

# Health Law:

# Quality & Liability

## Prof. Thaddeus Pope

## EMTALA: Screening Duty



# EMTALA

## Requirements



1. Screen
2. Stabilize
3. Accept certain transfers



**It's the Law**

# **If you have a medical emergency or are in labor**

*You have the right to receive, within the capabilities of this hospital's staff and facilities:*

- An appropriate medical screening examination;
- Necessary stabilizing treatment (including treatment for an unborn child); and
- If necessary, an appropriate transfer to another facility — even if you cannot pay, you do not have medical insurance or you are not entitled to Medicare or Medi-Cal.



# Screening



1. When

2. How

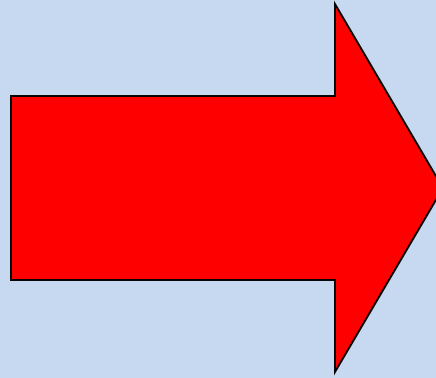
3. Why



# When to screen



Arrives on  
hospital  
property &  
requests  
treatment



Screen  
for  
EMC





Triggered when patient  
is on **hospital property**  
and requests (or  
obviously needs)  
treatment



Remember,  
“hospital  
property” is a  
defined term



# How to screen



Exam **comparable** to  
an exam offered to  
other patients  
presenting similar  
symptoms



The test is  
**uniformity** (intra-  
institutionally) **not**  
standard of care



Hospital will  
definitely want  
to follow its  
**own SOPs**



Misdiagnosis is  
NOT an EMTALA  
violation



EMTALA assures  
the **same** level of  
treatment, **not**  
necessarily good  
treatment





EMTALA is **not**  
a federal  
malpractice  
statute



Nor does it  
need to be



Physician

has **no duty**

to treat



Unless **already**  
in a treatment  
relationship



EMTALA requires provider  
to **enter** into treatment  
relationship

Existence of **treatment  
relationship** gives rise to  
tort duties



# “Bad” screening

May not be EMTALA  
violation

But can still be  
malpractice



**why**

**screen**



# **Emergency medical condition (EMC)**





Presence of acute symptoms of such severity that without immediate attention could reasonably be expected to result in:

Placing health in serious jeopardy

Serious impairment to bodily functions



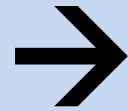
Re pregnant woman:

Where inadequate time for  
transfer before delivery

Where transfer may pose  
threat to woman or child



**If no EMC**



**EMTALA  
imposes no  
further  
duty**

**If EMC**



**Stabilize,  
admit, or  
transfer**



If no see

EMC

→ EMTALA

imposes no  
further  
duty

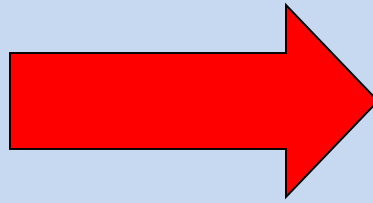
If see

EMC

→ Stabilize,  
admit, or  
transfer

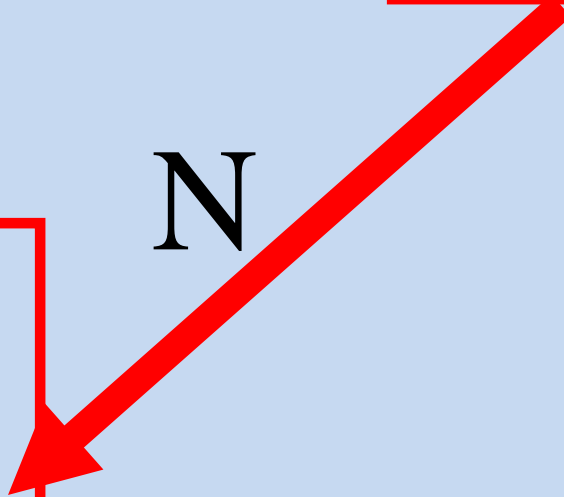


**Screen**



**Diagnose  
EMC**

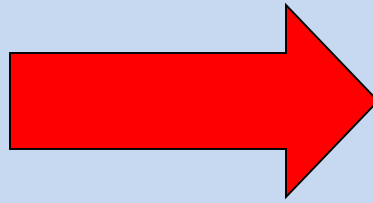
**N**



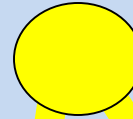
**EMTALA  
imposes no  
further  
obligation**



**Screen**



**Diagnose  
EMC**



Y

**Admit**

Y

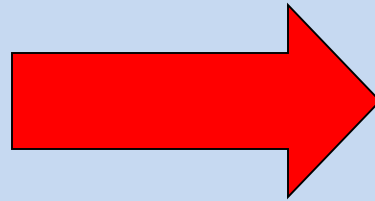
**Stabilize**

Y

**Transfer w/o  
stabilizing  
(many hurdles)**



**Screen**



**Diagnose  
EMC**

Y

**Admit**

N

Y

**Stabilize**

Y

**EMTALA  
imposes no  
further  
obligation**

**Transfer w/o  
stabilizing  
(many hurdles)**



# Sample Flowcharts

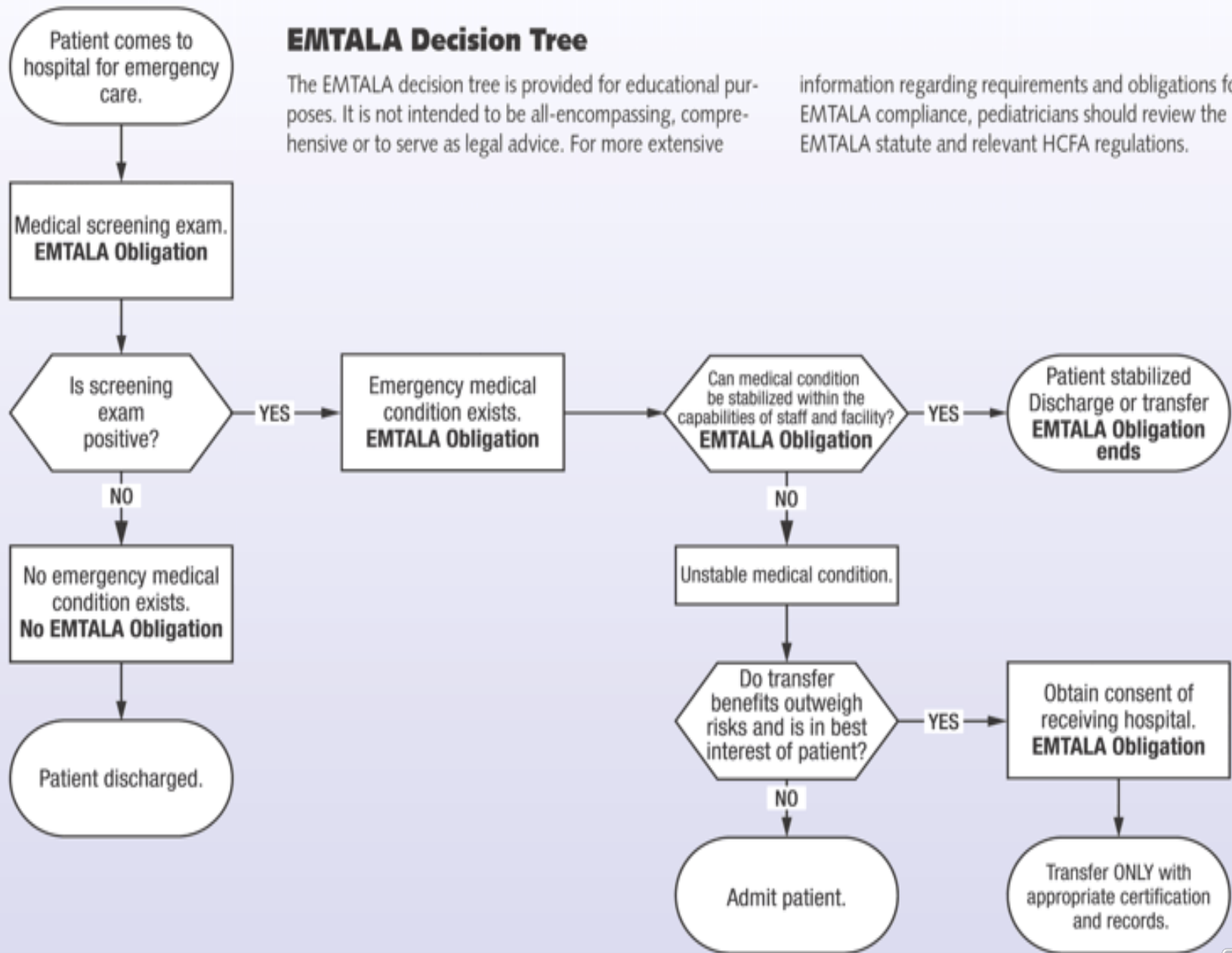


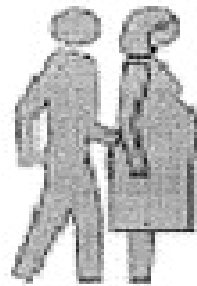


## EMTALA Decision Tree

The EMTALA decision tree is provided for educational purposes. It is not intended to be all-encompassing, comprehensive or to serve as legal advice. For more extensive

information regarding requirements and obligations for EMTALA compliance, pediatricians should review the EMTALA statute and relevant HCFA regulations.

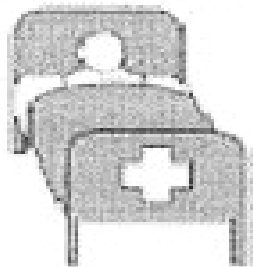




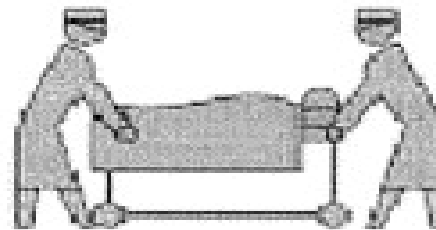
Emergency room patients must receive a medical screening exam without delay to determine if they have an emergency medical condition.

Patient has an emergency medical condition.

Patient does not have an emergency medical condition.



Hospital stabilizes patient.



Hospital cannot stabilize patient and provides an appropriate transfer.

Hospital has fulfilled basic EMTALA requirements.



Patient on hospital property	
Not already inpatient, outpatient	
Screen for EMC?	
Screened in standard way for presented symptoms?	
EMC identified?	
EMC stabilized?	
Transferred per certification?	
Admitted to stabilize?	

