



March 19, 2025

DHDTC DAL 25-03

Subject: Patient abandonment and equity in care

Dear Chief Executive Officer:

The New York State Department of Health is issuing the following guidance to hospitals and Diagnostic and Treatment Centers, regarding meeting the requirements of professional licensure and the Emergency Medical Treatment and Active Labor Act (EMTALA); holding a license to operate a hospital in New York State; and participating in federal and state reimbursement programs.

All health care professionals have a professional and ethical responsibility to treat patients with respect and dignity. In addition, health care professionals cannot simply abandon an existing patient and must provide continuity of care or facilitate an orderly transition of care. It is a violation of Education Law Section 6530(30) and 8 NYCRR 29.2(a)(1) to abandon an existing patient.

EMTALA is a federal law requiring general hospitals to ensure public access to emergency services, regardless of a patient's ability to pay or insurance status (42 USC Section 1395dd; 42 CFR Section 489.24). All patients who present to the emergency department should be treated equally and assessed and provided appropriate care, regardless of the location where services are provided.

Hospitals, including Diagnostic and Treatment Centers, must treat all patients equally when patients seek treatment. Refusing to provide services or withholding services to patients based on their race, color, religion, sex, gender identity or expression, national origin, disability, sexual orientation, or age may be considered discrimination under Article I, Section 11 of the New York State Constitution, as well as the New York State Human Rights Law and the Patients' Bill of Rights. NYS Executive Law Section 296(2)(a) prohibits hospitals, including Diagnostic and Treatment Centers, from unlawfully discriminating against anyone on the basis of race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, marital status, or status as a victim of domestic violence, either directly or indirectly, including to refuse, withhold from, or deny to such person any of the accommodations, advantages, facilities, or privileges of such facility.

Providers also have requirements under the Medicaid program, Medicare Program, and charity care provisions that obligate them to provide services, even in situations where the legal or payment status of a patient is in dispute. For example, physicians may be charged with misconduct for abandoning or neglecting a patient in need of immediate care or refusing to provide medical care because of a patient's race, creed, color, or national origin.



**Department
of Health**

KATHY HOCHUL
Governor

JAMES V. McDONALD, MD, MPH
Commissioner

JOHANNE E. MORNE, MS
Executive Deputy Commissioner

For questions, please contact the Division of Hospitals and Diagnostic & Treatment Centers at (518) 402-1004 or by email at hospinfo@health.ny.gov.

Sincerely,

Stephanie Shulman, DrPH, MS
Director, Division of Hospitals and
Diagnostic & Treatment Centers