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SUBJECT: MEDICAL SCREENING, CONSULTATIONS, TREATMENT, AND TRANSFER POLICY ("EMTALA" Policy)

PURPOSE:

The purpose of this policy and procedure is to establish a mechanism to be utilized by the staff of Baptist Hospitals of Southeast Texas ("Hospital") to respond effectively to individuals who come to the Emergency Department and request an examination or treatment for a medical condition.

It is the policy of the Hospital to comply with all applicable laws and regulations relating to the provision of emergency services, including the Emergency Medical Treatment and Labor Act ("EMTALA"). EMTALA applies to all hospitals with emergency departments that participate in the Medicare program. EMTALA provides benefits to all individuals presenting to emergency departments, regardless of the individual's Medicare or Medicaid eligibility or their ability to otherwise pay for the services rendered. Signs specifying the rights of individuals under EMTALA will be posted in accordance with federal regulations. Pursuant to EMTALA, a medical screening examination will be performed by qualified medical personnel. A medical screening examination will be provided to all individuals who come to the emergency department (or otherwise present to the Hospital) and request an examination or treatment for an emergency medical condition.

DEFINITIONS:

Appropriate Transfer shall mean, with respect to a person with an emergency medical condition:

- The transferring hospital provides, within its capacity, medical treatment that minimizes the risks to the individual's health and, in the case of a woman in labor, the health of the unborn child;
- The transferring hospital obtains permission from the receiving hospital to transfer the individual and documents its communication with the receiving hospital, including the date and time of the transfer request and the name of the person accepting the transfer;
- Necessary medical records accompany the transferred individual, but the transfer is not delayed in order to retrieve records or receive test results. Records and results that become available after the individual is transferred will be telephoned, and mailed or sent via electronic transmission to the receiving hospital; and
- The transfer is effected through qualified personnel and equipment as determined by the physician at the transferring hospital and may include a physician or some other specialist.

Emergency Medical Condition shall mean:

- 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 placing the health of the

individual in serious jeopardy or cause serious impairment to bodily functions, or serious dysfunction of any bodily organ or part; or

- With respect to a pregnant woman having contractions, the situation where there is inadequate time to effect a safe transfer to another hospital prior to delivery, or a transfer may pose a threat to the health or safety of the woman or her unborn child.

Medical Screening Examination (MSE) shall mean the process utilized and provided by the Hospital within the scope of its capabilities to all individuals experiencing the same signs and symptoms, regardless of the individual's ability to pay for medical care. The medical screening examination includes a spectrum of care, which, depending on the individual's presenting symptoms, may range from a physical examination to more complex ancillary and diagnostic studies and procedures. The medical screening examination may include those ancillary services and diagnostic studies routinely available to the Emergency Department, even if such services are available only in areas or facilities of the Hospital outside of the Emergency Department.

Qualified Medical Person shall mean those practitioners designated to perform a medical screening examination and shall include physicians, nurse practitioners, physician's assistants and trained obstetrical registered nurses. In addition to physicians, qualified medical personnel who are authorized to initiate medical screening examinations are set forth below, by department.

- **Emergency Department**
  - Physician Assistant
  - Advanced Nurse Practitioner
- **Labor and Delivery Department**
  - Registered Nurse
  - Advanced Nurse Practitioner
- **Behavioral Health**
  - Advanced Nurse Practitioner

Stabilization ***with respect to a patient being discharged*** shall mean that the physician attending to the individual in the Hospital has determined, within reasonable clinical confidence, that the emergency medical condition has been resolved and that the individual can reasonably be cared for as an outpatient or later as an inpatient.

Stabilization ***with respect to a patient being transferred*** to another health care facility shall mean that the physician believes, within reasonable medical probability, that the individual's condition will not materially deteriorate during transfer to another facility and that the receiving facility has the capability

to manage the individual's medical condition or any reasonably foreseeable complication of that condition, or that the pregnant woman has delivered the child and the placenta.

Transfer shall means the movement, including the discharge, of an individual outside the Hospital's facilities at the direction of any person employed by or affiliated or associated, directly or indirectly, with the Hospital, but does not include such a movement of an individual who has been declared dead or leaves the facility without the permission of any such person.

SCREENING, STABILIZATION, AND TRANSFER

Medical Screening Examination

Any individual who comes to the Emergency Department of the Hospital, or who is on Hospital property or premises, and requests an examination or treatment of a medical condition, or such a request is made on the individual's behalf, shall be provided a medical screening examination. The purpose of the medical screening examination is to determine whether the individual is experiencing an emergency medical condition.

Any individual on Hospital property or premises, other than the Emergency Department, requesting an examination or treatment of a medical condition, shall be transported to the Emergency Department to have a medical screening examination initiated by a qualified medical person. In the Emergency Department, the medical screening examination shall be performed by an Emergency Department physician, or other qualified medical person including specialists requested by the Emergency Department physician.

Pregnant women on Hospital property or premises requesting an examination or treatment shall be examined by a qualified medical person. Upon presentation to the Emergency Department, the triage nurse shall determine the appropriate location for the medical screening exam according to predetermined criteria at the end of this policy **(Exhibit A:** *Obstetrical Patient in the Emergency Department w/Triage Decision Flow Chart for Pregnant Patients in the ED***)**. If the MSE is to be performed on the Obstetrics unit, the triage nurse shall notify the Obstetrics unit and arrange for the pregnant women to be escorted by appropriately trained personnel.

The Emergency Department physician on duty shall be responsible for ensuring that a medical screening examination is performed on all individuals coming to the Emergency Department requesting an examination or treatment, unless the individual requests that the examination or treatment be performed by his private physician or unless the individual refuses such examination or treatment. The responsibility to perform a medical screening examination remains with the Emergency Department physician unless and until an on-call physician or the individual's private physician assumes the responsibility.

The medical screening examination may be performed in the Emergency Department by a private physician upon an individual's request if the following conditions are met:

- A member of the nursing staff shall contact the individual's private physician and inquire as to the private physician's willingness to assume responsibility for the individual's care and, if willing, the physician's estimated time of arrival in the Emergency Department;
- The nurse will advise the individual of the expected delay and document, on the individual's chart, the communication of this information to the individual;
- During the time period between initial contact with the private physician and that physician's arrival in the Emergency Department, the Emergency Department physician will be available to treat the individual, if the individual so requests; and
- If the individual's private physician cannot be reached within ten minutes of the individual's arrival in the Emergency Department or if the private physician is unable to accommodate the individual's request, the Emergency Department physician will conduct the medical screening examination.

Private physicians who are members of the Medical Staff may refer their patients to the Emergency Department with the intent of meeting them in the Emergency Department to perform an examination. The private physician must plan to see the individual within an hour of the individual's arrival at the Emergency Department. If necessary, the Emergency Department physician may proceed with the medical screening examination of such individuals.

If a private physician refers an individual to the Emergency Department for treatment, the Emergency Department physician will require proof that both the order and the communication of the order are appropriate. The individual will be offered a medical screening examination.

A medical screening examination and any treatment necessary to stabilize an emergency medical condition shall not be delayed in order to inquire about the individual's method of payment or insurance status or denied on account of the basis of the individual's inability to pay.

The informed refusal of an individual, or a person acting on the individual's behalf, to the performance of a medical screening examination and subsequent treatment shall be documented and signed, if possible, by the individual or by a person acting on the individual's behalf. The informed refusal shall be dated, witnessed by the physician or hospital employee, and placed in the individual's medical record.

If a written informed refusal cannot be obtained, the circumstances surrounding the refusal shall be documented in the individual's medical record.

If an individual refuses a medical screening examination and leaves the Emergency Department without notifying a Hospital employee, the time the individual was noticed to be absent from the Emergency

Department shall be documented on the Emergency Department log and in the individual's medical record.

Consultations and Referrals

When the Emergency Department physician or the qualified medical person determines that a consultation or specialized treatment beyond his/her abilities is required and the consultation or treatment is available by utilizing members of the Medical Staff who are on the Hospital's on-call list, the individual shall be permitted to request a specific private practitioner. This request will be documented in the individual's medical record.

The requested practitioner shall be contacted by a person designated by the physician in charge of the Emergency Department, and the time of the contact will be documented in the individual's medical record. An attempt to contact the physician shall be carried out as soon as possible.

If the individual does not request a specific practitioner or if the requested practitioner has not responded within 30 minutes of the initial request, the on-call rotation list will determine the practitioner to be contacted to provide the necessary consultation or treatment.

A practitioner whose consultation and appearance is requested on the basis of the on call list cannot refuse or fail to respond in a timely manner. Any such refusal or failure to respond within 30 minutes without good excuse, or which failure to respond could potentially lead to patient harm, shall be escalated per the Administrative policy ADM.00.01.0008 *Patient Safety Program and Reporting & Escalating of Events*. **The name and address of any on-call practitioner who refuses or fails to respond to call in a timely manner will be documented in the patient's medical record by the physician or hospital employee** receiving the on-call practitioner's refusal and a variance submitted.

The care of the individual shall be the responsibility of the on-call practitioner until the emergency medical condition prompting the individual's assignment to the on-call practitioner is satisfactorily resolved or stabilized to permit discharge or transfer of the individual, all in accordance with this Policy.

If the on-call physician cannot fulfill his/her responsibility to comply with their call obligation for their assigned time, it is the responsibility of the physician to proactively secure an acceptable substitute. On the day of their call responsibility, a call from the Emergency Department should be responded to in 30 minutes in accordance with policy. If, due to unplanned or unanticipated circumstances that prevent the on-call physician from fulfilling his responsibility to evaluate and treat the individual for any reason, it is the on-call physician's responsibility to notify the Emergency Department of the circumstances of their unavailability. The Emergency Department physician may, at that time, effect an appropriate

transfer in accordance with this policy. Physicians who are on call and perform elective procedures that would delay their responsibility to respond within 30 minutes shall provide the name of a back-up physician to be added to the on call list. It is acceptable for the on call physician to send a first responder such as a resident, NP, PA or other privileged Allied Health Professional that works for him/her, however it must be clear that the physician is responsible and must respond on the request of the ED physician. Note: Non-privileged Allied Health Professionals (i.e. RN, LVN, surgical & medical Assistants, etc.) are excluded.
If the requested or on-call practitioner feels that a consultation with another specialist is indicated, it will be the responsibility of the requested or on-call practitioner to make the second referral. The requested or on-call practitioner retains responsibility for the individual until the second consultant accepts the individual.

Due to limited medical specialty availability (i.e., neurosurgery), if the hospital does not have the specialty/subspecialty coverage arrangements necessary for the appropriate treatment of an individual who presented to the Emergency Department, the hospital lacks the capacity to treat the patient and may therefore effect an appropriate transfer in accordance with this policy.

Stabilization
Any individual experiencing an emergency medical condition must be stabilized prior to transfer or discharge, unless stabilizing treatment is refused or the stabilizing treatment is beyond the capacity or capabilities of the Hospital.

If an individual refuses to accept any proposed stabilizing treatment, the physician responsible for administering the stabilizing treatment(s) shall inform the individual of the risks and benefits of the proposed treatment and the Hospital's capability and obligation to perform such treatment. If the individual continues to refuse the treatment, the physician shall take all reasonable steps to have the individual sign the *Informed Refusal to Examination & Treatment* (NS251) form, which shall be dated and witnessed by the physician or hospital employee involved in the individual's care. The form shall be made part of the individual's medical record. The individual will be offered a plan for appropriate follow-up care.

If the necessary stabilizing treatment is beyond the capacity or capabilities of the Hospital, the individual shall be appropriately transferred in accordance with this Policy.

The transfer of patients, who have emergency medical conditions as determined by a physician, shall be undertaken for medical reasons only.

Transfer

The Hospital may not transfer a patient with an emergency medical condition that has not been stabilized unless:

- The patient, or his representative, after being informed of the Hospital's obligations and of the risks of transfer, requests in writing transfer to another hospital;
- A licensed physician has signed a certification, including a summary of the risks and benefits, that, based on the information available at the time of transfer, the medical benefits reasonably expected from the provision of appropriate medical treatment at another hospital outweigh the increased risks to the patient, and, in the case of labor, to the unborn child from effecting the transfer; or
- If a licensed physician is not physically present in the Emergency Department at the time that a patient is transferred, a qualified medical person has signed the above described certification, after a physician, in consultation with the person, agrees with the determination regarding the risks and benefits and subsequently countersigns the certificate.

The transfer of an unstabilized patient must be appropriate and is appropriate only if the following conditions have been met:

- Based on the information available at the time of transfer, the medical benefits to be received at another facility outweigh the increased risk to the individual from being transferred.
- Communication with the receiving facility, including the date and time of the transfer request and the name of the person accepting the transfer, has been documented.
- The transferring physician has secured the acceptance of the patient from a receiving physician and receiving hospital that are appropriate to the medical needs of the patient and that will accept responsibility for the patient's medical treatment and hospital care. In some circumstances, a receiving hospital may accept the patient on a receiving physician's behalf. If applicable, the receiving physician's name and agreement to care for the patient has been documented on the *Memorandum of Transfer* (#NS019).
- All reasonable steps have been taken to secure the written informed consent of the individual or the individual's representative, with respect to the proposed transfer after the risks and benefits have been explained.
    - If an individual or the individual's representative refuses to consent to transfer to another facility after being informed of the receiving hospital's capacity and capability to provide stabilizing treatment, the medical benefits reasonably expected from the provision of appropriate treatment at the receiving facility, and any increased medical risks to the individual reasonably expected from not being transferred, reasonable steps to secure the written informed refusal of the transfer from the individual or the individual's representative have been made. *Memorandum of Transfer* Section A.2. *Informed Refusal to Transfer*

- The Emergency Department has provided appropriate medical records regarding its treatment of the individual available at the time of transfer, including, but not limited to, observations of signs or symptoms, preliminary diagnosis, treatment provided, results of any tests, informed written consent and/or transfer certification, and the name and address of any on-call physician who refused or failed to appear within a reasonable period of time to provide stabilizing treatment. Test results or records not readily available must be communicated to the receiving hospital by telephone and/or fax as soon as possible after transfer.
- The transferring physician determined and ordered the utilization of appropriate personnel and equipment for the transfer.
- The transferring physician determined and provided orders for the transfer attendants to maintain and/or initiate or re-initiate the appropriate treatments or life support measures that are or may be medically necessary during transfer.
- In determining the use of medically appropriate life support measures, personnel, and equipment, the transferring physician shall exercise that degree of care that a reasonable and prudent physician exercising ordinary care in the same or similar locality would use for the transfer.
- Hospital Medical Staff shall review appropriate records of patients transferred from the Hospital to determine that the appropriate standard of care has been met.

All transfer requests to receiving facility shall be documented and shall include the name of facility called, the name of the contact person they spoke with and response to transfer request. If transfer request denied, the reason for declination shall be documented.

If the individual refuses to be transported as ordered by the physician, and prefers to utilize a private automobile, such refusal shall be documented.

If an individual with an emergency medical condition, or the individual's representative, requests a transfer to another hospital without any coercion by any person employed by or affiliated with the Hospital, the individual may be transferred. A physician or qualified medical person must inform the individual, or the individual's representative, of the Hospital's treatment obligations and abilities, and the risks of transfer. The transfer request must be in writing, indicate the reasons for the request, contain an outline of the risks and benefits that were discussed prior to the individual's signing of the request, and include a brief statement of the Hospital's obligations under EMTALA. The transfer request form shall be made part of the individual's medical record and sent to the receiving facility. *Memorandum of Transfer* (#NS019)

The condition of each individual transferred shall be documented in the medical records by the physician responsible for providing the medical examination and stabilizing treatment, or by the qualified medical person.

The Hospital will not take adverse action against a physician or qualified medical person who refuses to authorize or who reports the transfer of an individual with an unstabilized emergency medical condition if the Hospital had the capacity and capability to treat that individual.
The transfer of individuals who do not have an emergency medical condition may occur routinely or as part of a regionalized plan for obtaining optimal care for patients at a more appropriate or specialized facility.

Individuals Not Experiencing an Emergency Medical Condition.
If the medical screening examination reveals that the individual does not have an emergent medical condition, the individual can be discharged with instructions and an appropriate referral, as indicated, for follow-up care.

Individuals who are referred to the Emergency Department by their private physician for the receipt of treatment limited to the physicians' orders, either written or oral will be offered a medical screening examination. The informed refusal of a medical screening examination shall be signed, if possible, by the individual requesting treatment or by a person acting on the individual's behalf, dated, witnessed, and placed in the individual's medical record. *Informed Refusal to Examination & Treatment* (NS251)

Individuals arriving at the Hospital for outpatient procedures, without an emergency medical condition will not receive a MSE, unless their clinical condition warrants immediate evaluation or treatment.

TRANSFERS TO THE HOSPITAL

Acceptance or Refusal of Transfer Requests
The Hospital shall not refuse to accept an appropriate transfer of an individual with an emergency medical condition if the individual requires a specialized service (*e.g.*, neonatal intensive care unit) available at the Hospital, if the Hospital has the capacity and capabilities necessary to treat the individual, and the transferring facility does not have the specialized services needed.

All incoming transfer request will be routed through the facility Transfer Center. The Transfer Center shall either accept or refuse the transfer request within thirty (30) minutes. The thirty (30) minute time period is calculated from the time a member of the staff of the receiving hospital receives the call initiating the request to transfer.

The response time may be extended for an additional (30) minutes due to extenuating circumstances or an agreement between the transferring hospital and the receiving hospital. If the transfer is accepted, the delay or agreed extension must be documented in the Memorandum of Transfer.

Physicians, including on-call physicians, are not authorized to accept or refuse transfers on behalf of the Hospital. The Hospital, through its Transfer Center, receives and evaluates all requests for transfers and makes the final decision on acceptance or refusal of transfers.

Reporting Potential EMTALA Violations
The Hospital shall report to the Texas Department of Health or the Centers for Medicare and Medicaid Services, within 72 hours, or as soon thereafter as possible, any time that the Hospital has reason to believe it has received an individual who was not appropriately transferred. All reports shall be made by the Quality Management Department and in accordance with applicable law.

GENERAL PROVISIONS
Signage-The Hospital shall post signs specifying the rights of individuals with emergency conditions and women in labor. The signs shall be posted conspicuously in the Emergency Department and in places likely to be noticed by all individuals entering the Emergency Department as well as those individuals waiting for examination and treatment in areas other than the waiting room such as the Hospital entrance, admitting area, and waiting room.

Emergency Room Log-The Hospital shall maintain a central log on each individual who comes to the Emergency Department and requests an examination or treatment for a medical condition. The log shall document whether the individual refused treatment, was refused treatment, was treated, was admitted to the Hospital, was stabilized and transferred, requested a transfer, was appropriately transferred in an unstable condition, or was discharged.

List of On-Call Practitioners-The Hospital shall maintain a list of physicians who are on-call for duty, after the initial examination by the emergency department practitioner, to provide further evaluation and/or treatment necessary to stabilize an individual with an emergency medical condition

Memorandum of Transfer-A memorandum of transfer shall be completed for every patient who is transferred. A copy of the memorandum of transfer will be retained for five (5) years and filed separately from the medical record and in a manner that will facilitate its inspection. The receipt of the memorandum of transfer shall be acknowledged in writing by the receiving hospital administration and receiving physician

Designated Providers-The Hospital shall acknowledge contractual obligations and comply with statutory or regulatory obligations that may exist concerning a patient and a designated provider.

EXHIBIT A: *OBSTETRICAL PATIENT IN THE EMERGENCY DEPARTMENT*

Criteria:

Unknown Gestational Age/No Prenatal Care

- If the patient has no prenatal care or is unaware of their Expected Due Date (pregnancy not confirmed) they will be registered and treated in the ED until gestational dates are determined.
- Gestational age will be determined by assessment from the ED provider or an ultrasound.

Patients Under 20 Weeks of Gestational Age

- Obstetrical patients less than 20 weeks gestation will be seen and treated in the ED. Fetal well-being should be determined as part of the treatment process via ultrasound and/or fetal heart tones and documented in the medical record.
- If unable to obtain FHTs, notify the ED provider and document notification in the chart.

Patients 20 Weeks or Greater of Gestational Age

- If the patient is 20 weeks or greater with any of the following complaints they will be treated/medically cleared in the ED:
    - Chest pain or cardiac related complaint with abnormal vital signs
    - Shortness of breath with a SPO2 <90%
    - Stroke or stroke-like symptoms
    - Flu-like symptoms, covid-like symptoms, strep symptoms
    - Urgent physical injury
    - MVA
- For any patient with the above complaints and an OB complaint, the L&D department will be notified of the patient's arrival to the ED. Fetal heart tones will be obtained and documented in EDIS by an ED nurse. The L&D nurse will come to the ED to perform an assessment of obstetric stability in a timely manner*. If the patient requires additional OB monitoring they will be discharged to L&D for further evaluation once medically cleared in the ED.
- If the patient is 20 weeks or greater with any other medical complaint than the ones listed above and an OB complaint, the L&D department will be notified and the patient will be brought to the L&D. If the patient is cleared of pregnancy-related complaints, they may be escorted back to the ED for further clinical evaluation for non-pregnancy related care.
- For any patient 20 weeks or greater presenting to the ED with a medical complaint only, no OB complaint, the patient will be evaluated and treated in the ED. Fetal heart tones will be obtained and documented in the medical record by an ED nurse. L&D will be notified and may come to the ED to perform fetal monitoring. If fetal monitoring is not completed while the patient is in the ED then the patient will be sent to L&D once medically cleared and discharged from the ED.
- Patients greater than 20 weeks gestation will be transported to L&D via wheelchair and may be transported by an ED tech or ED nurse. If the patient has rupture of membranes and delivery is not imminent the patient will be transported to L&D by an ED nurse with the OB delivery kit.

A qualified medical provider is dedicated to patients requiring assessment of obstetric stability utilizing the Maternal Fetal Triage Index.

If an obstetrical patient presents with any life-threatening injuries or instability of airway, breathing and/or circulation, this patient will be treated and stabilized in the emergency department, regardless of gestation. Please refer to Trauma Policy TR.01.01.0015, *Obstetrical Trauma*.

* Note: According to the reference, *AWHONN's Standards for Professional Registered Nurse Staffing for Perinatal Units* (p. 22), "timely" is not currently defined by AAP and ACOG.

References:

AWHONN's Standards for Professional Registered Nurse Staffing for Perinatal Units
https://www.awhonn.org/education/staffing-standards

Hospital-Based Triage of Obstetric Patients.
https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2016/07/hospital-based-triage-of-obstetric-patients

See *Triage Decision Flow Chart for Pregnant Patients in the ED* below.

Triage Decision Chart for Pregnant Patients 20 Weeks of Greater in the ED