

# OUR PRACTICE

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## EMTALA

**Since hospitals are open 24 hours a day, seven days a week to handle the emergencies that happen at all hours, it stands to reason that hospitals need access to 24/7 legal advice.**

But not just ordinary advice. Hospitals need fast, well-informed assistance from attorneys who know the intricacies of the Emergency Medical Treatment and Labor Act of 1986 (EMTALA). Baker Donelson's Health Law Department has an EMTALA team ready to respond to crises at any hour of the day or night, with some of the most knowledgeable and experienced EMTALA defense lawyers in the United States.

The EMTALA rules requiring hospitals to examine anyone who requests care and determine whether the person has an emergency medical condition may, on the surface, seem straightforward. In practice, however, EMTALA is anything but simple. Its scope has expanded greatly since its enactment, and the Centers for Medicare and Medicaid Services (CMS) have issued numerous interpretive guidelines. Meanwhile, court decisions interpreting the statute have been inconsistent. As a result, many hospital administrators, medical directors and physicians remain confused about their obligations. Since even technical violations of EMTALA may subject a hospital to an action for termination of its participation in Medicare, this confusion can have devastating consequences.

Our attorneys can help hospitals interpret these guidelines and court rulings as well as counseling on day-to-day issues, including missed call coverage, the definition of "transfer," on-call response times, scope of available emergency services, specialized capabilities, documentation requirements, designation of Qualified Medical Personnel (QMP), self-reporting obligations and the interaction between EMTALA and other laws and regulations that affect hospitals.

We have helped clients comply with EMTALA and in administrative hearings and federal courts across the U.S. We routinely help both nonprofit and for-profit hospitals develop robust compliance policies and procedures, including highly nuanced situations, such as off-campus hospital-based departments. We also help hospitals design and conduct staff training programs to prevent EMTALA-related problems and to implement correction plans mandated by Quality Improvement Organization (QIO) contractors. Working with hospital physicians, we also modify medical staff bylaws to ensure EMTALA compliance.

But problems can arise for even the best-prepared hospitals and physicians. Baker Donelson attorneys have successfully defended clients against allegations of EMTALA violations at every stage of the administrative enforcement process, including Peer Review Organization (PRO) and Quality Improvement Organization (QIO) hearings. We have likewise represented hospital clients at the Office of Inspector General (OIG), forestalling notices of termination of Medicare participation. And we have helped hospitals develop and implement plans of correction after being notified by CMS that they were out of compliance with EMTALA.

Our clients know that Baker Donelson's EMTALA team is ready to respond to crises 24 hours a day, seven days a week.



### Representative Matters

- Successfully defended numerous hospitals in EMTALA investigations, including drafting plans of correction and representing entities at administrative Quality Improvement Organization (QIO)/Physician Review Organization (PRO) hearings; drafted and implemented extensive EMTALA

compliance programs; provided direct on-site support for hospitals; defended providers in private litigation claims; and provided employee and medical staff training.