

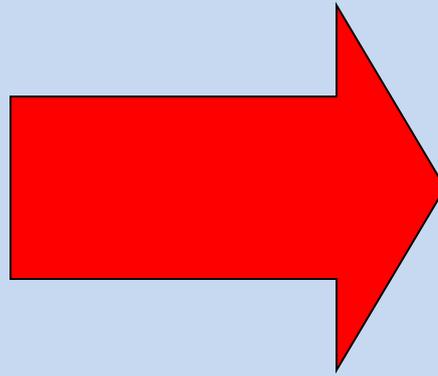
Health Law: Quality & Liability

Prof. Thaddeus Pope

EMTALA: Stabilization
Duty



Arrives on
hospital
property &
requests
treatment



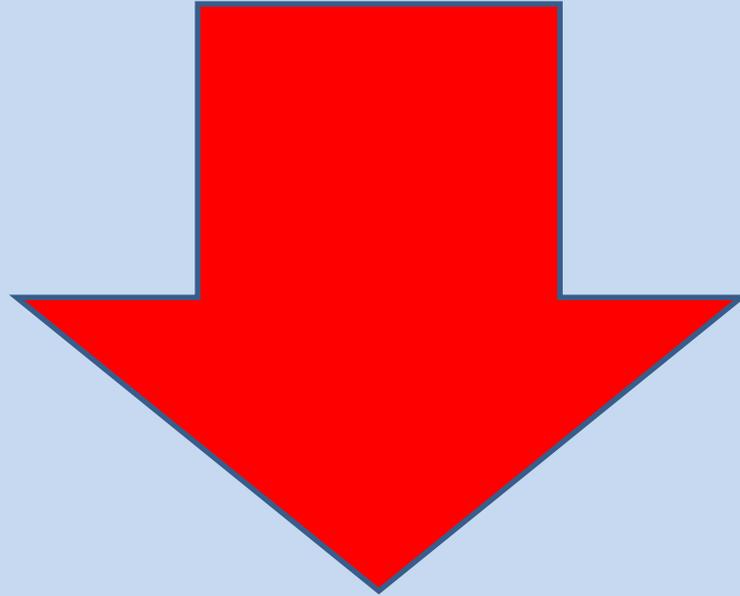
Screen
for
EMC



Screening = exam
comparable to an
exam offered to
other patients
presenting similar
symptoms



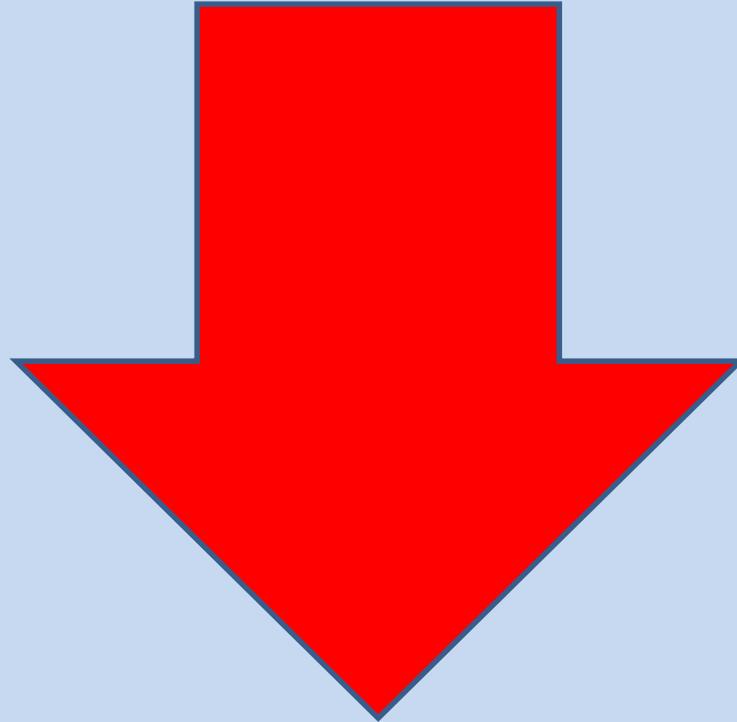
Screening identifies
(correctly or not) **no** EMC



No more EMTALA duties



Screening **does** identify
EMC



More EMTALA duties



What to do with EMC



1. Stabilize (then transfer)
2. Pre-stabilization transfer on patient request
3. Pre-stabilization transfer meeting 5+ rules
4. Admit to stabilize



1.

Stabilize



Get patient to state
where there would be
no material
deterioration from
transfer/discharge



Once EMC **stabilized**

→ no more EMTALA

duty (even if more

treatment required)



Stabilize = not cure, just
mitigate the severity of
acute episode so when Pt
leaves hospital, condition
no longer meets
definition of EMC



EMTALA does **not**
require complete
treatment of
medical condition



Treat

Stabilize



Stabilize = not cure, just
mitigate the severity of
acute episode so when Pt
leaves hospital, condition
no longer meets
definition of EMC





M*A*S*H

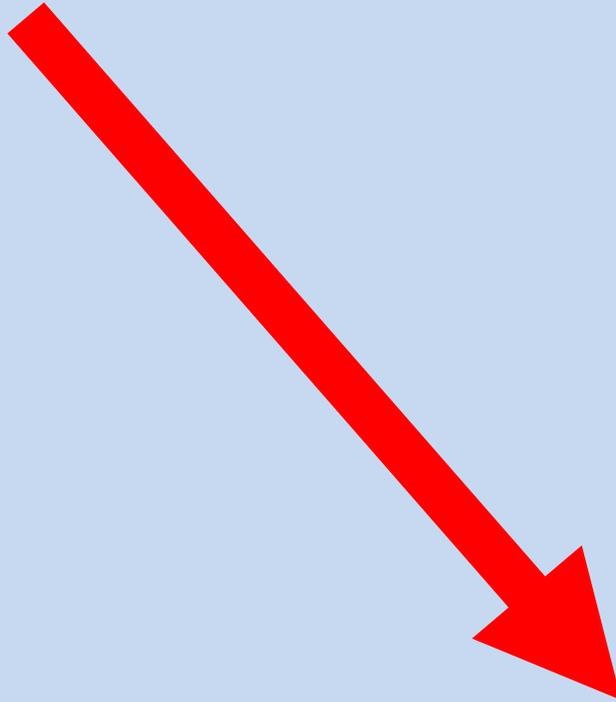


THE GOVERNMENT
CAN'T MAKE ME
BUY HEALTH
INSURANCE...

...AND WHY
WOULD I WHEN
I CAN JUST GO
HERE AND YOU'LL
PAY FOR IT?

EMERGENCY
ROOM

Stabilize



**EMTALA
imposes no
further
obligation**



2. Transfer on patient request



EMTALA is for
patient
protection

She can refuse it



WAIVER OF RIGHTS

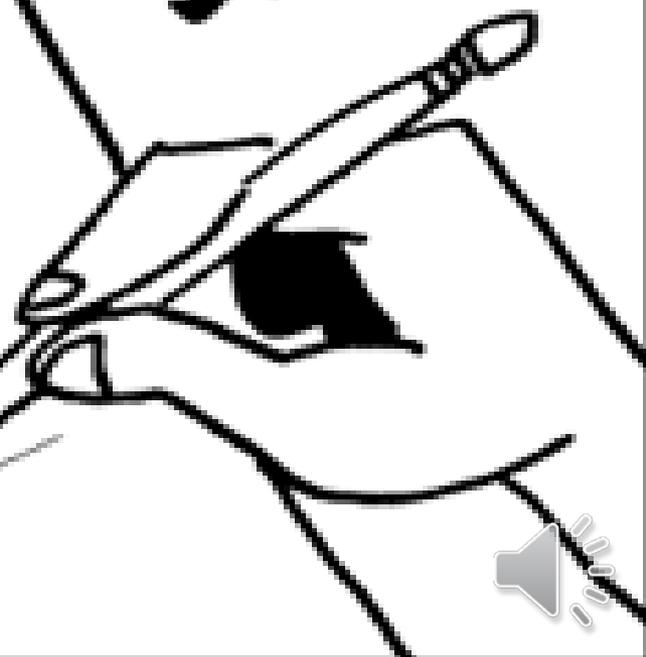
1. I have the right to remain silent.
2. Anything I say can be used against me in a court of law.
3. I have the right to an attorney.
4. If I cannot afford an attorney, one will be appointed for me by the court.

I have read and understood the above rights and I hereby waive those rights.

Date: _____

Signature: _____

**SKRTCH
SKRTCH**



3. Admit patient



EMTALA does not
apply to inpatients



Smith

v.

Albert Einstein

Med. Ctr.



Arrive at hospital	“individual”
Screened	“patient”
Admit to ward (not the ED) intended at least overnight	“inpatient”



Inpatient rule
rejected here

6th Circuit



But admission must be in
“good faith” – for purpose
of stabilization

Okay that not ultimately
stabilize



Not at hospital
no EMTALA, no med mal

Inpatient/outpatient
state law med mal;
COPs; not EMTALA

Arrive at ED → EMTALA



**4. Transfer w/
certification
that benefits
outweigh risks**





DANGER!



“Looks” like
dumping -
transfer w/o
stabilization



Document

Document

Document



Transferring hospital

1. Make certification
2. Minimize risk with own capacity
3. Make transfer w/ qualified personnel & equipment



Receiving hospital

4. Capable of providing care

5. Agree to accept



Major centers with
specialized capabilities
(e.g. burn, NICU) **may not**
refuse, if capacity

3rd duty & type of violation
(beyond screen, stabilize)



This is a **separate**
EMTALA duty on
special capability
hospitals

Even if no ED

