Statement of Deficiencies	**(X1) Provider/Supplier/CLIA Identification Number**	**(X3) Date Survey Completed**
	670029	03/14/2011
Name of Provider or Supplier	**Street Address, City, State**	
First Surgical Hospital	4801 Bissonnet Blvd, Bellaire, TX	

For information on the provider's plan to correct this deficiency, please contact the provider or the state survey agency.

(X4) ID Prefix Tag	**Summary Statement of Deficiencies** (Each deficiency should be preceded by full regulatory or LSC identifying information)
A2407	STABILIZING TREATMENT CFR(s): 489.24(d)(1-3) (1) General. Subject to the provisions of paragraph (d)(2) of this section, if any individual (whether or not eligible for Medicare benefits) comes to a hospital and the hospital determines that the individual has an emergency medical condition, the hospital must provide either- (i) within the capabilities of the staff and facilities available at the hospital, for further medical examination and treatment as required to stabilize the medical condition. (ii) For for transfer of the individual to another medical facility in accordance with paragraph (e) of this section. (2) Exception: Application to inpatients. (i) If a hospital has screened an individual under paragraph (a) of this section and found the individual to have an emergency medical condition, and admits that individual as an inpatient in good faith in order to stabilize the emergency medical condition, the hospital has satisfied its special responsibilities under this section with respect to that individual (ii) This section is not applicable to an inpatient who was admitted for elective (nonemergency) diagnosis or treatment. (iii) A hospital is required by the conditions of participation for hospitals under Part 482 of this chapter to provide care to its inpatients in accordance with those conditions of participation. (3) Refusal to consent to treatment. A hospital meets the requirements of paragraph (d)(1)(i) of this section with respect to an individual if the hospital offers the individual the further medical examination and treatment described in that paragraph and informs the individual (or a person acting on the individual's behalf) of the risks and benefits to the individual of the examination and treatment, but the individual (or a person acting on the individual's behalf) does not consent to the examination or treatment. The medical record must contain a description of the examination, treatment, or both if applicable, that was refused by or on behalf of the individual. The hospital must take all reasonable steps to secure the individual's written informed refusal (or that of the person acting on his or her behalf). The written document should indicate that the person has been informed of the risks and benefits of the examination or treatment, or both.

This STANDARD is not met as evidenced by:
Note: The CMS-2567 (Statement of Deficiencies) is an official, legal document. All information must remain unchanged except for entering the plan of correction, correction dates, and the signature space. Any discrepancy in the original deficiency citation(s) will be reported to the Dallas Regional Office (RO) for referral to the Office of the Inspector General (OIG) for possible fraud. If information is inadvertently changed by the provider/supplier, the State Survey Agency (SA) should be notified immediately. FACTS: First Street Hospital has added seven out-patient emergency centers that are classified as Provider Based Entities (PBE) with CMS. The seven centers are as follows: Bellaire: effective date of PBE 9/1/10 Memorial Heights: effective date of PBE 9/1/10 St Michaels Sugarland: effective date of PBE 9 /1/10 St. Michaels Westheimer: effective date of PBE 9/1/10 St. Michaels Woodlands: effective date of PBE 9/1/10 Preferred: effective date of of PBE 1/3/11 River Oaks: effective date of PBE 10/18/10 Based on interview and record review the Hospital failed to comply with CFR 489.24 requirements. The hospital failed to provide further medical examination and treatment as required to stabilize the medical conditions of 4 of 4 indigent patients requiring an appendectomy. (Patient ID#'s 10, 15, 19, and 35) Findings include: Four indigent emergency room patients were inappropriately transferred to other hospitals for higher level of care. (Patient ID#'s 10, 15, 19, 35). Record review of a policy titled "Emergency Medical Treatment and Active Labor Act (EMTALA) dated 5/2010 stated "Screening within the off-campus locations shall be within the location's capabilities and available personnel. If the patient's condition is outside the scope of services available, the off-campus location shall arrange patient transportation.....Patients shall be routinely transferred to facilities where transfer agreements have been established, or the patient's choice." Record review of emergency room patient transfers for patient ID#'s 10, 15, 35 and 41 revealed each patient was seen in out-patient provider based emergency departments and each was diagnosed with appendicitis. Each patient was indigent with no insurance and all were transferred to other hospitals for higher level of care / surgical intervention. In each case, the hospital had the capability and the capacity to care for these patients but the out-patient emergency centers did not consult with the hospital prior to the transfers. The Chief Executive Officer (CEO) acknowledged 3/11/11 at 4:30 p.m. that it is sometimes in the best interest of the patients to be transferred to the closest hospital in the area of town. The CEO stated the hospital has never received a patient admission from any of the seven out-patient emergency rooms. The CEO provided documentation that 536 emergency room patients had been transferred to other hospitals from September 2010 to February 2011. Record review of a policy titled "Emergency Department Scope of Service" dated 12/09 stated "Emergency Department patients are evaluated for response to treatment and are either admitted, transferred for further treatment that requires a higher level of care or is not provided by First Street Hospital....." Record review of a policy titled "Scope of Services" dated 07/2010 stated "Perioperative Services - Surgery: Surgical services include a full range of general surgical procedures as well as surgical specialties.....The primary focus of service is to provide surgical support for in-patients and out-patients." Patient ID# 10: Record review revealed this patient was seen 10/22/10 at St. Michaels Emergency Room Westheimer. The face sheet stated the patient was unemployed with no insurance. The Memorandum of Transfer form stated the patient was transferred to Hospital #90 with a diagnoses of Appendicitis. The Memorandum of Transfer stated the patient was being transferred for "Medical necessity / Upgrade in care." The patient record failed to document if the emergency room contacted First

Street Hospital prior to transferring the patient to another hospital. First Street Hospital had the capability and the capacity to care for patient # 10. Record review of the surgery on-call schedule dated 10/22/10 revealed a general surgeon (ID# 57) was on-call at First Street Hospital. Review of the general surgeon's credential file revealed one of the approved delineation of privileges was "appendectomy." Record review of the daily Census on 10/22/10 revealed the hospital had a census of 2 in-patients with a total capacity of 5 beds. Patient ID# 15: Record review revealed this patient was seen on 12/26/10 at St. Michaels Emergency Room Woodlands. The face sheet stated the patient was uninsured. The Memorandum of Transfer form stated the patient was transferred to Hospital # 89 with a diagnoses of Appendicitis. The Memorandum of Transfer stated the patient was being transferred for "Medical necessity / Upgrade in care." The patient record failed to document if the emergency room contacted First Street Hospital prior to transferring the patient to another hospital. First Street Hospital had the capability and the capacity to care for patient # 15. Record review of the surgery on-call schedule dated 12/26/10 revealed a general surgeon (ID# 54) was on-call at First Street Hospital. Interview 3/15/11 at 10 a.m. with the Chief Executive Officer (ID# 50) revealed the hospital had no in-patients on 12/26/10 and 19 beds available. The CEO stated the hospital completed construction on an expansion 12/20/10 and added 14 additional beds to the existing 5 beds for a total of 19 beds. Patient ID# 19: Record review revealed this patient was seen on 12/13 /10 at River Oaks Emergency Center. The face sheet stated the patient was uninsured. The Memorandum of Transfer form stated River Oaks Emergency Center was a "Free Standing Emergency Medical Care Facility." The Memorandum of Transfer form stated the patient was transferred to Hospital #88 with a diagnoses of "acute appendicitis." The Memorandum of Transfer form did not state the reason for the transfer. The patient record failed to document if the emergency room contacted First Street Hospital prior to transferring the patient to another hospital. Review of hospital transfer tapes from Hospital ID# 88 revealed the following conversation between the Medical Director (ID# 62) of River Oaks Emergency Center and the hospital transfer center regarding patient ID# 19: The Medical Director of the ER (ID# 62) told the hospital transfer center surgeon "I am one the emergency room doctors at River Oaks Emergency free standing emergency department. I have a patient for you with appendicitis." First Street Hospital had the capability and the capacity to care for patient # 19. Record review of the surgery on-call schedule dated 12/13/10 revealed a general surgeon (ID# 57) was on-call at First Street Hospital. Record review of the daily Census on 12/13/10 revealed the hospital had a census of 4 in-patients with a total capacity of 5 beds. The patient record failed to document if the emergency room contacted First Street Hospital prior to transferring the patient to another hospital. Patient ID# 35: Record review revealed this patient was seen on 9/23/10 at Bellaire Emergency Center. The face sheet stated the patient was uninsured. The Memorandum of Transfer form stated the patient was transferred to the County Hospital (ID# 88) for "Medical Necessity / Upgrade in care and Patient Request." Per telephone interview 3/16/11 at 3 p.m. with patient ID# 35 revealed the patient did not request to be transferred to the county hospital, that the emergency room made all the arrangements. Review of the transfer tapes from the county hospital for patient ID# 35 revealed the Medical Director (ID# 58) of Bellaire emergency room telling the County hospital transfer center "I am trying to initiate a transfer, we are a free standing emergency room and I have a patient with appendicitis." The transfer center then asks "what is the name of your hospital?" and the Medical Director replies "Bellaire Emergency Center." The transfer center then asks if the Medical Director contacted any other hospital and the Medical Director stated "no, you are the first one." The transfer center then asks "are you contracted with any hospital to receive patients from you all?" The Medical Director replies "We are not officially contracted with any

	hospital." The patient record failed to document if the emergency room contacted First Street Hospital prior to transferring the patient to the County hospital. First Street Hospital had the capability and the capacity to care for patient ID# 35. Record review of the surgery on-call schedule dated 9/23/10 revealed a general surgeon (ID# 57) was on-call at First Street Hospital. Record review of the daily census on 9/23/10 revealed the hospital had a census of 4 in-patients with one bed available. The Physician Chairman (ID# 59) of the hospital acknowledged 3/14/11 at 8 a.m. that the out-patient emergency departments were previously functioning as unlicensed emergency rooms and he thought the physicians at the centers were in the habit of identifying themselves as "Free Standing Emergency Centers." Record review of a policy titled "Patient Transfer Policy" dated 8/29/06 stated "Introduction: The Governing Board of First Street Hospital, after consultation with the Medical Staff, has adopted the following policy according to rules adopted by the Texas Department of State Health Services regarding the evaluation, treatment, and transfer of patients from this hospital to another hospital in a medically appropriate manner.....The transfer of a patient may not be predicated upon arbitrary, capricious, or unreasonable discrimination based upon race, religion, national origin, age, gender, physical condition or economic status." The policy further stated "Administrative Protocols: If a patient has an emergency condition which has not been stabilized or when stabilization of the patient's vital signs is not possible because the hospital or emergency department does not have the appropriate equipment or personnel to correct the underlying process, evaluation and treatment shall be performed and transfer shall be carried out as quickly as possible." The hospital had previously performed an appendectomy. Record review of the medical record revealed Patient ID# 41 was admitted to the hospital on 1/25/11. A general surgeon's (ID# 57) operative note dated 1/27/11 stated a laparoscopic appendectomy was performed.