

# **Joint Section of Neurotrauma/Critical Care Position Statement on Reconciling On-Call Responsibilities with EMTALA Requirements**

## **Background**

For over one year, the Joint Section of Neurotrauma/Critical Care has been grappling with the complex issue of on-call physicians' responsibilities for delivering neurotrauma services. After much discussion, the Section's Executive Committee has identified the following issues, among others, that represent the crux of the dilemma facing each neurotrauma service that aims to implement reasonable on-call physician policies:

- Ensuring the greatest degree of safety for the patient suffering traumatic injury to the brain or spinal cord;
- Endorsing the caveat that the neurosurgical specialist provides the best care needed by the neurotrauma patient;
- Reconciling the inherent conflict of EMTALA's policy that physicians are not required to be on-call at all times with the law's requirement that hospitals must maintain the on-call list in a manner that "best meets the needs of the hospital's patients;" and
- Matching the limited number of neurosurgeons with the total number of hospitals requiring on-call coverage, while at the same time acknowledging that there are simply more hospitals than neurosurgeons available to provide continuous neurotrauma services.

## **Consensus Opinion**

- Multiple factors within various geographic regions (including location, available neurosurgical work force versus nonparticipatory work force, proximity to other neurosurgical centers, and typical elective and neurotrauma workload) inevitably conflict with the EMTALA guidelines established to protect the patient, the neurosurgeon and the institution. Each institution and its neurosurgeons should therefore specify these provisions contractually when they address the unique requirements of the area to ensure compliance with EMTALA. Ultimately, only the individual neurosurgeon can determine the limits of his or her ability to provide continued coverage. Hospitals should not force or coerce neurosurgeons to provide continuous on-call coverage when it is impossible or unreasonable for neurosurgeons to do so.
- To best meet the needs of patients, in advance and *prior to crisis*, the neurosurgeons and the institutions must negotiate contingency plans and inter-hospital transfer agreements for periods of non-coverage (whether due to fatigue, simultaneous coverage, vacation, or limited number of neurosurgeons in the area or available to the institution).

## **Rationale**

Recognizing that it is unavoidable that an individual neurosurgeon might be required to be on-call simultaneously at more than one institution because of the lopsided ratio of individual neurosurgeons relative to institutions requiring neurosurgical coverage, recent EMTALA guidelines now permit simultaneous on-call coverage. These guidelines further acknowledge that EMTALA does not require institutions to have continuous neurotrauma availability. However, the guidelines require, among other things, that hospitals have "policies and procedures to follow when an on-call physician is simultaneously on-call at another hospital and is not available to respond. Hospital policies may include, but are not limited to procedures for back-up on-call physicians, or the implementation of an appropriate EMTALA transfer..." EMTALA guidelines further permit on-call physicians to schedule elective surgery while on-call, although these same guidelines also state that hospitals may prohibit this practice. It is therefore incumbent on the neurosurgeon and the institution(s) to address all of these issues in writing to avoid any uncertainties with their respective EMTALA obligations.