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MEMORANDUM

To: All Maine Hospitals & Emergency Medical Services (EMS) Entities
From: Departments of Health and Human Services and Public Safety
Date: January 11, 2022
Subject: Information Regarding Hospital Diversion and Ambulance Parking Requests

Hospital resources, including emergency services, may occasionally become overwhelmed. Multiple factors contribute to these stresses, including staff shortages, lack of hospital resources, increased hospital or emergency volume, and challenges with hospital flow due to the COVID-19 pandemic.

Due to these challenges, one response hospitals have implemented to address emergency department (ED) overcrowding is to divert incoming ambulances to other hospitals. Although ambulance diversion can address immediate ED overcrowding issues, it causes delays in patient care, leads to inefficient pairing of patients with appropriate resources, delays the return of the ambulance and crew to their home region for renewed availability, and therefore reduces the emergency medical services (EMS) system's ability to respond within a timely fashion to additional calls for service. Furthermore, ambulance diversion causes disproportionate increases in ED volume at colleague hospitals. In extreme instances, diversion may increase patient morbidity and mortality. Aside from diversion, another strategy employed by hospitals to mitigate overcrowding is to delay EMS from unloading a patient, a practice commonly referred to as EMS "parking".

Both diversion of incoming calls and EMS parking delay a patient's care and delay EMS from responding to other community needs. This may result in the unintended consequence of leaving an entire community uncovered or under-covered for 911 events and interfacility transfers. In addition, patients have the choice of which hospital they wish to be seen at and diversion has the potential to dispossess patients of this choice. A patient's choice of which hospital they wish to be seen at should be respected with very few exceptions. A licensed EMS clinician may advocate for a patient to enter the healthcare system at a particular hospital, if, in the EMS clinician's best assessment, the chosen hospital has the most appropriate resources to meet the patient's needs. Even in these circumstances, if the patient chooses to go to a different hospital, the EMS clinician must comply.[i]

HOSPITAL DIVERSION REQUESTS

Hospitals may notify the EMS System of temporary hospital strains that limit timely emergency care and request ambulances redirect patients to less busy alternate hospitals. **These requests to re-direct to**

another facility may be honored by EMS clinicians when patient condition, patient wishes, and the EMS System status allow.[i] These requests do not mean the hospital ED is closed, but instead mean the current hospital conditions limit the ED's ability to treat additional patients promptly.

Maine EMS protocols define diversion as a "non-binding request" of a hospital and further empowers EMS clinicians to access hospitals "on diversion" if patients insist on a given hospital or the patient's needs require the services of a specific hospital.

A hospital declaring diversionary status to EMS patients is simply a request for EMS to consider an alternate hospital destination. This request can be complied with if aligned with the patient's wishes, the patient's needs, and the EMS system's capabilities. Hospitals may not refuse care for a patient presenting to their facility under Emergency Medical Treatment and Active Labor Act (EMTALA) rules and regulations.

EMS PARKING AND DELAYS IN PATIENT OFF-LOADING

CMS is very clear on the issue of EMS parking. Pursuant to the CMS State Operations Manual, "[h]ospitals that deliberately delay moving an individual from an EMS stretcher to an emergency department bed do not thereby delay the point in time at which their EMTALA obligation begins."[ii] CMS acknowledges the unintended consequences of "parking" patients "jeopardizes patient health and adversely impacts the ability of the EMS personnel to provide emergency response services to the rest of the community."[iii] In addition, CMS State Operations Manual provides that "[h]ospitals that "park" patients may also find themselves in violation of 42 CFR 482.55, the Hospital Condition of Participation for Emergency Services, which requires that hospitals meet the emergency needs of patients in accordance with acceptable standards of practice."[iv]

However, CMS also acknowledges that under extenuating circumstances, it may be reasonable for the hospital to ask the EMS clinician to stay with an individual patient until such time as additional emergency department staff and/or bed space is available.[v] **Hospitals should note that his request, just like diversion, is not a requirement of EMS clinicians, because CMS has stated that EMS parking does not "delay the point in time at which [a hospital's] EMTALA obligation begins.**

We recognize the significant strain that our collective health care system is under; however, we also acknowledge that our chosen solutions to address these challenges should not place patients or communities at risk. We look forward to working collaboratively with hospitals to identify solutions that can assuage the current health care systems' stresses.

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[i] Brown 1, Page 8; Maine EMS Protocols (Dec. 1, 2021).
[ii] CMS State Operation's Manual, Appendix V Section 489.24(a)(1)(i), page 38.
[iii] Ibid. at pages 38-39.
[iv] Ibid. at page 39.
[v] Ibid.