The EMTALA Answer Book
2019 Edition

by Jeffrey C. Moffat

The EMTALA Answer Book provides an authoritative, easy-to-access guide for addressing the thorny issues surrounding EMTALA for emergency department physicians, emergency nurse managers, emergency administrators, and risk managers, helping them to understand the implications of their decisions vis-à-vis this law. The potentially problematic aspects of medical screening, treatment, transfer, and other EMTALA responsibilities of hospitals are explored from the medical perspective, and practical suggestions for compliance are provided.

Highlights of the 2019 Edition

A short review of recent developments suggests the increased intensity of the EMTALA enforcement activity:

- Maximum civil money penalties for EMTALA violations have more than doubled to $104,826 for a hospital with 100 beds or more. Details may be found in Q 7:26.

- The average civil money penalty for all EMTALA violations from 2002 to 2015 was $33,425. The average civil money penalty in 2017 (without the largest settlement in history) was $58,889. The average civil money penalty for the first five months of 2018 was $71,416. Details are found at Q 7:27.

- On June 23, 2017, the OIG agreed to the largest civil money penalty in history, $1,295,000. This case is discussed in detail at Q 11:14.

- On-call physicians are now subject to all EMTALA requirements and penalties, including civil money penalties. Chapter 9 has been updated to reflect these changes. See especially Q 9:22 and Q 9:27.

EMTALA also has been actively pursued in the courts.

- It has been mentioned in some 80 cases since this book was last updated. References to, and analysis of, many of these recent cases have been added to Chapter 8 and elsewhere through this update.

- The most significant development in the courts relates to employment law. In June 2018, the Court of Appeals for the Third Circuit rejected a case in
which a claimed protection under EMTALA’s whistleblower protection. This case and others like it are addressed in the new Chapter 15 “EMTALA and Whistleblower Protection.”

- Those working in the Court of Appeals for the Sixth Circuit (Kentucky, Michigan, Ohio, and Tennessee) will want to review the unreported Sixth Circuit case suggesting the court may be ready to abandon the improper motive requirement civil cases. See Q 8:8.

The Table of Cases and the Index have been updated to reflect all the changes to the text.

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