 395.1041, F.S.

(3) INVENTORY REPORTING.

(a) Pursuant to Section 395.1041, F.S., the agency is responsible for compiling an inventory of hospitals with emergency services. This inventory shall list all services within the service capability of the hospital.

A copy of this inventory may be obtained by contacting the Agency for Health Care Administration, Division of Health Quality Assurance, Ft. Knox Office Building, 2727 Mahan Drive, Tallahassee, Florida, 32308. The per page duplication costs will be computed in accordance with Chapter 119, F.S.

(b) Every hospital offering emergency services and care shall report to the agency for inclusion in the inventory those services which are within the service capability of the hospital. The following services, when performed on an infrequent and short time limited basis, are not considered to be within the service capability of the hospital:

1. Services performed for investigative purposes under the auspices of a federally approved institutional review board; or
2. Services performed for educational purposes; or
3. Emergencies performed by physicians who are not on the active medical staff of the reporting hospital.

(c) Any addition of service shall be reported to the agency prior to the initiation of the service. The agency will act accordingly to include the service in the next publication of the inventory and to add the service on the face of the hospital license.

(d) If the agency has reason to believe that a hospital offers a service and the service was not reported on the inventory, the agency will notify the hospital and provide the hospital with an opportunity to respond. The agency shall arrange for an on-site visit prior to the agency's determination of capability, with advance notice of the on-site visit. If, after investigation, the agency determines that a service is offered by the hospital as evidenced by the patient medical records or itemized bills, the agency shall amend the inventory and the face of the hospital license.

(4) EXEMPTIONS.

4. Protocols for receiving a call from a transferring hospital, including:
 - a. Requirements for specific information regarding the patient's problem;
 - b. Estimated time of patient arrival;
 - c. Specific medical requirements;
 - d. A request to transfer the patient's medical record with the patient; and
 - e. The name of the transporting service.

(d) Both transferring and receiving hospitals shall assign a specific person on each shift who shall have responsibility for being knowledgeable of the transfer manual and maintaining it.

(e) Each hospital offering emergency services and care shall maintain written policies and procedures specifying the scope and conduct of emergency services to be rendered to patients. Such policies and procedures must be approved by the organized medical staff, reviewed at least annually, revised as necessary, dated to indicate the time of last review, and enforced. Such policies shall include requirements for the following:

1. Direction of the emergency department by a designated physician who is a member of the organized medical staff.
2. A defined method of providing for a physician on call at all times.
3. Supervision of the care provided by all nursing service personnel with the emergency department by a designated registered nurse who is qualified by relevant training and experience in emergency care.
4. A written description of the duties and responsibilities of all other health personnel providing care within the emergency department.
5. A planned formal training program on emergency access laws, and participation, by all health personnel working in the emergency department.
6. A control register adequately identifying all persons seeking emergency care be established, and that a medical record be maintained on every patient seeking emergency care that is incorporated into the patient's permanent medical record and that a copy of Florida EMS Report, HRS 1894, as required by Rule 64E-2.013, F.A.C., be included in the medical record, if the patient was delivered by ambulance. The control register must be continuously maintained and shall include at least the following for every individual seeking care:
 - a. Identification to include patient name, age and sex;
 - b. Date, time and means of arrival;

- c. Nature of complaint;
- d. Disposition; and
- e. Time of departure.

(f) Every hospital offering emergency services and care shall have a method for assuring that a review of emergency patient care is performed and documented at least monthly, using the medical record and preestablished criteria.

(g) Every hospital offering emergency services and care shall insure the following:

1. That clinical laboratory services with the capability of performing all routine studies and standard analyses of blood, urine, and other body fluids are readily available at all times to the emergency department.
2. That an adequate supply of blood is available at all times, either in-hospital or from an outside source approved by the organized medical staff, and that blood typing and cross-matching capability and blood storage facilities are readily available to the emergency department.
3. That diagnostic radiology services within the service capability of the hospital are readily available at all times to the emergency department.
4. That the following are available for immediate use to the emergency department at all times:
 - a. Oxygen and means of administration;
 - b. Mechanical ventilatory assistance equipment, including airways, manual breathing bag, and ventilator;
 - c. Cardiac defibrillator with synchronization capability;
 - d. Respiratory and cardiac monitoring equipment;
 - e. Thoracenteses and closed thoracostomy sets;
 - f. Tracheostomy or cricothyrotomy set;
 - g. Tourniquets;
 - h. Vascular cutdown sets;
 - i. Laryngoscopes and endotracheal tubes;
 - j. Urinary catheters with closed volume urinary systems;
 - k. Pleural and pericardial drainage set;
 - l. Minor surgical instruments;
 - m. Splinting devices;
 - n. Emergency obstetrical pack;
 - o. Standard drugs as determined by the facility, common poison antidotes, syringes and needles, parenteral fluids and infusion sets, and surgical supplies;
 - p. Refrigerated storage for biologicals and other supplies requiring refrigeration, within the emergency department; and
 - q. Stable examination tables.

(7) Each hospital offering emergency services and care shall have the capability to communicate via two-way radio with licensed EMS providers and their primary communications centers. The two-way radio communications system must meet the following provisions:

- (a) Conform to the State EMS Communications Plan applicable to emergency room or department communications; and
- (b) Any new communications system or an expansion of an existing communication system shall be approved by the Department of Management Services, Division of Communications, prior to purchasing.

Specific Authority 395.1031, 395.1041, 395.1055, 401.024 FS. Law Implemented 395.1031, 395.1041, 395.1055 FS. History—New 9-4-95, Formerly 59A-3.207.

EMTALA Interpretive Guidelines

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-12-25
Baltimore, Maryland 21244-1850



Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-04-34

DATE: May 13, 2004
TO: State Survey Agency Directors
FROM: Director
Survey and Certification Group
SUBJECT: Revised Emergency Medical Treatment and Labor Act (EMTALA) Interpretive Guidelines

Letter Summary

- Revised Appendix V, Interpretive Guidelines – Responsibilities of Medicare Participating Hospitals in Emergency Cases.
- Effective Immediately.

The purpose of this memorandum is to release the revised EMTALA interpretive guidelines to the regional offices (ROs) and State Survey Agencies (SAs). The interpretive guidelines serve to interpret and clarify the responsibilities of Medicare participating hospitals in emergency cases. They contain authoritative interpretations and clarifications of statutory and regulatory requirements and are to be used to assist in making consistent determinations about a provider's compliance with the requirements. These interpretive guidelines merely define or explain the relevant statutes and regulations and do not impose any requirements that are not otherwise set forth in the statutes or regulations.

The revised guidelines clarify and provide detailed interpretation of the EMTALA provisions located at 42 CFR 489.24 and parts 489.20 (l), (m), (q), and (r).