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DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
1301 Young Street, Room 833
Dallas, Texas 75202



Division of Survey and Certification, Region VI

December 19, 2007

Patti Davis
Executive Vice President
Oklahoma Hospital Association
4000 N. Lincoln Blvd.
Oklahoma City, OK 73105

Dear Ms. Davis:

This is in response to your inquiry of December 5, 2007 requesting clarification of the requirement (if any) for physician to physician contact to effectuate an appropriate transfer under the Emergency Medical Treatment and Labor Act (EMTALA).

EMTALA is a hospital-based statute with violations that relate back to the hospital's failure to maintain compliance. The regulations at 42 CFR § 489.24(e)(2)(i) for *Appropriate Transfer* require that "...the receiving facility has agreed to accept the patient, has space and qualified personnel available for treatment." Further, the regulations at 42 CFR § 489.24(f), *Recipient Hospital Responsibilities*, state that a hospital may not refuse to accept "...an appropriate transfer of an individual who requires such specialized capabilities or facilities if the receiving hospital has the capacity to treat the individual."

Neither the regulations nor the EMTALA interpretive guidance for these regulations (Appendix V of the State Operations Manual) require or speak to the need for physician to physician contact. For purposes of EMTALA (and absent a state law that requires otherwise), any individual from one hospital may initiate a transfer request that is approved by any individual at another hospital. The focus, from the EMTALA perspective, is that the hospital has agreed to accept the transfer, if appropriate.

I hope this addresses your question, and will be happy to provide more clarification or additional information, if needed.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Wright". The signature is written in a cursive style and is positioned above the printed name.

David R. Wright
EMTALA Outreach
and Education Coordinator