POLICY NAME: EMTALA – Texas Provision of On-Call Coverage Policy

Purpose: To establish guidelines for the Medical Center of Lewisville (the “Medical Center”) and its personnel to be prospectively aware of which physicians, including specialists and sub-specialists, are available to provide additional medical evaluation and treatment necessary to stabilize individuals with an emergency medical condition (“EMC”) in accordance with the resources available to the Medical Center as required by the Emergency Medical Treatment and Active Labor Act (“EMTALA”), 42 U.S.C., Section 1395, all Federal regulations and interpretive guidelines promulgated thereunder, and associated Texas laws and regulations.

Policy: The Medical Center must maintain an on-call list of physicians who are on its Medical Staff or who have privileges at the Medical Center. Physicians on the list must be available after the initial examination to provide treatment necessary to stabilize individuals with an EMC who are receiving services in accordance with the resources available to the Medical Center. The cooperation of the Medical Center’s Medical Staff members with this Policy is vital to the Medical Center’s success in complying with the on-call provisions of EMTALA. The Medical Center should make its privileged physicians aware of their legal obligations as reflected in this Policy and should take all necessary steps to ensure that physicians perform their obligations as set forth herein.

This Policy reflects guidance under EMTALA and Texas law only. It does not reflect any requirements of The Joint Commission or other regulatory entities.

The definitions in the Company EMTALA Policy, LL.EM.001, apply to this and all other Company and facility EMTALA policies.

Procedure:

Maintain a List. The Medical Center must maintain a list of physicians who are on-call for duty after the initial examination to provide treatment necessary to stabilize an individual with an EMC. The Medical Staff bylaws or appropriate policy and procedures must define the responsibility of on-call physicians to respond, examine, and treat patients with an EMC. Factors to consider in developing the on-call list include: number of physicians on the Medical Staff who are holding the privileges of the specialty, other demands on the physicians, frequency with which the physician’s services are required, and the provisions the Medical Center has made for situations where the on-call physician is not available or not able to respond due to circumstances beyond his or her control. The Medical Center is expected to provide adequate specialty on-call coverage consistent with the services provided at the Medical Center and the resources the Medical Center has available.
Develop an On-Call Schedule. The Medical Center’s Board of Trustees (the “Board”) must assure that the Medical Staff is responsible for developing an on-call rotation schedule that includes the name and direct pager or telephone number of each physician who is required to fulfill on-call duties. **Members of the Medical Staff have an obligation, but not a right, to share on-call duties. Members who are relieved of on-call responsibilities for any reason may be assigned other duties so that all members share as equitably as possible in Medical Staff responsibilities. Removing a member from the on-call schedule, for any reason, does not trigger the hearing and appeals procedures in the Medical Staff Bylaws or related policies.**

Physician group names are not acceptable for identifying the on-call physician. Individual physician names with accurate contact information are to be put on the on-call list. The Medical Center MUST be able to contact the on-call physician with the number provided on the list. Each physician is responsible for updating his/her contact information as necessary.

The on-call schedule may be general (e.g., medicine or surgery) or by specialty or sub-specialty (e.g., general surgery, orthopedic surgery, hand surgery, or plastic surgery), as determined by the Medical Center and implemented by the relevant department chairs. The Medical Executive Committee (“MEC”) shall review the on-call schedule and make recommendations to the CEO when formal changes are to be made or when legal and/or operational issues arise.

**Senior Call Exemption.** Members of the Active Staff who have served on the Medical Staff for at least 15 years and who are at least 65 years of age may be relieved of on-call duties when adequate call coverage exists for the specialty area in which the physician practices, as determined through the following process as outlined in the Medical Staff Bylaws: the member files a written request for relief to the Credentials Committee, which makes a recommendation to the MEC. The Credentials Committee’s recommendation shall be based on need and the effect on others who serve on the call roster for that specialty. The MEC will then make a recommendation to the Board for a final decision. Any request that is granted is subject to change by the Board upon its determination that call coverage in the member's specialty area is not adequate.

**Call by Non-Physician Practitioners.** Midlevel practitioners (usually physician assistants or advanced practice registered nurses) who are employed by and have protocol agreements with the on-call physician, may respond to call if the physician on-call so directs the licensed non-physician practitioner to appear at the Medical Center and provide further assessment or stabilizing treatment to the individual, **after the on-call physician has first spoken with the Emergency Department personnel.** The individual’s medical needs and capabilities of the Medical Center along with the Texas scope of practice laws, Medical Center bylaws and rules and regulations must be thoroughly reviewed prior to implementing this process. The designated on-call physician remains ultimately responsible for providing the necessary services to the individual in the dedicated emergency department (“DED” or “ED”) regardless of who makes the first in-person visit. If the emergency physician does not believe that the non-physician practitioner is the appropriate practitioner to respond and requests the on-call physician to appear, the on-call physician must come to the Medical Center to see the individual.
Develop a Back-up Plan. The Medical Center has in place a written plan for transfer and/or back-up call coverage by a physician of the same specialty or subspecialty for situations in which a particular specialty is not available or the on-call physician cannot respond due to circumstances beyond the physician’s control. The emergency physician shall determine whether to attempt to contact another such specialist or immediately arrange for a transfer.

Transfers Due to Unavailable Care. When possible, the Medical Center should have written transfer arrangements with other hospitals to facilitate appropriate transfers of individuals who require specialty or subspecialty physician care that is not available within a reasonable period of time at the Medical Center to which the individual first presented. In an effort to reduce the number of cases that will need to be transferred, the Medical Center shall keep local Emergency Medical Services advised of the times during which certain specialties are unavailable.

Physicians Performing Elective Surgeries or Other Therapeutic or Diagnostic Procedures While On-Call. Policies and procedures are in place to provide that specialty services are available to meet the individual’s needs if it permits on-call physicians to schedule and perform elective surgeries during the time that they are on-call. The on-call physician who undertakes an elective surgery while on-call must arrange for an appropriate physician with comparable privileges to serve as back-up to provide on-call coverage. The Medical Center will ensure that the ED is familiar with the back-up arrangement for any physician performing elective procedures.

Simultaneous Call. Physicians are permitted to have simultaneous call at more than one hospital in the geographic area; however, the physician must provide the Medical Center with the physician’s on-call schedule so that the Medical Center can have a plan in place to meet its EMTALA obligation to the community. This plan could include back-up call by an additional physician or the implementation of an appropriate transfer.

Community Call Plan. A community call plan is designed to meet the needs of the communities served utilizing the resources within the region. Any hospital choosing to participate in a formal community call plan will add the following statement to their on-call policy:

The hospital participates in a formal community call plan with ______ other hospitals. The hospital shall provide a medical screening examination to any individual who presents seeking treatment for a medical condition (or an emergency medical condition if not in a DED) and will conduct an appropriate transfer as needed. The community call plan contains the following:

1. A clear delineation of on-call coverage responsibilities among the hospitals participating in the plan;

2. A description of the specific geographic parameters to which the plan applies indicating what patient origin areas the plan expects to serve (e.g., community, county, region, etc.).
3. A signature by an authorized representative of each hospital participating in the plan;

4. Assurances that any local and regional EMS systems have the opportunity to consider the community call information when developing protocols;

5. The plan clearly specifies that even if an individual arrives at the hospital not designated as the on-call hospital, a medical screening examination and stabilizing treatment within the hospital’s capacity will be provided and an appropriate transfer arranged; and

6. The hospital in cooperation with all hospitals taking part in the community call plan shall conduct an annual assessment utilizing a quality assurance/performance improvement approach of the community call plan including an analysis of the specialty on-call needs of the communities for which the community call plan is effective.

A community call plan facilitates appropriate transfers to the hospital providing the specialty on-call services pursuant to the plan, but does not relieve any hospital of any EMTALA obligations with respect to transfer.

Even though the hospital participates in a community call plan, it must still accept appropriate transfers from non-participating hospitals.

Physician’s Response to Call. The Medical Center has a process to ensure that when a physician is identified as being “on-call” to the ED for a given specialty, it shall be that physician’s duty and responsibility to assure the following:

1. Immediate availability, at least by telephone, to When an EMC exists, the on-call physician or his/her designee is expected to immediately be available (within 15 minutes) to respond by phone.

2. The on-call physician must physically respond/appear in person to the ED within 30 minutes of being contacted by the emergency physician. The emergency physician, in consultation with the on-call physician, shall determine whether the individual’s condition requires the on-call physician to see the individual immediately. The determination of the emergency physician or other practitioner who has personally examined the individual and is currently treating the individual shall be controlling in this regard; or

2. Physically able to reach the patient within thirty (30) minutes after being informed that a patient is present at the hospital who requires immediate medical attention; or
3. When responding by telephone or radio, the on-call physician may order the transfer of the patient if, after receiving a report on the patient’s condition from the Medical Center’s registered nurse, physician assistant or other QMP by telephone or radio, the on-call physician determines that an immediate transfer of the patient is medically appropriate and that the time required to conduct a personal examination and evaluation of a patient will unnecessarily delay the transfer to the detriment of the patient.

(a) Physician orders for the transfer of a patient which are issued by telephone or radio shall be reduced to writing in the patient’s medical record, signed by the registered nurse, physician assistant, or other QMP receiving the order, and countersigned as soon as possible by the physician authorizing the transfer.

(b) The patient transfer resulting from physician orders issued by telephone or radio shall be subject to automatic review by the Medical Staff to determine that the appropriate standard of care has been met.

Transfer to Physician’s Office. When a physician is on-call in his or her office, the Medical Center may NOT refer individuals receiving treatment for an EMC to the physician’s office for examination and treatment. The physician must come to the Medical Center to examine the individual if requested by the treating physician. If, however, there is a genuine medical reason, the treating physician in the ED may move an individual needing the specific services of the on-call physician to the physician’s office only if the office meets the definition of a provider-based department of the Medical Center and is located on the Medical Center campus. This type of move will only be appropriate if all the following conditions are met:

1. all individuals with the same medical condition are moved to this location regardless of their ability to pay for treatment;

2. there is a bona fide medical reason to move the individual; and

3. appropriate medical personnel accompany the individual.

Financial Inquiries. Medical Staff members who are called to provide treatment necessary to stabilize an individual with an EMC may not inquire about the individual’s ability to pay or source of payment before coming to the ED and no Medical Center employee may provide such information to a physician on the phone. The Medical Center will not share information that could potentially lead to an EMTALA violation.

Selective Call and Avoiding On-Call Responsibility. Medical Staff members may not relinquish specific clinical privileges for the purpose of avoiding on-call responsibility. The Board is responsible for assuring adequate on-call coverage of specialty services in a manner that meets the needs of the community in accordance with the resources available to the Medical Center. Exemptions for certain Medical Staff members (e.g., senior physicians) would not in and
of itself violate EMTALA-related Medicare provider agreement requirements. However, if a Medical Center permits physicians to selectively take call ONLY for their own established patients who present to the ED for evaluation, then the Medical Center must be careful to assure that it maintains adequate on-call services, and that the selective call policy is not a substitute for the on-call services required by the Medicare provider agreement.

**Physician Appearance Requirements.** If a physician on the on-call list is called by the Medical Center to provide emergency screening or treatment and either fails or refuses to appear within a reasonable period of time, the Medical Center and that physician may be in violation of EMTALA as provided for under section 1867(d)(1)(C) of the Social Security Act. If a physician is listed as on-call and requested to make an in-person appearance to evaluate and treat an individual, that physician must respond in person in a reasonable amount of time in accordance with the time frames outlined in this Policy.

If, as a result of the on-call physician’s failure to respond to an on-call request, the Medical Center must transfer the individual to another facility for care, the Medical Center must document the name and address of the physician who refused or failed to appear in accordance with the time frames outlined in this Policy in the individual’s medical records. This documentation will be sent to the receiving hospital at the time of transfer via the Memorandum of Transfer form.

**Follow-up Care.** An on-call physician is obligated to make himself/herself available for the follow-up care of a patient through the episode that created the EMC, including at least one follow-up visit related to that incident. If a patient is treated in the ED for an EMC, is discharged, and requires further follow-up by a specialist, the ED physician will personally contact the on-call physician to notify him/her of the referral. The on-call physician is obligated to provide follow-up care for the patient only when the physician-to-physician communication has occurred (i.e., ED physician personally advises the on-call physician that a follow-up referral has been made to his/her office).

**Enforcement.** An on-call physician’s or his/her designee’s failure to respond or refusal to respond to call from the ED or any other violation of this Policy is a serious matter. Such violations can result in an investigation of the Medical Center and the physician involved, a fine of up to $50,000 (which is not covered under professional liability coverage) per incident, civil lawsuits and/or exclusion from participation in Medicare and Medicaid programs for the Medical Center and/or physician. Accordingly, any questions about a physician’s compliance with this Policy shall be referred to the CEO and the Chief of Staff. These individuals shall review the complaint and may discuss it with involved individuals. The complaint and related information shall then be referred to the MEC, unless the CEO and the Chief of Staff agree that there is no need for such a referral.

After reviewing the information, if the MEC determines that there is a potential violation of this Policy, the physician will be notified and will be afforded an opportunity to meet with the Committee. After this meeting, the MEC will determine whether the physician violated this Policy. Confirmed violations of this Policy, that occur within a two-year time frame, will result in the following disciplinary actions:
a. A first violation will result in a letter of counsel.

b. A second violation will result in a letter of warning and the immediate automatic relinquishment of clinical privileges for seven calendar days.

c. A third violation will result in a letter of warning and the immediate automatic relinquishment of clinical privileges for 14 calendar days.

d. A fourth violation indicates an inability or unwillingness to fulfill Medical Staff responsibilities as set forth in the Medical Staff Bylaws, the Credentials Policy, and this Policy. Accordingly, it will result in the automatic resignation of appointment and clinical privileges, without the right to a hearing or appeal.

This Policy outlines collegial steps (i.e., counseling, warnings, and meetings with a practitioner) that can be taken to address violations under this Policy. However, a single violation or a pattern of violations may be so unacceptable (i.e., violation of EMTALA under the Social Security Act) that immediate disciplinary action is required. Therefore, nothing in this Policy precludes an immediate referral of a matter being addressed through this Policy to the MEC or the elimination of any particular step in this Policy or in the Medical Staff Bylaws or related documents.

Potential violations to EMTALA regulations will be immediately reported through the Medical Center chain of command.

Records. The Medical Center must keep a record of all physicians on-call and on-call schedules for at least five years. Any on-call list must reflect any and all substitutions from the time of first posting of the list. These records may be in the form of a hard copy, microfilm, CD disk, computer memory or microfiche.