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California Department of Public Health



EDMUND G. BROWN, JR.  
Governor

May 17, 2012

AFL 12-17

**TO:** General Acute Care Hospitals (GACH) and Acute Psychiatric Hospitals (APH)

**SUBJECT:** Care and Treatment of Psychiatric Emergency Medical Conditions

**AUTHORITY:** Health and Safety Code (HSC) Section 1317.1 and Code of Federal Regulations (CFR) Section 489.24

In response to questions regarding the applicability of the Emergency Medical Treatment and Labor Act (EMTALA) to the transfer of patients with psychiatric emergencies, this All Facilities Letter (AFL) serves as a reminder of pertinent state law and federal regulations.

On November 23, 2009, the California Department of Public Health (CDPH) issued AFL 09-42 notifying all APHs and GACHs of legislation that became effective January 1, 2010, related to the transfer of patients with psychiatric emergencies. In addition the Centers for Medicare and Medicaid Services (CMS) interpretive guidelines for EMTALA regulations specifically address the transfer of patients with psychiatric emergencies.

#### State law

HSC 1317.1 defines “psychiatric emergency medical condition” as a mental disorder that manifests itself by acute symptoms of sufficient severity to render the patient either an immediate danger to himself or others, or immediately unable to provide for, or utilize food, shelter, or clothing, due to the mental disorder. It is also explicit that GACHs and APHs must provide the care and treatment necessary to relieve or eliminate a psychiatric emergency medical condition within the capability of the facility, including, as necessary, admission or transfer to a psychiatric unit within a GACH or to an APH.

#### Federal regulations

CFR 489.24(b) includes “psychiatric disturbances and/or symptoms of substance abuse” in the definition of an emergency medical condition for which hospitals must provide medical examination and treatment, as required to stabilize the condition. CMS’

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interpretive guidelines for the provisions of CFR Section 489.24 (as found in State Operations Manual (SOM) Appendix V Tag A-2407/C-2407), further clarify that an individual expressing suicidal or homicidal thoughts or gestures, who can be determined to be dangerous to self or others, would be considered to manifest an emergency medical condition. CMS guidance states that psychiatric patients are considered stable when they are protected and prevented from injuring or harming themselves or others.

Hospitals are required to comply with both state and federal requirements. CDPH's failure to expressly notify facilities of legislative or regulatory changes does not relieve them of this responsibility. Facilities should refer to the full texts of HSC 1317.1, CFR 489.24, and federal interpretative guidance regarding CFR 489.24 to ensure compliance.

If you have any questions, please contact your respective L&C District Office. For your convenience the list of all District Office addresses and contact information can be found using the following link:

<http://www.cdph.ca.gov/certlic/facilities/Pages/LCDistrictOffices.aspx>

Sincerely,

**Original Signed by Debby Rogers**

Debby Rogers, RN, MS, FAEN  
Deputy Director  
Center for Health Care Quality