

To: DSHS

From: GETAC Air Medical Committee

Subject: Clarification of rules regarding helipad access to Lifeguard status helicopters.

This letter is to request clarification regarding the ability of hospitals to refuse inbound Lifeguard helicopters to land at public or prior permission required (PPR) helipads/heliports/helistops. It has been reported that there have been, and still are, patient access delays to hospitals by Lifeguard status helicopters.

Definitions:

Lifeguard status: An Air Traffic Control status which is requested and assigned to missions of an urgent medical nature and to be utilized only for the portion of the flight requiring expeditious handling.

PPR: Prior Permission Required to land

EMTALA: Emergency Medical Treatment and Active Labor Act

CMS: Centers for Medicare and Medicaid Services

Questions for clarification:

1. What state and federal laws and/or regulations are applicable to the problem stated above?
2. Can the receiving hospital deny a Lifeguard helicopter access to their helipads/heliports/helistops based on a requested amount of personal liability, property damage and/or hull damage insurance carried by the air medical provider, above and beyond the FAA requirements?
3. What rights do PPR certificate holders have in regards to refusing Lifeguard status helicopters access to their helipads/heliports/helistops? Does the answer depend upon whether or not the hospital receives state or federal funding?
4. What rights do owners of public helipads/heliports/helistops have in regards to refusing Lifeguard status helicopters access to their helipads/heliports/helistops? Does the answer depend upon whether or not the hospital receives state or federal funding?
5. What role would EMTALA or CMS rules play in refusing immediate access to a medical facility by a Lifeguard helicopter?
6. We would like a definition or “reasonable access” to a hospital. Does a remote landing area, local airport or distant helipads/heliports/helistops, count as “reasonable access” when there is an existing helipads/heliports/helistops were timely access that has less delay to definitive, life saving, care is available?
7. Does being within 250 feet of a hospital, specifically in the air, trigger EMTALA guidelines regarding hospital requirements to provide the EMTALA medical screening exam?
8. What other EMTALA considerations may apply?
9. What role can DSHS and THA play in licensing a facility, medical or trauma, based on open helipads/heliports/helistops access to Lifeguard status helicopters?

From: Connelly, Marc

Sent: Thursday, March 08, 2007 4:50 PM

To: 'JScholz01@yahoo.com'; Jansky, Donald J

Cc: Hart, Brett

Subject: RE: Nine Questions from Air Med Comm

Response to nine questions regarding the ability of hospitals to refuse inbound Lifeguard helicopters to land at public or prior permission required helipads.

- 1. No state hospital licensing laws are applicable; I am not aware of any applicable federal laws, but suggest checking CMS on that issue.*
- 2. No state hospital licensing laws address this issue*
- 3. No state hospital licensing laws address this issue*
- 4. No state hospital licensing laws address this issue; I cannot address the issue of private property rights as a state attorney*
- 5. No state hospital licensing laws address this issue; EMTALA regulations apply if the helicopter lands on hospital property, which includes the entire hospital campus, defined in the EMTALA regs as the physical area immediately adjacent to the provider's main buildings, other areas and structures located within 250 yards of the main buildings and other areas determined by CMS to be part of the provider's campus.*
- 6. No state hospital licensing laws address this issue; there is no definition of "reasonable access" in statute or rule. If the helicopter lands on hospital property, EMTALA applies.*
- 7. No. See No.5, above.*
- 8. An individual must present on the hospital property for EMTALA to apply. See No.5, above.*
- 9. No state hospital licensing laws address this issue; A statutory change or new Hospital rules would be necessary to change the licensing requirements for hospitals in Texas.*

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