Illinois Health and Hospital Association

June 27, 2025

The Illinois Dept. of Public Health (IDPH) has adopted amendments to the Hospital Licensing Requirements (77 Ill. Adm. Code 250 et seq.), (June 6, *Illinois Register*, pages 7978 to 7993). The adopted amendments, which are now effective, codify recent statutory changes made to the Hospital Emergency Service Act pursuant to Public Act 103-0784. Enacted in 2024, Public Act 103-0784 explicitly requires hospitals to provide medically necessary reproductive care, including pregnancy termination, in emergency situations. Hospitals that fail to comply are subject to penalties.

This memo serves as a summary of the adopted changes, all of which are in Section 250.710, Classification of Emergency Services.

Provision of Emergency Services

Under the adopted rules, all hospitals—except for long-term acute care hospitals and rehabilitation hospitals, as defined in Section 1.3 of the Hospital Emergency Service Act (the Act)—must provide hospital emergency services to any applicant with an injury or acute medical condition that is liable to cause death, severe injury or serious illness.

The services are to be furnished in compliance with the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and are to include, but are not limited to, medical screening, provision of necessary stabilizing treatment, procedures for refusals to consent, restricting transfers until the individual is stabilized, appropriate transfers of patients, no delay in examination or treatment, and whistleblower protections. The adopted rules set forth definitions for terms, including applicant, injury or acute medical condition that are liable to cause death, severe injury or serious illness, and require stabilizing treatment.

Violations

Pursuant to the Act, IDPH is required to investigate violations, which may include a medical clinical review by a physician and the Department *may issue a minimum monetary fine of $50,000*. This fine can only be issued if none is issued by the federal government. The adopted rules set forth identifying factors in determining whether to issue a fine, including:

- Denial of necessary stabilizing treatment;
- Applicant suffering harm that resulted from a failure to provide required services;
- Transfer of the applicant without proper documentation justifying the necessity of the transfer;
- Prior violations of the Act and/or failure to take appropriate action to remedy a prior violation;
- Failure by the hospital to train staff and employees regarding their duties under these requirements; and
- Misrepresentation by hospital staff to the applicant regarding their condition or their obligations under the Act.

Additionally, IDPH has adopted aggravating factors, which are those that will determine whether a fine greater than $50,000 is issued, including:

- The violation causes serious or permanent physical, mental, or emotional harm;
- The violation proximately caused death;
- Prior violations of the Act;
- Failure of a hospital to self-report a violation to IDPH; and
- A hospital's request for proof of insurance, prior authorization, or a monetary payment prior to appropriately screening or

initiating stabilizing treatment.

Through IHA's advocacy efforts, the final rules were revised to make fines optional rather than mandatory, and to clarify that a hospital can only be penalized if a patient was harmed due to lack of specific services necessary to treat the applicant's condition.

Hospital's Duty to Comply with EMTALA Investigations
Hospitals are reminded of their responsibilities to fully and promptly comply with requests for information from IDPH during EMTALA investigations, including the provision of patient information relevant to the investigation. In this capacity, IDPH is acting as an agent of the Centers for Medicare & Medicaid Services and is required to complete a timely investigation of alleged violations of EMTALA. Hospitals should ensure their policies reflect this requirement and staff are trained to promptly respond to these requests.

If you have questions, please contact Karen Harris at 630-276-5548 or kharris@team-iha.org or Lance Kovacs at 630-276-5474 or lkovacs@team-iha.org.

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