



Client Alert



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EMTALA Case Update

Provided below is an overview of three recent Federal court decisions regarding the Emergency Medical Treatment and Labor Act (EMTALA). The cases are from the U.S. District Court for the District of Nevada and the U.S. District Court for the District of Puerto Rico.

Esperanza v. Sunrise Hosp., Nos. 2:10-CV-01228-PMP-PAL, 2:10-CV-01983-PMP-GWG (D. Nev. July 13, 2011)

On July 13, 2011, the U.S. District Court for the District of Nevada granted Sunrise Hospital and Medical Center's (Sunrise Hospital) motion for summary judgment on the plaintiffs' EMTALA claim. This case arose out of the suicide of plaintiffs' decedent, Oscar Aniceto Mejia-Estrada. His relatives sued Sunrise Hospital and others for alleged EMTALA violations as well as state medical malpractice claims.

On July 25, 2008, Mr. Mejia-Estrada was transported to Sunrise Hospital's emergency room for displaying suicidal and homicidal tendencies. The doctor and staff who evaluated Mr. Mejia-Estrada found that he was not at risk, and thus, discharged him an hour after his arrival. Two days later, on July 27, Mr. Mejia-Estrada returned to the emergency room, accompanied by family members, for depression and anxiety. The evaluating doctor and nurse concluded that he did not have any physical illness or injury, but assessed him as a suicide risk based on the complaints of depression and anxiety. At that time, the hospital did not offer psychiatric services or have a psychiatrist listed on the emergency room call roster. Thus, Mr. Mejia-Estrada was moved to the Emergency Department Discharge Observation Unit for observation until he could receive the requisite evaluation, specifically from Southern Nevada Adult Mental Health, to determine if he should be admitted to a psychiatric facility. More than seven hours later, Mr. Mejia-Estrada was found unresponsive and efforts to revive him were unsuccessful.

Relying upon the Ninth Circuit's decision of *Baker v. Adventist Health, Inc.*, 260 F.3d 987 (9th Cir. 2001), the District Court first explained that "EMTALA explicitly limits the screening examination that a hospital is required to provide to one that is within the capability of the hospital's emergency department." Based on this, the District Court held that "[t]he record clearly establishes here that while Defendant Sunrise Hospital performed a medical screening of Mr. Mejia on July 27, 2008, it did not at that time have the capability to perform

mental health screening." Accordingly, the District Court found no genuine issue of material fact that Sunrise Hospital violated EMTALA by unfairly neglecting to provide a mental health screening. However, the District Court refused to dismiss plaintiffs' medical malpractice claims, and explained that "[t]he question, whether Sunrise Hospital and the other named Defendants adequately discharged their duty of care to protect against Mr. Mejia's suicide is the subject of Plaintiffs' claim of medical malpractice against Defendants in 2:10-CV-1983. This is not however, determinative of Plaintiffs' EMTALA claim against Sunrise Hospital."

Note, in an earlier decision provided in this case, cited as *Guzman-Ibarguen v. Sunrise Hosp. and Med. Ctr., Nos., 2:10-cv-1228-PMP-GWF, 2:10-cv-1983-PMP-GWF* (D. Nev. June 1, 2011), the District Court addressed the issue of whether state law peer review or similar privileges apply in an action alleging an EMTALA violation and state negligence and medical malpractice claims. Specifically, Plaintiffs sought hospital reports regarding Mr. Mejia-Estrada's care, and Sunrise Hospital objected based on the state's peer review privileges. The District Court agreed with an apparent majority of federal court decisions that, in an action involving EMTALA and state law claims, a "federal district court should not refuse to apply state law privileges where information sought is relevant only to a claim or defense to which state law supplies the rule of decision." Given the uncertainty of the information contained in the reports, however, Sunrise Hospital was ordered to provide the District Court such reports for an in camera review to determine if the state law privileges applied or if there was discoverable information relating to the EMTALA claims.

Aponte-Colon v. Mennonite Gen. Hosp., Inc., No. 10-1434CCC (D.P.R. June 15, 2011)

On June 15, 2011, the U.S. District Court for the District of Puerto Rico dismissed with prejudice an EMTALA claim that was brought against Mennonite General Hospital (Mennonite Hospital) by the relatives of Juan Bautista Aponte-Díaz, the decedent.

The decedent received treatment at Orocovis Centro de Diagnóstico y Tratamiento (Orocovis CDT), a diagnostic treatment center as defined under Puerto Rico law, and plaintiffs contended that the facility failed to perform appropriate medical screening and discharged him without stabilization of his medical condition, in violation of EMTALA. In support of their claim against Mennonite Hospital, plaintiffs asserted that Orocovis CDT was a "dedicated emergency department," part of Mennonite Hospital. In its motion to dismiss, Mennonite Hospital contended that Orocovis CDT was not part of its hospital, and thus, not subject to EMTALA.

In reaching its conclusion, the district court examined, among other things, the contract for professional services between the Department of Health of Puerto Rico and Mennonite Hospital, whereby Mennonite Hospital was engaged by the Department of Health to provide medical services at the Orocovis CDT emergency room through a sublease arrangement. The district court found that the language of the contract demonstrated that although the emergency room is an integral part of Orocovis CDT operated in conjunction with the hospital, it is not an independent facility belonging to Mennonite Hospital. The district court also looked at the facility licenses and certificates of need, which supported its factual findings.

After conducting an extensive review of the facts, the district court then considered the following question of law decided in the First Circuit decision of *Rodriguez v. American Intern. Ins.*, Puerto Rico, 402 F.3d 45 (1st Cir. 2005):

[W]hether a CDT, defined by Puerto Rico law as “an independent facility [or one operated in conjunction with a hospital] which provides community services for the diagnosis and treatment of ambulatory patients under the professional supervision of persons licensed to practice medicine, surgery or dentistry in Puerto Rico,” 24 P.R. Laws Ann. §331a(A)(4), qualifies as “a hospital that has a hospital emergency department” under EMTALA, 42 U.S.C. §1395dd(a).

The district court agreed with the First Circuit, determining that a CDT, which is a facility type unique to Puerto Rico, does not qualify as a hospital with an emergency department for purposes of EMTALA. The district court noted that CDTs offer only outpatient services and Puerto Rico law “clearly distinguishes between hospitals and diagnostic and treatment centers.” Accordingly, Mennonite Hospital’s motion to dismiss as to the EMTALA claim was granted.

Estate of Caillet-Bois v. Hosp. Español Auxilio Mutuo De Puerto Rico, Civ. No. 09-1201(JP) (D.P.R. June 9, 2011)

On June 9, 2011, the U.S. District Court for the District of Puerto Rico issued a decision denying Hospital Español Auxilio Mutuo de Puerto Rico’s (Hospital Español) motion for partial summary judgment on an EMTALA claim asserted by the estate and family members of a deceased hospital patient.

On February 17, 2008, the patient presented to Hospital Español with chest pain, which was later confirmed to be an acute inferior myocardial infarction. She was admitted to Hospital Español for an emergency cardiac catheterization and an angioplasty. The patient was discharged on March 4, 2008, but returned to the emergency room on March 8, 2008, again complaining of chest pain. At that time, she was triaged as an urgency level three, a less severe, lower priority than what testimony confirmed as being appropriate for chest pain cases. The triage was performed at 6:53 p.m., but, based on the triage classification, the patient was not aggressively evaluated and treated by the emergency room physician until 8:50 p.m., almost two hours later. The patient was admitted to Hospital Español and evaluated by another physician the next morning at 9:00 a.m. The patient died later that day.

The Plaintiffs alleged that the intake procedure for Hospital Español violated EMTALA as the patient was improperly categorized as low priority and hospital staff disregarded chest pain protocols, thus failing to offer an adequate medical screening. While not admitting to any EMTALA violations, Hospital Español did not deny that such violations occurred, but instead focused its motion solely on the issue of causation. The hospital specifically asserted that the Plaintiffs did not have a viable EMTALA claim due to a failure to link the alleged EMTALA violations to the eventual demise of the patient.

Relying upon the First Circuit decision of *Cruz-Quiepo v. Hospital Español Auxilio Mutuo*, 417 F.3d 67 (1st Cir. 2005), which rejected a similar argument, the district court denied the motion, finding that:

Hospitals do not generally cause the emergency conditions that they are called upon to identify during the initial screening process. Needless to say, that does not mean that a hospital's failure to appropriately screen a patient bears no causal relationship to the damages suffered by a patient as a result of deterioration in his or her condition that could have been avoided by an initial, appropriate screening. In this case, had the doctors followed its triage and chest pain protocols and provided [the patient] with an appropriate screening, they might have correctly and promptly identified her condition and treated her accordingly.

Based on the evidence in the light most favorable to the plaintiffs, the district court found that there was sufficient evidence for a reasonable jury to conclude that Hospital Español violated EMTALA in failing to provide an appropriate medical screening and that the violation caused damages to the patient.

In a footnote, the district court rejected consideration of Hospital Español's argument that EMTALA did not apply because the patient was not an emergency room patient when she died. The district court stated that the hospital failed to raise such argument at the outset of its motion for partial summary judgment, only raising it for the first time in its reply.

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