Children's Hospital and Health System
Patient Care Policy and Procedure

This policy applies to the following entity(s):
☒ Milwaukee Hospital

SUBJECT: Emergency Medical Treatment and Active Labor Act (EMTALA)

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DEFINITIONS

Dedicated emergency department means any department or facility of the hospital that either:
1. is licensed by the state as an emergency department;
2. is held out to the public as providing treatment for emergency medical conditions; or
3. one-third of the visits to the department in the preceding calendar year actually provided treatment for emergency medical conditions on an urgent basis.

Emergency Medical Condition ("EMC") means:
1. a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances, and/or symptoms of substance abuse) such that the absence of immediate medical attention could reasonably be expected to result in
   a. 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;
   b. serious impairment to bodily functions; or
   c. serious dysfunction to any bodily organ or part; or
2. with respect to a pregnant woman who is having contractions –
   a. that there is inadequate time to effect a safe transfer to another hospital before delivery; or
   b. the transfer may pose a threat to the health or safety of the woman or the unborn child.

Note: Any individual that has been deemed to be a danger to self or others, by definition, has an emergency medical condition.

Medical Screening Examination ("MSE") means a process required to reach with reasonable clinical confidence, the point at which it can be determined whether or not an emergency medical condition exists. Such screening must be done within the hospital's capabilities and available personnel, including on-call physicians.

Stabilized means with respect to an emergency medical condition that no material deterioration of the condition is likely, within reasonable medical probability, to result from or occur during the transfer of an individual from a facility. An individual will be deemed stabilized if the treating physician of the individual with an emergency medical condition has determined, within reasonable clinical confidence, that the emergency medical condition has been resolved.

Transfer means the movement (including the discharge) of an individual to outside a hospital's facilities at the direction of any person employed by (or affiliated or associated with, directly or indirectly) the hospital, but it does not include such a movement of an individual who leaves the facility against medical advice.

POLICY

Children's Wisconsin ("Children's") complies with the Emergency Medical Treatment and Active Labor Act ("EMTALA") and it's implementing regulations. Children's will provide a medical screening examination to any individual who comes to the dedicated emergency department, or within 250 yards of the hospital, and requests an examination or a request is made on the individual's behalf, or a prudent layperson would conclude a need for examination or treatment of a medical condition to determine if the individual has an EMC. If the individual has an EMC, Children's will provide necessary stabilizing treatment or provide for an appropriate transfer if the individual requests transfer or if Children's does not have the capability or capacity to provide the treatment necessary to stabilize the emergency medical condition. Children's will not delay performing a MSE in order to inquire about the individual's method of payment or insurance status. Signage advising patients of their right to receive necessary emergency medical treatment is posted in the emergency department waiting areas.

PROCEDURE

A. Individuals Coming to the Emergency Department

When an individual comes to the dedicated emergency department (or within 250 yards of the hospital) and a request is made by the individual or on the individual's behalf, or a prudent layperson would conclude a need for examination or treatment of a medical

condition, Children's shall provide a MSE within its capabilities to determine whether an EMC exists.

1. If an EMC exists, Children's shall provide necessary stabilizing treatment within the available capabilities of the staff and facilities available.
2. Children's shall provide for an appropriate transfer if either the individual requests the transfer or Children's lacks the capability or capacity to provide the treatment necessary to stabilize the EMC.
3. Children's shall not delay examination or treatment in order to inquire about the individual's insurance or payment status.
4. Children's EMTALA obligation ends when it is determined that no emergency medical condition exists, the individual is appropriately transferred to another facility or the individual is admitted to Children's.

B. Individuals Refusing Treatment or Leaving Prior to Receiving a Medical Screening Examination

1. If an individual indicates their intent to refuse treatment or leave before receiving a MSE, staff will advise the individual of the benefit of receiving the exam and treatment, of any medical condition identified and the risks of the condition worsening without treatment. The individual should be asked to sign the refusal of treatment form to be included on the medical record. If the individual refuses to sign the form, the conversation and refusal should be documented in the medical record.
2. If an individual leaves without notifying staff or receiving a MSE, document that the individual left without notice in the medical record.

C. Accepting Appropriate Transfers

1. Children's will accept appropriate transfers of individuals with an unstable EMC from other dedicated emergency departments if Children's has the specialized capabilities and capacity to treat those individuals.
2. Urgent Care does not accept unstable transfers from other dedicated emergency departments.

D. Transferring to another Facility

Please see Policy and Procedure: *Discharge of a Patient and Transfer to Another Facility from the Hospital, EDTC, or Day Surgery.*

E. Individual Refusal to Transfer

Please see Policy and Procedure: *Discharge of a Patient and Transfer to Another Facility from the Hospital, EDTC, or Day Surgery.*

F. Signage

Children's has signs posted in its emergency department waiting areas specifying the rights of individuals with respect to examination and treatment of emergency medical conditions and women in labor and that the hospital participates in the Medicaid program.

G. Reporting Violations

If staff believe that an EMTALA violation occurred, they should contact Children's risk management department. Children's risk management department will report to the Centers for Medicare and Medicaid Services, within 72 hours of the occurrence, if it has reason to believe it may have received an individual who has been transferred in violation of the requirements of EMTALA.

H. Miscellaneous

1. The hospital shall maintain the medical records related to individuals transferred to or from Children's for a period of at least five years from the date of transfer.
2. The hospital shall maintain an on-call list of physicians who are on the hospital's medical staff and available to provide treatment necessary after the initial examination to stabilize individuals with emergency medical conditions.
3. Off-site locations that do not meet the definition of a dedicated emergency department will follow their emergency medical response plans.

References:

- 42 CFR § 489.24. (EMTALA regulations)
- 42 CFR § 489.20 (l), (m), (q) and (r). (EMTALA regulations)
- CMS State Operations Manual Appendix V
- EMTALA Resource Manual: Wolters Kluwer 2021

Related Children's Policies and Procedures:

- Code Blue for Emergency Medical Situations
- Emergency Detention– Patients with Mental Health Issues in Police Custody or Being Held for Police Custody
- Transition Planning/Discharge of Patient
- Consent for Treatment
- Refusal to Consent to Treatment or Blood Products
- Transfer of a Patient from Children's Urgent Care
- Discharge of a Patient and Transfer to Another Facility from the Hospital, EDTC, or Day Surgery

Approved by:
The Joint Clinical Practice Council August 19, 2024
The Milwaukee Medical Executive Committee October 7, 2024

Addendum A – Emergency Response Map