

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:

1. any department or facility of the hospital that either:
 - a. is licensed by the state as an emergency department;
 - b. is held out to the public as providing treatment for emergency medical conditions; or
 - c. 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;

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- 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 (WI statute 42CFR 389.24).

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.

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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

1. Children's may transfer an individual with an unstable EMC if:
 - a. the individual requests a transfer; or
 - b. if the medical benefits reasonably expected from the provision of appropriate medical treatment at another facility outweigh the risk to the individual, or in the case of a woman in labor, to the unborn child, from being transferred.

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2. Before transferring an unstable individual, Children's shall provide medical treatment within its capacity that minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child.
3. Children's shall send a certification (please see Addendum A) signed by a physician that, based upon the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual or, in the case of a woman in labor, to the woman or the unborn child, from being transferred. The certification shall contain a summary of the risks and benefits upon which it is based.
4. Children's shall ensure that the receiving facility has available space and qualified personnel for the treatment of the individual and has agreed to accept transfer of the individual and to provide appropriate medical treatment.
5. Children's shall send to the receiving facility copies of the medical records related to the emergency condition which the individual has presented that are available at the time of the transfer, including the transfer summary, available history, records related to the individual's emergency medical condition, observations of signs or symptoms, preliminary diagnosis, results of diagnostic studies or telephone reports of the studies, treatment provided, results of any tests and the individual's written consent for the transfer. Records or test results not available at the time of transfer should be sent as soon as practicable after transfer.
6. Children's shall ensure that the transfer is effected through qualified personnel and transportation equipment, including the use of necessary and medically appropriate life support measures during the transfer.

E. Individual Refusal to Transfer

If the individual (or parent/legal guardian) refuses the transfer, explain the risks and benefits of the transfer. If the individual continues to refuse to transfer, document in the medical record the proposed transfer was refused by or on behalf of the patient. Take reasonable steps to obtain the written informed refusal of the transfer from the individual. If the individual has a psychiatric or mental health issue and refuses the transfer to a mental health facility, staff may need to contact law enforcement.

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.

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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:

Patient Care:

- 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

Approved by:

The Joint Clinical Practice Council August 19, 2024

The Milwaukee Medical Executive Committee October 7, 2024



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Addendum A: Transfer to Other Facility Consent and Order

	<p>TRANSFER TO OTHER FACILITY CONSENT AND ORDER</p>
<p>SECTION A This individual is to be transferred consistent with these orders:</p>	
<p>1. Reason for Transfer: <input type="checkbox"/> Individual Request <input type="checkbox"/> Required care not available at CW <input type="checkbox"/> Other: _____</p>	
<p>2. Destination Facility: _____ City: _____</p>	
<p>3. Time of Phone Call: _____ from Transferring MD: _____ to Accepting MD: _____</p>	
<p>4. Transfer Destination: <input type="checkbox"/> Emergency Department <input type="checkbox"/> Direct Admit <input type="checkbox"/> Other: _____</p>	
<p>5. Available Space and Personnel Confirmed: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>6. Required Personnel to Accompany Individual: <input type="checkbox"/> None <input type="checkbox"/> CW Nurses</p>	
<p><input type="checkbox"/> EMT-B <input type="checkbox"/> EMT-I <input type="checkbox"/> EMT-P</p>	
<p><input type="checkbox"/> RN <input type="checkbox"/> RCP <input type="checkbox"/> MD <input type="checkbox"/> Other: _____</p>	
<p>7. Required Life Support: <input type="checkbox"/> None <input type="checkbox"/> BLS <input type="checkbox"/> ALS <input type="checkbox"/> Specialty Care <input type="checkbox"/> Other: _____</p>	
<p>8. Mode of Transportation: <input type="checkbox"/> Internal Campus Transport <input type="checkbox"/> Police Vehicle</p>	
<p><input type="checkbox"/> Ambulance <input type="checkbox"/> Helicopter/Airplane <input type="checkbox"/> Other: _____</p>	
<p>9. Medical Orders:</p>	
<p>a. _____ d. _____</p>	
<p>b. _____ e. _____</p>	
<p>c. _____ f. _____</p>	
<p><i>Note: Attending Physician signature required in Section C below.</i></p>	
<p>SECTION B Nursing Checklist</p>	
<p><input type="checkbox"/> Transfer Service Contacted Date: _____ Time: _____</p>	
<p><input type="checkbox"/> Transfer Service Time of Arrival: _____ Time of Transfer: _____</p>	
<p><input type="checkbox"/> Report given to _____ RN at (time) _____ by _____ RN</p>	
<p><input type="checkbox"/> RN caring for individual at time of transfer: _____ Phone No. _____</p>	
<p><input type="checkbox"/> Personal belongings sent with patient: _____</p>	
<p><input type="checkbox"/> Vital Signs at time of transfer: Time: _____ P: _____ R: _____ BP: _____</p>	
<p><input type="checkbox"/> Copies sent with individual: <input type="checkbox"/> Medical Record <input type="checkbox"/> Transfer Form <input type="checkbox"/> Films</p>	
<p>SECTION C Physician Certification: <i>This certification does not apply if the individual is experiencing an emergency medical condition and requests transfer against medical advice (as indicated in Section D).</i></p>	
<p>I hereby certify that, based on the information available to me at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical care at another medical facility outweigh the increased risk to the individual, and in the case of labor, to the unborn child, from effecting the transfer.</p>	
<p>Potential Risks: _____</p>	
<p>Physician Signature _____ Date: _____ Time: _____ (Required)</p>	
<p>SECTION D Consent to or Request for Transfer:</p>	
<p>I acknowledge that the medical condition of _____ has been evaluated and explained to me by a physician. I understand that I have a right to receive medical screening, examination and evaluation by a physician without regard to my ability to pay prior to any transfer from this hospital. <i>(Please check one of the following)</i></p>	
<p><input type="checkbox"/> With this knowledge and understanding, I agree and consent to the transfer of _____ to _____ I understand that the medical record related to this visit will be copied and sent to the receiving facility.</p>	
<p><input type="checkbox"/> I refuse additional examination and treatment at Children's Wisconsin and request transfer to another hospital.</p>	
<p>Signature of parent/legal guardian: _____ Witness: _____</p>	
<p>Relationship to Individual: _____ Date: _____ Time (Required): _____</p>	
	
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Addendum B: Refusal to Transfer to Another Facility



REFUSAL TO TRANSFER TO ANOTHER FACILITY

My child received a medical screening examination at Children's Wisconsin. My child's medical provider has explained my child's illness to me. I understand that my child may have a very serious illness. The medical provider recommends a transfer to another facility to receive further medical care. The medical provider has also explained the risks and benefits of this transfer.

- I understand the risks and benefits to my child. I do not want to transfer my child to another facility. I accept the risks.
- I understand the risks and benefits to my child. I do not want to transfer my child to another facility in an ambulance. I accept the risks.

Release of Liability

To the fullest extent permitted by law, I (and my child, if I am signing as parent/legal guardian) release from any and all liability, extend absolute immunity to, and agree not to sue Children's Wisconsin, Inc., and its affiliates, officers, directors, employees, volunteers, agents and the medical providers ("Children's") from any liability or claim for loss, injury or illness that I or my child may sustain related to refusing to transfer or refusing to transfer via ambulance. I understand that this release applies to myself (or my child) and my (or my child's) personal representatives, heirs, and assigns, and that this release excludes any harm or loss caused intentionally or recklessly by Children's. I recognize that risks may include the risks identified below. I (and my child) also waive the right I (or my child) have to bargain for different release of liability terms.

Name of proposed transfer facility: _____

Parent/legal guardian's reason for refusing the transfer: _____

Risks of refusing the transfer: _____

Parent/legal guardian signature: _____ Date: _____

Relationship to the patient: _____

Witness signature: _____



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