

INFOGRAPHIC

EMTALA and COVID-19: When Can Hospitals Divert Patients to Alternative Screening Sites?

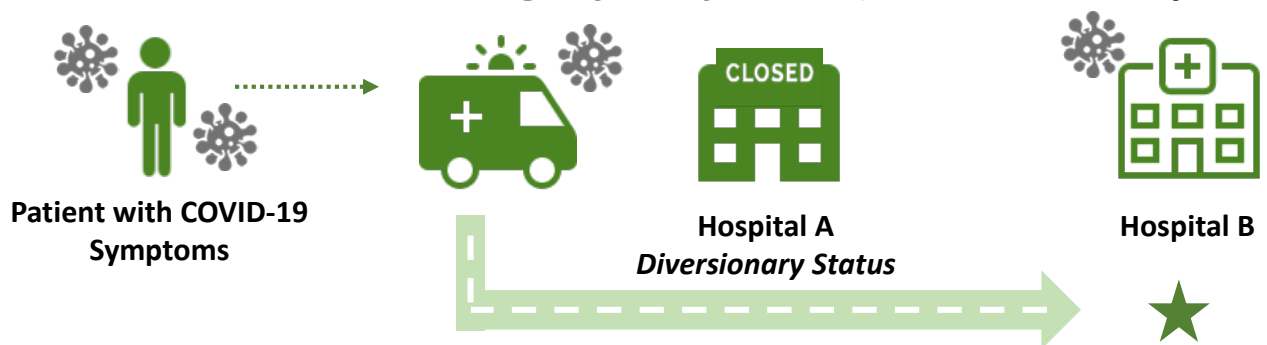
The federal Emergency Medical Treatment & Labor Act (EMTALA) requires hospitals to provide a medical screening exam (MSE) for any patient who comes to the emergency department (ED). Additional requirements apply if the screening reveals an emergency medical condition.¹

Diversion Options that Hospitals Can Exercise on Their Own

- 1 ALL PATIENTS**—The hospital may redirect ED patients to receive an MSE at an **alternative on-campus site** (i.e., within 250 yards of the hospital).²



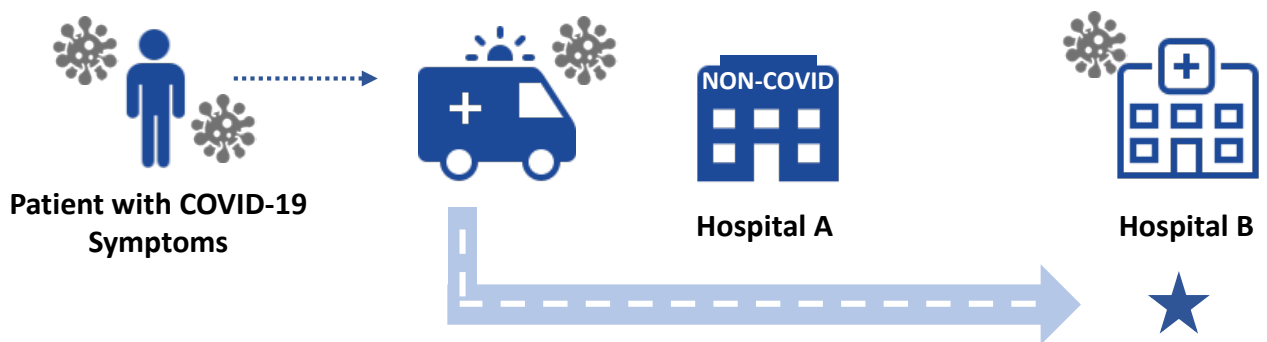
- 2 AMBULANCES**—If a hospital ED reaches capacity, the hospital may **request that ambulances not bring any new patients** (a.k.a “diversionary status”).³



Each hospital must still provide an MSE to any patient who arrives at the ED (whether by ambulance or some other means).

Diversion Under a State or Local Ambulance Protocol

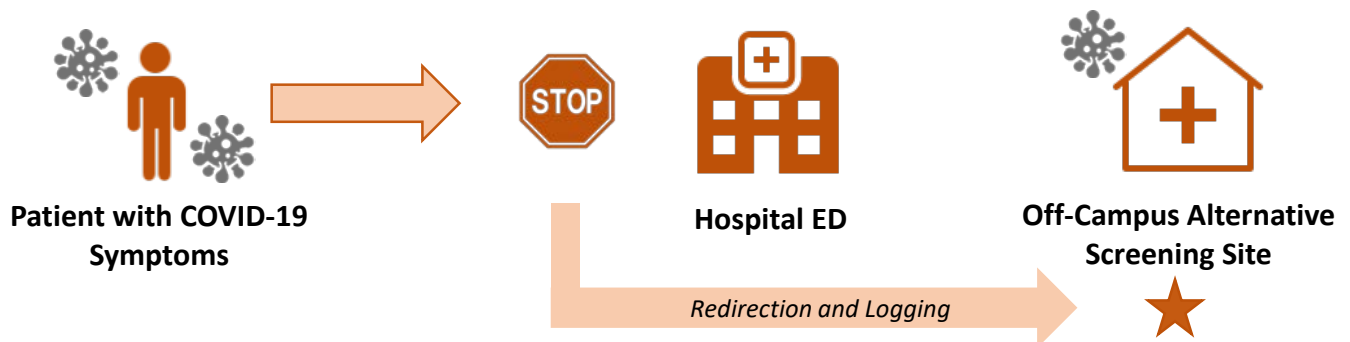
- 3 AMBULANCES**—State/local officials may **approve community-wide protocols** directing ambulances to take certain patients to certain hospitals.



Each hospitals must still provide an MSE to any patient who arrives at the ED (whether by ambulance or some other means).

Off-Campus Diversion Pursuant to CMS’s 1135 Waiver (effective March 1, 2020)⁴

- 4 ALL PATIENTS**—A hospital may redirect ED patients to an **alternative off-campus screening site**, consistent with the state’s emergency plan.



CMS will review, **case by case**, waiver requests to permit diversion to off-campus locations **not operated by the hospital**.

- EMTALA applies to all Medicare-participating hospitals, including critical access hospitals. This infographic does not discuss additional EMTALA requirements, such as the obligation to stabilize a patient’s emergency medical condition before being discharged or transferred. For more detail on the options discussed in this infographic, see the March 9, 2020 guidance from the Centers for Medicare & Medicaid Services (CMS) on EMTALA and COVID-19 (linked [here](#)).
- Hospitals may encourage patients to go *voluntarily* to an off-campus alternative screening site (including a site that is not affiliated with the hospital). However, EMTALA requires hospitals to provide a medical screening exam upon request to any patient who arrives in the ED, whether by ambulance or other means.
- Different rules apply to an ambulance that is owned and operated by the hospital.
- Under Section 1135 of the Social Security Act, CMS has the authority to waive certain federal healthcare requirements (including aspects of EMTALA), in accordance with a declaration issued on March 13, 2020 by the Secretary of Health & Human Services. On March 30, 2020, CMS issued several nationwide (i.e. “blanket”) waivers of EMTALA and other requirements, with retroactive effect back to March 1, 2020 (linked [here](#)).

About Manatt Health

Manatt Health integrates consulting and legal expertise to better serve the complex needs of clients across the healthcare system. Combining firsthand experience in shaping public policy, sophisticated strategy insight, deep analytic capabilities and legal excellence, we provide uniquely valuable professional services to the full range of health industry players. Our diverse team of more than 160 consultants and attorneys from Manatt, Phelps & Phillips, LLP, and its consulting subsidiary, Manatt Health Strategies, LLC, is passionate about helping our clients advance their business interests, fulfill their missions and lead healthcare into the future.