November 14, 2019

EMS Personnel and Agencies:

We have received requests to clarify the Idaho Code, Administrative Rules and policies regarding the transfer operational declaration for Emergency Medical Services (EMS) agency licensure. The purpose of this document is to provide clarification specific to the transfer operational declaration.

A transfer declaration authorizes an EMS agency to transport a patient from one medical facility (hospital) to another. An EMS transport, that originates outside of a hospital, of a patient expected to require emergency medical care is considered a pre-hospital call and requires a pre-hospital operational declaration. A more detailed analysis follows.

Idaho Administrative Code, IDAPA 16.01.03 – EMERGENCY MEDICAL SERVICES – AGENCY LICENSING REQUIREMENTS describes the model under which all EMS agencies in Idaho are licensed. The Bureau of EMS and Preparedness (the bureau) licenses EMS agencies based on several factors, one of which is operational declarations which describe services the agency is authorized to provide. The transfer declaration (described in IDAPA 16.01.03.204.04) authorizes EMS agencies to transport patients from one medical facility to another. The term “interfacility transfer” is commonly used to describe the services authorized by the transfer declaration.

It is important to point out the distinction between a healthcare facility and a medical facility, as the latter is a more focused term than healthcare facility. Healthcare facility is a very broad description that includes numerous types of facilities providing health care services which may or may not include medical treatment to patients by licensed medical providers. Conversely, a medical facility (as referred to in IDAPA 16.01.03.204.04) is a facility which uses licensed medical providers, under the supervision of physicians, to deliver medical care in a clinical setting to patients who require emergency medical care and/or continuous medical care due to acute or chronic illness or injury. This distinction is why the term medical facility is used in IDAPA 16.01.03.204.04.

To accurately determine what constitutes an interfacility transfer, the Emergency Medical Treatment and Labor Act (EMTALA), national standards of EMS practice, Idaho Code, and IDAPA 16.01.03 rules must all be considered.

Although EMTALA does not directly apply to EMS agencies, EMTALA rules directly apply to medical facilities that order patient transfers from a medical facility to another medical facility, and the condition of the patients who are being transferred via EMS (interfacility transfer). Per EMTALA, patients qualifying for an interfacility transfer must have been previously examined and stabilized by a physician or other authorized medical provider prior to transfer. Additionally, transports from facilities not equipped or staffed to provide emergency medical care and stabilization of patients do not meet EMTALA requirements for an interfacility transfer because patients from those locations have not been evaluated.
and stabilized by licensed medical providers equipped and able to render emergency medical care prior to transfer.

Furthermore, the National Highway Traffic Safety Administration, Office of EMS (which sets the national standards of EMS practice), defines an interfacility transfer as: “Any transfer, after initial assessment and stabilization, from and to a health care facility.” This definition agrees with the EMTALA definition of an interfacility transfer.

Thus, facilities not equipped or staffed to render emergency medical care and stabilization of acutely ill or acutely deteriorating patients prior to transfer would not be considered medical facilities in the context of the transfer operational declaration, nor would those facilities be considered a hospital as defined in Idaho Code.

According to Idaho Code §39-1301(a), a hospital is: a facility which:

1. Is primarily engaged in providing, by or under the supervision of physicians, (a) concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; and
2. Diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; and
3. Rehabilitation services for injured, disabled, or sick persons; and
4. Obstetrical care.

(2) Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours.

(3) Is staffed to provide professional nursing care on a twenty-four (24) hour basis.

In the context of Idaho Code and Administrative Rule, the treatment and transport of a patient with an emergent medical condition who has not yet received emergency medical care in a hospital is considered a pre-hospital response. The term pre-hospital transport as described in IDAPA 16.01.03.204.01 is based on the common understanding of the treatment of a patient experiencing a medical emergency located outside of a hospital and subsequently requiring transport to a hospital for emergency medical care. Consequently, a patient who is currently outside of a hospital and requires emergency medical care and transport to a hospital should be transported by an EMS agency with a pre-hospital transport operational declaration.

The movement of persons who are not expected to require emergency medical care during transport, and are not being transported to a hospital for emergency medical care, is not considered to be the practice of Emergency Medical Services (as defined in Idaho Code §56-1012) and is therefore not within the regulatory purview of the bureau (regardless of the type of vehicle used).

These include:

1. Non-emergent transfers from an assisted living facility or skilled nursing facility to a scheduled physician’s appointment, scheduled medical procedure, or scheduled hospital admission (not the Emergency Department (ED)) where emergency medical care is not expected to be required on-site by EMS or during transfer.
2. Non-emergent transfers from a patient’s home to a scheduled physician’s appointment, scheduled medical procedure, or scheduled hospital admission (not the ED) where emergency medical care is not expected to be required on-site by EMS or during transfer.
3. Non-emergent transfers from an outpatient clinic or physician’s office for pre-authorized admission to a hospital floor or rehabilitation center (not the ED) when the patient is not expected to require emergency medical care on-site by EMS or during transfer.

4. Transfer of a patient to their residence following discharge from a medical facility, physician’s office, outpatient surgery center, acute care center, dialysis clinic, etc.

Please feel free to contact our office with any concerns or questions at (208) 334-4000.

Sincerely,

[Signature]

Wayne Denny, MA
Bureau Chief
Idaho Bureau of EMS and Preparedness

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