



## MEMORANDUM

**DATE :** December 23, 1999

**TO:** ALS providers and PCNCs in the North Coast EMS region

**FROM:** Louis Bruhnke, EMS Coordinator

**RE:** **Interfacility Patient Transfers – PLEASE POST**

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This summer our office received a request to consider a potential liability issue. Specifically the provider in question asked whether a paramedic or a provider could be held liable if they responded to a hospital for an interfacility transfer and honored the attending physician's order to transport a patient who, in the opinion of the transporting paramedic, required more expertise, treatment, procedures and/or medications than found within the scope of practice of that paramedic.

The answer we offered reflected our interpretation of California State Law and of North Coast EMS's Interfacility Transfer Policy # 2208. We suggested that the responsibility for the decision to transfer the patient fell to the transferring physician. We believed that the transferring physician was responsible for determining whether the patient required or might likely require care beyond the paramedic scope of practice. Our concern was that a paramedic (and by extension the paramedic's provider agency) who refused to transfer a patient might later be found liable for consequences ensuing from that refusal.

A recent article in JEMS (Journal of Emergency Medical Services, August 1999, Volume 24, Number 8 pp. 66-76) has caused us to reconsider our position. Though we cannot attest to the accuracy of the opinions expressed by W. Ann Maggiore, JD, EMT-P, author of the JEMS article, we advise all prehospital care providers and specifically EMT-IIs and paramedics, as well as all transporting EMS agencies to consider the warnings expressed in this article.

Though the entire article offers insight into the Emergency Medical Treatment and Active Labor Act (EMTALA), issues of particular concern to EMS agencies and personnel are found in the section of the article devoted to interfacility patient transfers. EMTALA is a part of the federal law known as COBRA (Consolidated Omnibus Budget Reconciliation Act), an "anti-dumping" law passed by congress in 1986.

In the article Ms. Maggiore states the following:

If an ambulance service...opts to transfer a patient whose medical needs are beyond the EMS crew's scope of practice, then the service can be sued for negligence, while the transferring hospital can be sued for negligence as well as for violating EMTALA.

Later in the same article Ms. Maggiore continues:

Hospitals anxious to divest themselves of an unstable patient often exert a great deal of pressure on EMS units to transfer patients whose needs exceed the training or capabilities of the crew. However, EMS units must not undertake such transfers. The EMS crew must be capable of operation all equipment attached to the patient and administering appropriate medications and the appropriate level of care for the patient.

Of course determining "medical needs" is a complicated matter and North Coast EMS will refrain from provide guidance beyond than that found in the North Coast EMS Policy Manual. Nevertheless we consider it imperative that the EMS community within our region be aware of these issues. We suggest all concerned parties read Ms. Maggiore's article in its entirety.

North Coast EMS repeats its recommendation that prehospital care providers carefully document all matters pertaining to patient care and patient care decisions in the patient care report. Prehospital care providers should not hesitate to advise the transferring physician any time the provider feels an inappropriate transfer has been requested. Whether the prehospital care provider agrees to transfer the patient in question will ultimately be left to the discretion of the prehospital care provider and that provider's agency.