

EMTALA Advisers Debate Inpatient-Transfer Policy

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WASHINGTON — A receiving hospital with specialized capabilities has the responsibility to accept an unstable inpatient from a transferring hospital, but only if the patient had not been stabilized for the original condition requiring admittance, according to a recommendation narrowly approved by the Emergency Medical Treatment and Labor Act Technical Advi-

sory Group in September at its seventh and final meeting.

The EMTALA Technical Advisory Group has been meeting during the last 30 months to help the Department of Health and Human Services improve guidance on and enforcement of the statute.

If the Centers for Medicare and Medicaid Services—which is charged with writing the rules for and enforcing EMTALA—follows the panel's recommendation, it's likely the EMTALA interpretive guide-

lines would be altered, or that a new regulation would be issued under the statute, said panel chairman Dr. David Siegel, an emergency physician and senior vice president at Meridian Health, Neptune, N.J.

The recommended change came after heated debate over whether EMTALA should apply to any inpatient transfers to hospitals with specialized services, such as a catheterization lab. The four CMS officials on the panel all voted in favor of the recommendation.

But other panelists had reservations. The change would "open up a whole new universe of potential issues," said advisory group member Dr. John A. Kusske, chairman of the department of neurologic surgeons at University of California, Irvine, Medical Center. Dr. Kusske said he was concerned that if EMTALA was applied to these transfers, it might make it harder to find specialists to take on-call duty.

Dr. Charlotte S. Yeh, a panelist from the CMS' regional office in Boston, said that the agency has lacked clarity on whether EMTALA applies to these circumstances, and thus has not actively enforced any complaints.

The clarification from the technical advisory group will help CMS shape its enforcement policy, said Dr. Yeh, who also is an emergency physician.

The responsibilities of a receiving hospital were just one issue on a laundry list of concerns discussed and voted on at the 2-day meeting.

The advisory group made a number of recommendations aimed at strengthening hospitals' ability to find and retain on-call physicians. And it unanimously supported the recommendation that liability protection be provided to hospitals and physicians who provide EMTALA care.

The committee also discussed and voted on issues regarding patients with psychiatric and behavioral disorders. They urged the CMS to refine medical screening exams so they determine if an individual is gravely disabled, suicidal, or homicidal. Even if a patient is determined to be in one of those states, that does not mean that he or she has an emergency medical condition, the advisory group said.

In addition, according to the committee, the use of chemical or physical restraints does not constitute stabilization of an emergency medical condition. EMTALA still applies, unless a hospital or physician can demonstrate that the patient is stabilized irrespective of the restraints.

At a meeting earlier this year, the panel had recommended to the CMS that its charter be extended for another year. The issue was taken up again at its final meeting, but the panelists acknowledged that only Congress can extend the advisory group's charter.

Even so, the panel recommended that the HHS secretary recognize its contributions and that its mission be continued in some fashion. Ongoing review of EMTALA is necessary, said Dr. James Nepola, an advisory group member and a professor of orthopedic surgery at the University of Iowa Hospitals and Clinics in Iowa City.

The full accounting of the technical advisory group's final recommendations will be included in its final report to the HHS secretary, which should be published in the fall, Dr. Siegel said.

"I think the EMTALA TAG did a significant amount of good work to improve the EMTALA law, regulations, and interpretative guidelines," he said. "Unfortunately, there are issues beyond the statute, such as reimbursement and liability, that must be addressed to ultimately solve the problem." ■

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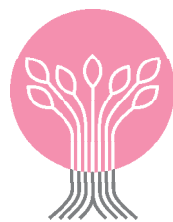
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