

Confusion, different priorities may cause EMTALA violations

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Legislation requires Medicare-participating emergency departments to give emergency care to everyone even if they don't have insurance, but violations of the law may be underreported, according to researchers.

The researchers interviewed hospitals, [hospital](#) associations and patient safety organizations to gain insight on why violations of the Emergency Medical Treatment and Labor Act (EMTALA) happen, and on possible solutions for improving compliance. They found that while most hospitals don't intend to violate the law, confusion about the law and competing priorities between doctors and hospitals can lead to violations.

"The number of EMTALA investigations probably doesn't reflect the actual number of violations," said Charleen Hsuan, assistant professor of health policy and administration, Penn State. "The people we talked to in the study said there are various reasons why they wouldn't report a suspected violation, even if—for example—the reasons another hospital transferred a patient to them seemed a little suspicious."

According to the researchers, EMTALA was passed in 1986 in response to several well-publicized instances in which [patients](#) were turned away from hospitals because they did not have health insurance and could not pay for care. Some patients ended up dying in parking lots or in taxi cabs on the way to other hospitals.

EMTALA requires all emergency departments that participate in Medicare to screen incoming Emergency Department patients for

emergency medical conditions and to treat and stabilize them, or to appropriately transfer them under specified guidelines. If hospitals do not comply with EMTALA, they face fines of up to \$50,000 or could be disqualified from participating in Medicare.

Still, violations happen, according to the researchers, who reported their results in the *Journal of Healthcare Risk Management*.

The researchers interviewed personnel in eleven hospitals, hospital associations and patient safety organizations about their experiences and opinions about EMTALA. Hsuan said they hoped that learning more about why hospitals don't comply with the Act could help them make recommendations that could increase compliance.

The participants identified several major reasons why hospitals might not comply with EMTALA: financial pressure to avoid Medicaid and uninsured patients, difficulty understanding all aspects of the Act, referral burden at recipient hospitals, reluctance to report other hospitals to maintain good relationships with those institutions, and conflicts between physician and hospital priorities.

"One thing we found is that hospitals may not want to jeopardize the relationships they have with nearby hospitals," Hsuan said. "These other hospitals are their transport partners, and they might not want to be seen as difficult to work with. This may result in them not reporting patient transfers that seem a little off or suspicious."

Hsuan said that differences in physicians' and hospitals' priorities could also lead to EMTALA violations. While hospitals are generally very aware of the importance of complying with the law, physicians may want to avoid taking in patients that they don't think they can properly care for.

"Physicians are concerned about malpractice—they don't want to get sued," Hsuan said. "Hospitals, on the other hand, don't want to get hit with an EMTALA violation and risk losing their Medicare funding. So the fact that physicians and hospitals are motivated by different things could also be part of the reason why these violations are happening."

After analyzing the participants' feedback, the researchers created several recommendations to help increase compliance. Hsuan said that because financial pressure was one reason for noncompliance, more closely aligning Medicaid and Medicare payments with EMTALA could be beneficial.

"One solution would be better reimbursement policies and rates," Hsuan said. "In one example, Medicaid only reimbursed a hospital \$75 for giving a young child an MRI, claiming the test wasn't necessary because the hospital didn't end up finding anything. Fixing issues like this may encourage hospitals to comply with EMTALA."

Because many of the study's participants mentioned not wanting to report fellow hospitals, Hsuan also suggested creating a more informal process in which mediation sessions could be held if a violation was suspected.

Provided by Pennsylvania State University

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