

#507
Do It Yourself
EMTALA Auditing
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LEARNING OBJECTIVES

- Understand the background and basics of EMTALA
- Learn how to prepare, conduct and report EMTALA audits
- Develop an auditing check list
- Foster relationships with key leaders
- Focus on the right messages
- Plan for follow up audits

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Seattle—the hype:



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Seattle—the reality:



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EMTALA—the law



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EMTALA—The Law

- EMTALA—The Emergency Medical Treatment and Active Labor Act
- Part of COBRA, originally passed in 1986 in response to concerns of “patient dumping”
- Enforced by CMS and OIG
 - CMS can terminate the Hospital’s Medicare agreement
 - The OIG has exclusion authority
 - Civil Money Penalties (CMP) on both the hospital and a “responsible physician” up to \$50,000 per violation
 - Patients may bring civil lawsuits for damages
- Very specific meanings/definitions
- Requires 68-page State Operations Manual to interpret



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EMTALA APPLIES TO:

- Participating Medicare Hospitals
 - Hospitals with Emergency Departments
 - Hospital-owned ground or air ambulance services
 - Certain Provider-based Urgent Care Centers

...a dedicated emergency department is defined as meeting one of the following criteria **regardless** of whether it is located on or off the main hospital campus:
 The entity: (1) is licensed by the State in which it is located under applicable State law as an emergency room or emergency department; or (2) is held out to the public (by name, posted signs, advertising, or other means) as a place that provides care for emergency medical conditions (EMCs) on an urgent basis without requiring a previously scheduled appointment; or (3) during the preceding calendar year, (i.e., the year immediately preceding the calendar year in which a determination under this section is being made), based on a representative sample of patient visits that occurred during the calendar year, it provides at least one-third of all of its visits for the treatment of EMCs on an urgent basis without requiring a previously scheduled appointment.




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EMTALA—the basics:

- A person who “comes to the emergency department” for examination or treatment for a medical condition must receive a “medical screening examination” to determine whether an “emergency medical condition” exists
- If there is an emergency medical condition, the hospital must provide either
 - Further medical examination and treatment to “stabilize” the medical condition, or an
 - “Appropriate transfer”




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Getting Your Audit Organized

Define your audit's purpose and scope

- By-laws
- Policies and Procedures
- On-Call List
- Training Materials
- ED, Urgent Care, L&D
- EHR—number of records
- Workflow
- Signage




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Getting Your Audit Organized

Coordinate with Leadership

- Compliance
- Hospital Administration
- HIM
- ED
- Medical Staff
- Patient Access
- Risk Management
- Others?



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Getting Your Audit Organized

Set Expectations

- Introductory meeting or e-mail
- Establish connection through the relationship
- Explain the audit process
- Lay the groundwork for follow-up audits
 - Part of an ongoing, regular review and tune-up
- Frequency
- Duration
- Thank them for the opportunity



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Getting Your Audit Organized

Obtain copies of:

- EMTALA policies and procedures
- Medical Staff By-Laws
- On-Call policy/procedures & on-call list
- ED Transfer form
- Transfer policies



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Getting Your Audit Organized

Get access (user ID and password, and any training needed) to all pertinent systems

- EHR
- ED-specific system(s)



Arrange meeting with ED Nurse Manager/Director

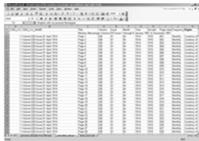


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Getting Your Audit Organized

Request data—import into your own auditing xls

- Patient name
- Patient encounter ID
- Patient DOB
- Patient MRN
- Patient status
- Reason for transfer
- Destination facility
- Mode of transportation
- Any other fields that will help...



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Sample Auditing XLS

J	B	C	D	E	F	G	H	I
1	PatientID	PatientName	Checked in	Triaged	BSE	Stabilizing Treatment	DischargeStatusTitle	General Transfer Form that contains patient status on transfer

J	K	L	M	N	O	P	Q	
	Patient Consent	Physician Certification	Type of Transportation used to transfer patient	Destination facility	Reason for Transfer	Name of Accepting Individual at other Facility	Medical Records sent to other Facility Yes, sent	Notes

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The Audit--Policies

EMTALA Policy Review

- To whom does it apply?
- When was it last updated?
- Review for completeness
- Anything outdated or incorrect?
- Does it address all aspects of EMTALA?
 - Check-in, triage, screening, stabilizing treatment, transfers, on-call requirements, LAMA, LWBS, what to do if there is a suspected violation, etc...



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The Audit—Policies and Procedures

Other policies and procedures—Triage, Transfer, etc...

- Are policies up-to-date? Do they mesh with the main EMTALA policy?
- Is there duplication of effort?
- Conduct your own internal and external web search for EMTALA policies/procedures for your institution to see what comes up



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The Audit--By-Laws

Who can perform the MSE?



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The Audit—ED Work Flow

Meet with the ED Nurse Manager, ED Director, or ED Medical Director

- Have them walk you through the ED experience
- Note signage—is it adequate? In the appropriate languages? Wording matches the CMS requirements?
- Diagram the ED work flow
- Let them know you'll follow up after you've audited the claims



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The Audit—Claims

- Set aside time to audit claims—it can be a long process
- Establish the sample size
- Determine which aspects you will audit—Transfers only? LWBS? LAMA? Lbfd?
- Review On-call lists—do they reflect coverage of services available to inpatients? Individual Practitioner Names?
- You may find that you have to systematically search all the records—including discharge notes, progress notes, external documentation, etc...



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The Audit—Claims

Auditing transfers is easier if they use a good transfer form:



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The Audit--Summary

- Share preliminary data with ED Nurse Manager and Director, HIM Director and any others whose departments will be impacted
- Have them propose corrective actions and deadlines
- Draft the report to include your findings and the proposed corrective actions
- Route through appropriate channels for final review
- Publish final report as PDF, counter-signed by Compliance Officer; specify date of next audit

The Audit Report

Audit Report

Title: This title identifies the process area and provides the department name as well as "00101"

Date of Report: The date the final report is distributed is considered the report date. This means that discussion with the subject area has occurred.

Background/Why it Matters: In this section, we let others who the audit is being conducted. It may include an audit, what is the purpose of the audit.

Scope:

- Audit Objectives:**
 - 1. Get the specific questions/areas you intend to address in the audit
- Audit Type:** Internal/External, Internal/External, Internal/External, Internal/External
- Audit Frequency:** For instance, quarterly
- Sample Size/Type:**
 - 1. Sample size and type (time, amount/amount)
 - 2. Sample size: How many cases chosen for audit and how often (a "random" process)
- Objectives:** This audit is conducted for process improvement purposes. The following is the objective for the audit and the audit results should not be used to:
- Other Issues:**
 - 1. Where do you see "what are the original source of the data?"
- Reference/Regulatory Requirements:**
 - 1. What source authority is the reference point for assessing each customer?

Results/Findings:

- 1. This is where the auditor gets the actual results from without judgement or analysis. (It is the actual data from the audit.)
- 2. Describe what you found (if any).

Comments: Comments are made on the results of the audit, but are not part of the data. The data is the actual data. The auditor should not make any judgement or analysis for the auditor. It is the auditor's responsibility to report what they find and not to make any judgement.

Other Info:

- 1. "Compliance Officer" is the title of the person who is responsible for the audit to be completed. The audit should be done in the most efficient manner possible and not be delayed.
- 2. "Compliance Officer" are not mandatory, and are generally only used when the audit subject requires them.

Next Audit:

Audit: (Date/Time)

Reviewed by: (Signature and Date on last report to)

Questions?

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Resources

EMTALA Regulations: http://www.ssa.gov/OP_Home/ssact/title18/1867.htm#

State Operations Manual:
https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_v_emerg.pdf

AHLA EMTALA Checklist:
[https://www.healthlawyers.org/Publications/Journal/Documents/Vol%2038%20Issue%203/JHL_vol.38_no.3_Kahn-Kotlman_Kesman\(EMTALA_Compliance\).pdf](https://www.healthlawyers.org/Publications/Journal/Documents/Vol%2038%20Issue%203/JHL_vol.38_no.3_Kahn-Kotlman_Kesman(EMTALA_Compliance).pdf)

Provider-based Urgent Care Centers are subject to EMTALA (page 54)
<http://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/downloads/CMS-1063-F.pdf>
