



EMTALA: Common Pitfalls and Compliance Issues

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For nursing the number of credits designated is the number of credits awarded

Copic is accredited as a provider of Continuing nursing education (CNE) by the American Nurses Credentialing Center's Commission on Accreditation (ANCC). This activity was designated for 0.75 nursing contact hour.

Process for Claiming Credit

In order to earn CME/CE credit learners should complete the evaluation questions that will assess if practitioners have learned the most important recommendations and conclusions from this course. Each LIVE CME activity consists of the full participation of the learner, and a course evaluation. The assessment/evaluation remain locked until the learning activity is completed.

Process for Completing the Activity:

1. Read the Financial Disclosures.
2. Read the target audience, learning objectives, and financial disclosures.
3. Complete the LIVE educational activity.
4. Complete the activity evaluation/assessment on Copic's LMS platform and/or Survey Monkey

It is estimated that this activity will take approximately **0.75 hour** to complete.



Learning Objectives



- Outline a hospital's duty to patients requesting examination or treatment for a medical condition
- Recognize the obligations of the on-call staff
- Create policies and procedures to ensure that the hospital and medical staff meet the EMTALA requirements

Caveat: case-by-case review



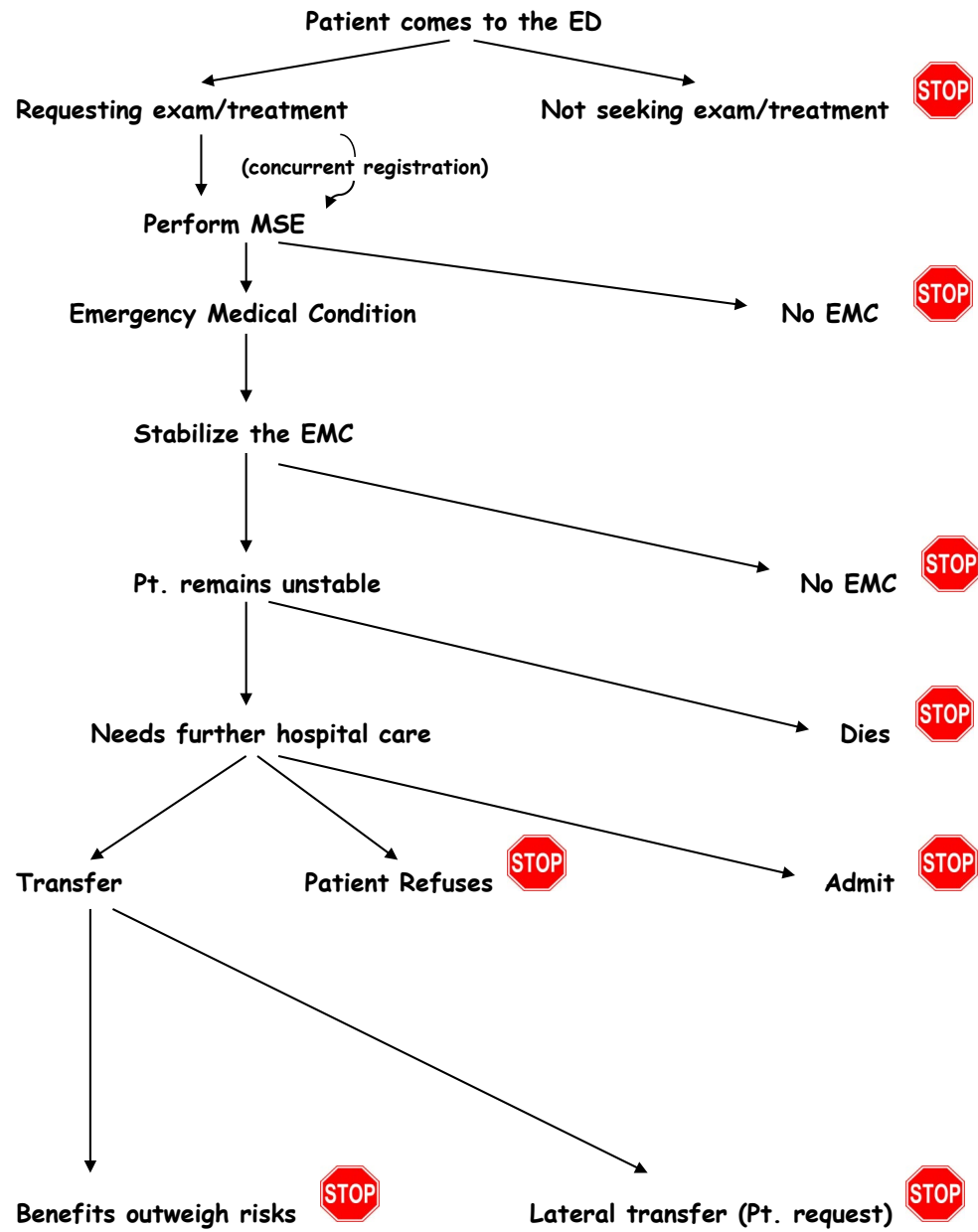
“COBRA”

- Enacted in 1985
- Consolidated Omnibus Reconciliation Act of 1985
- Anti-dumping statute



EMTALA in a nutshell





Consequences of a violation

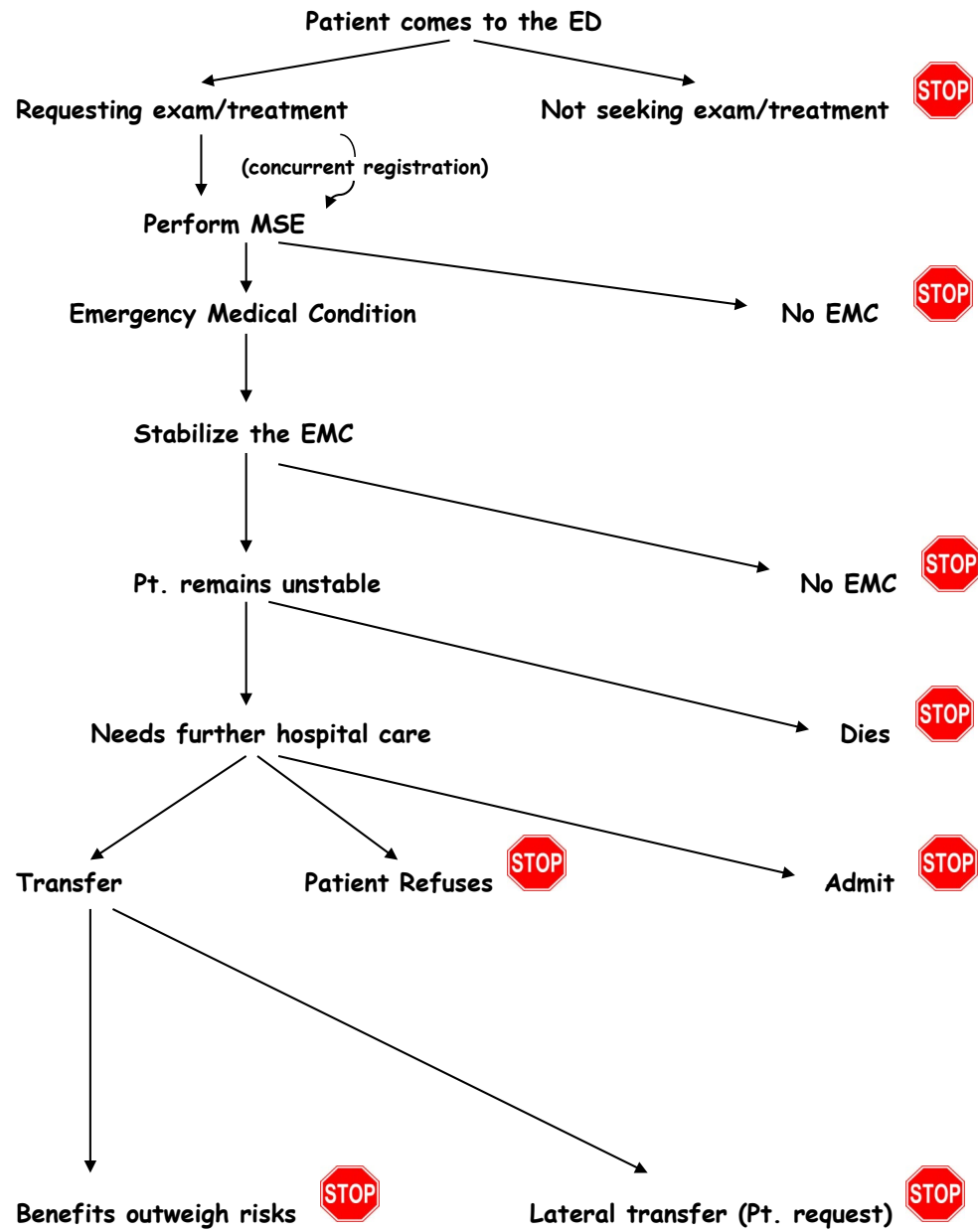
- For hospitals-CMP up to \$66,000 to \$133,000 (2024)
- For responsible physician-up to \$133,000 (2024)
- Termination of Medicare provider agreement
- Civil action against hospital for damages
- Receiving facility can seek damages
- State law privileges may not apply



“When I use a word, it means just what I choose it to mean—neither more nor less.”

Humpty Dumpty—Lewis Carroll, Through the Looking Glass





“Comes to the Emergency Department”

- Person comes to the dedicated ED and requests exam and treatment for a medical condition
- Person presents on hospital property and requests exam and treatment for what may be an EMC
- Person is in a ground or air ambulance operated by the hospital to bring patients to the ED (exception if community EMS protocols)



“Dedicated Emergency Department”

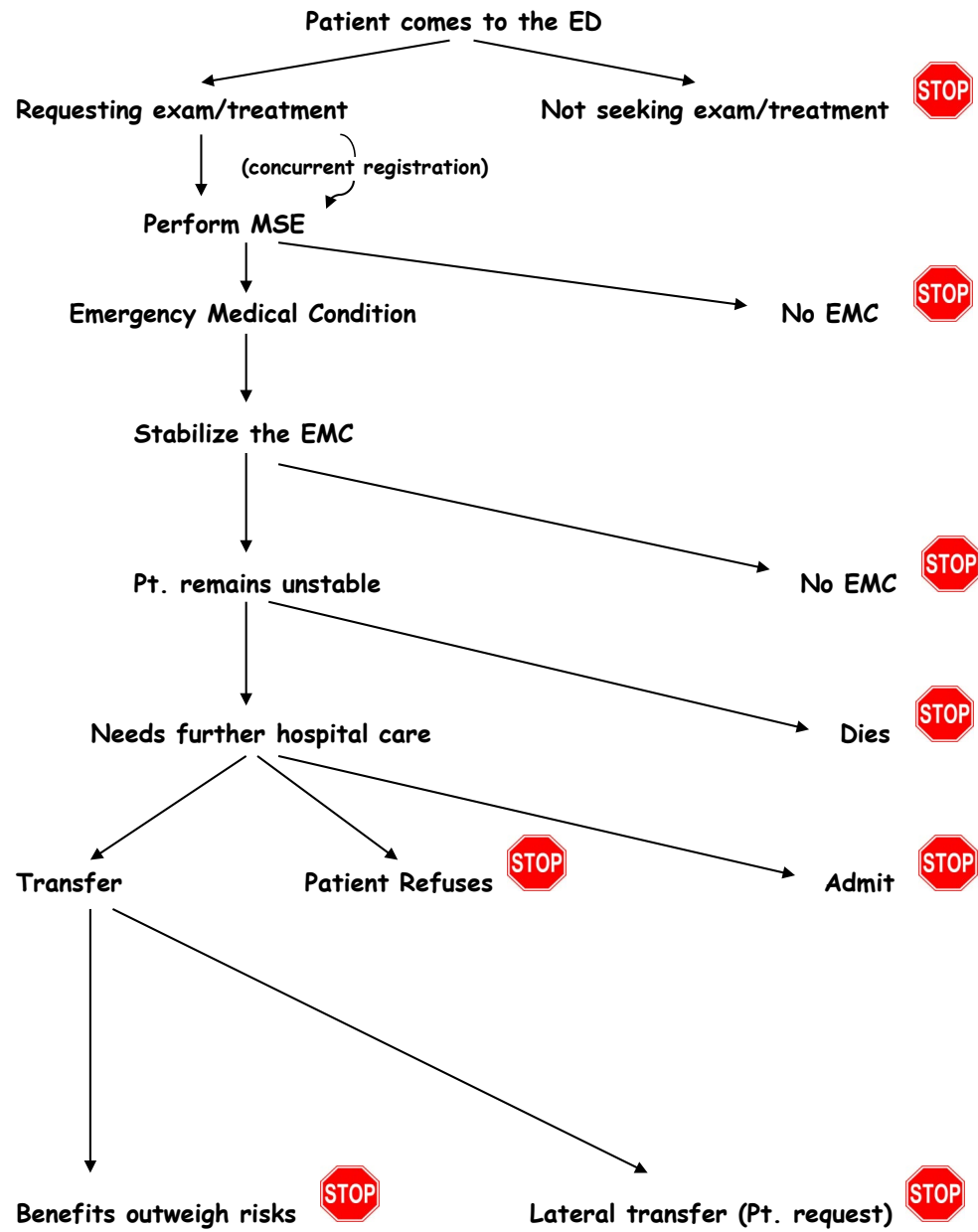
- Licensed by the state as an ER
- Held out to the public as a place that provides care for EMCs on an urgent basis without an appointment
- During prior calendar year, 1/3 of visits were for treatment of EMCs on an urgent basis without an appointment



“Hospital Property”

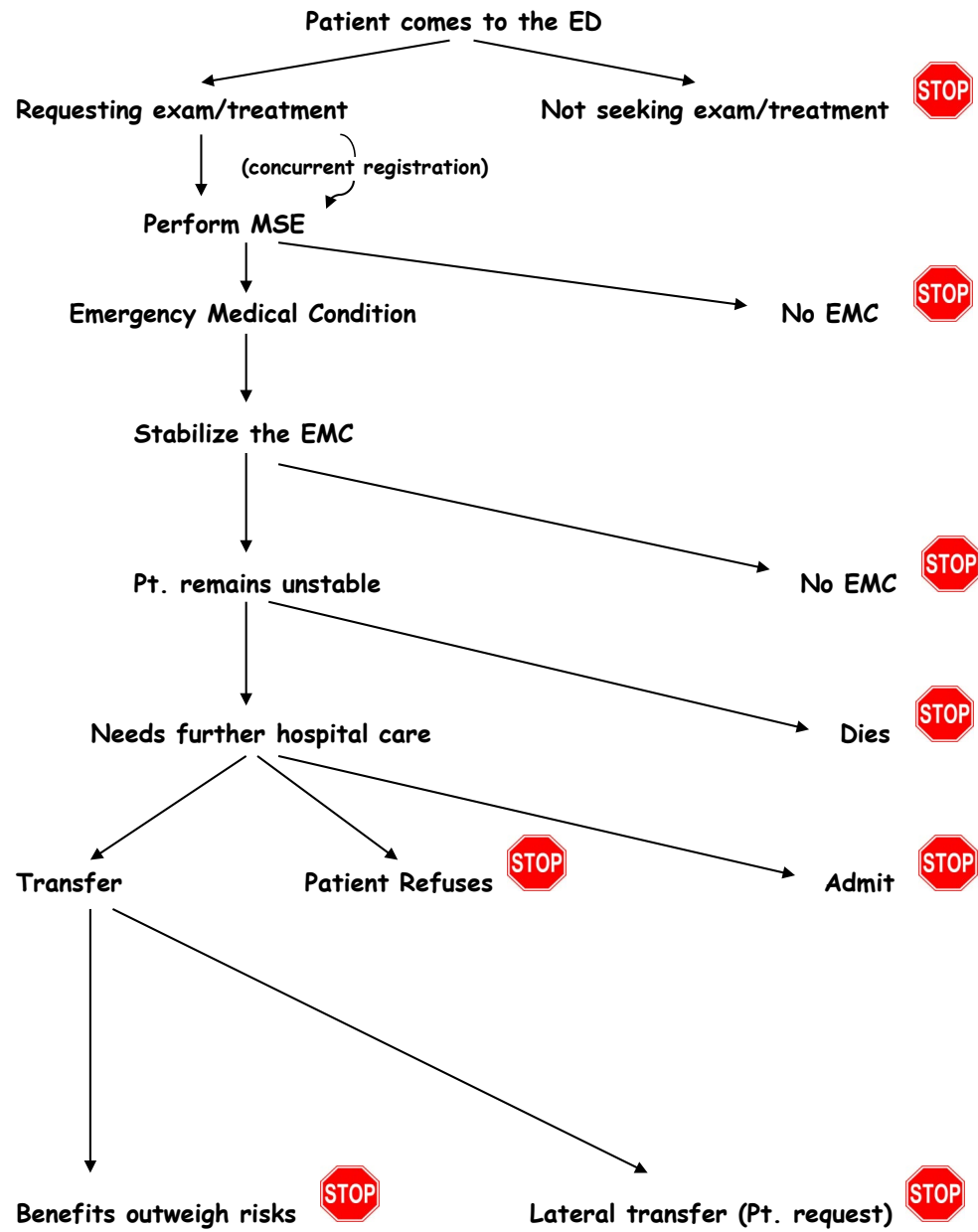
- Includes main campus-parking lot, sidewalk, driveway
- Excludes physician offices, SNFs, non-medical facilities
- Campus includes areas not attached to the main buildings but are located within 250 yards





- Person requests evaluation for what may be an EMC, or
- A prudent layperson observer would believe that the person need an evaluation



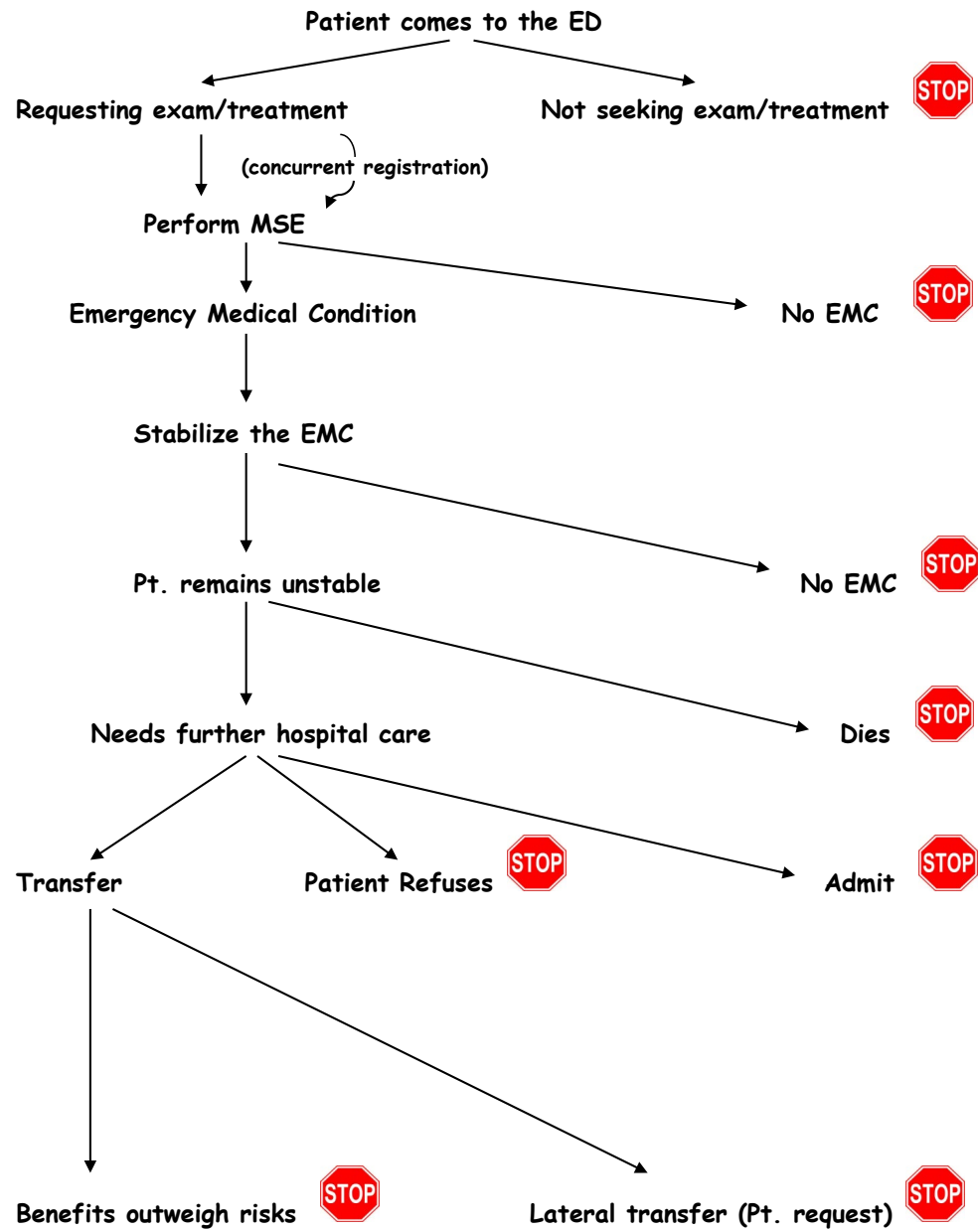


“must provide for an appropriate medical screening exam within the capability of the hospital’s emergency department”



Who can perform a medical screening exam? ("QMP")





Registration and insurance issues

- Can't delay screening exam to get insurance information
- Can't seek insurance authorization before evaluating the patient
- Can't discourage people from staying for an evaluation based on their insurance status

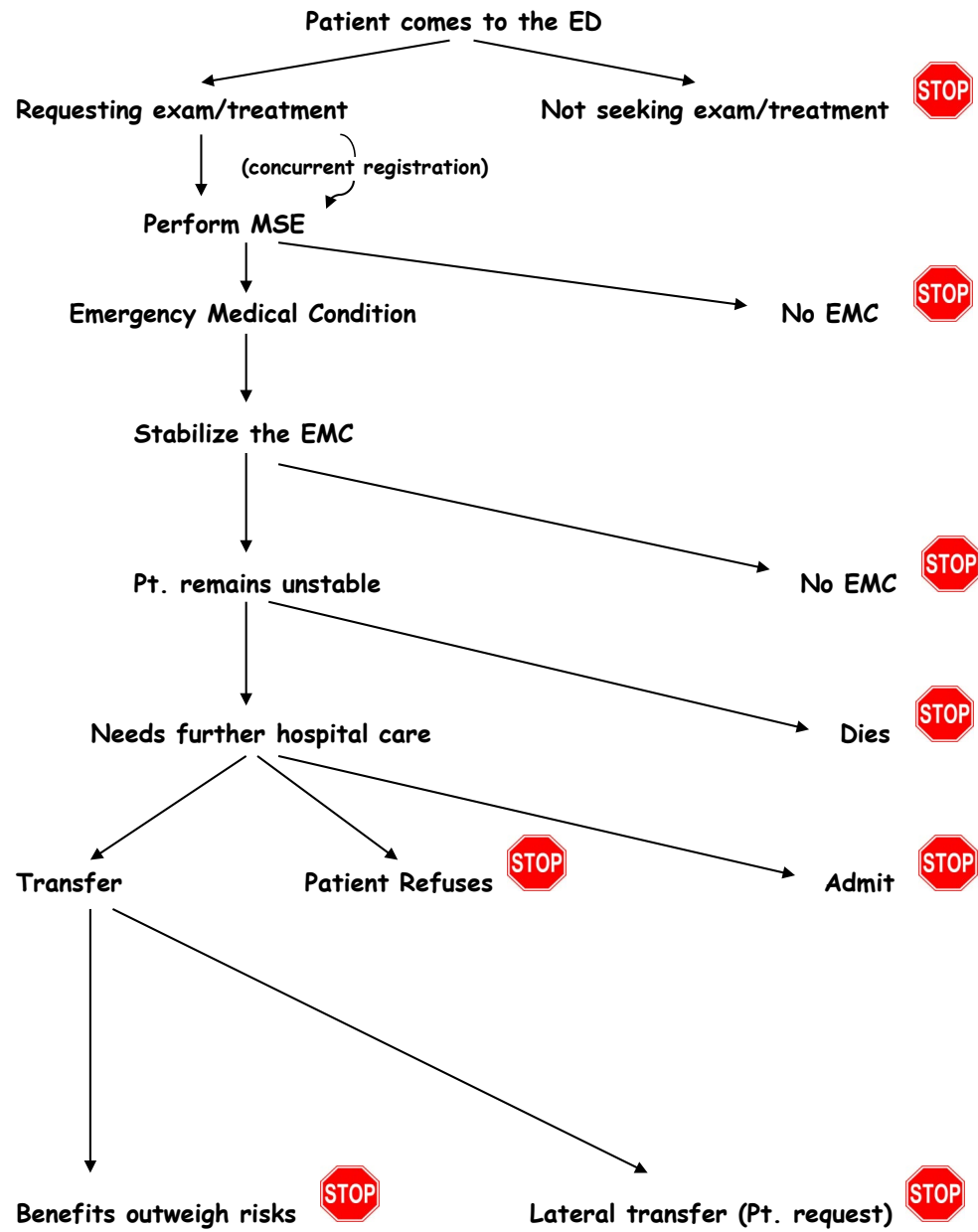


What is an “emergency medical condition?”



- Acute symptoms (including pain)
- “Immediate” medical attention
- Serious jeopardy to health, bodily function, or part
- Can’t safely transfer before delivery





“stabilize within the staff and facilities available”

- Provide medical care so there won't be a material deterioration of a patient when transferred (includes discharge)
- For a woman in labor-delivery of the child and placenta
- Held to a professional standard
- Stable for discharge when work-up can take place as an outpatient or later as an inpatient



“stabilize within the staff and facilities available”

Facility

- Physical space and equipment
- Specialized services (e.g., OB/GYN or psychiatry)

Staff

- On-call physicians available to stabilize patients “in accordance with the resources available to the hospital”



On-call Options



- Community call
- Simultaneous call
- Scheduled elective surgery
- Medical staff exemptions
- There are no required “formulas”

On-call Policies

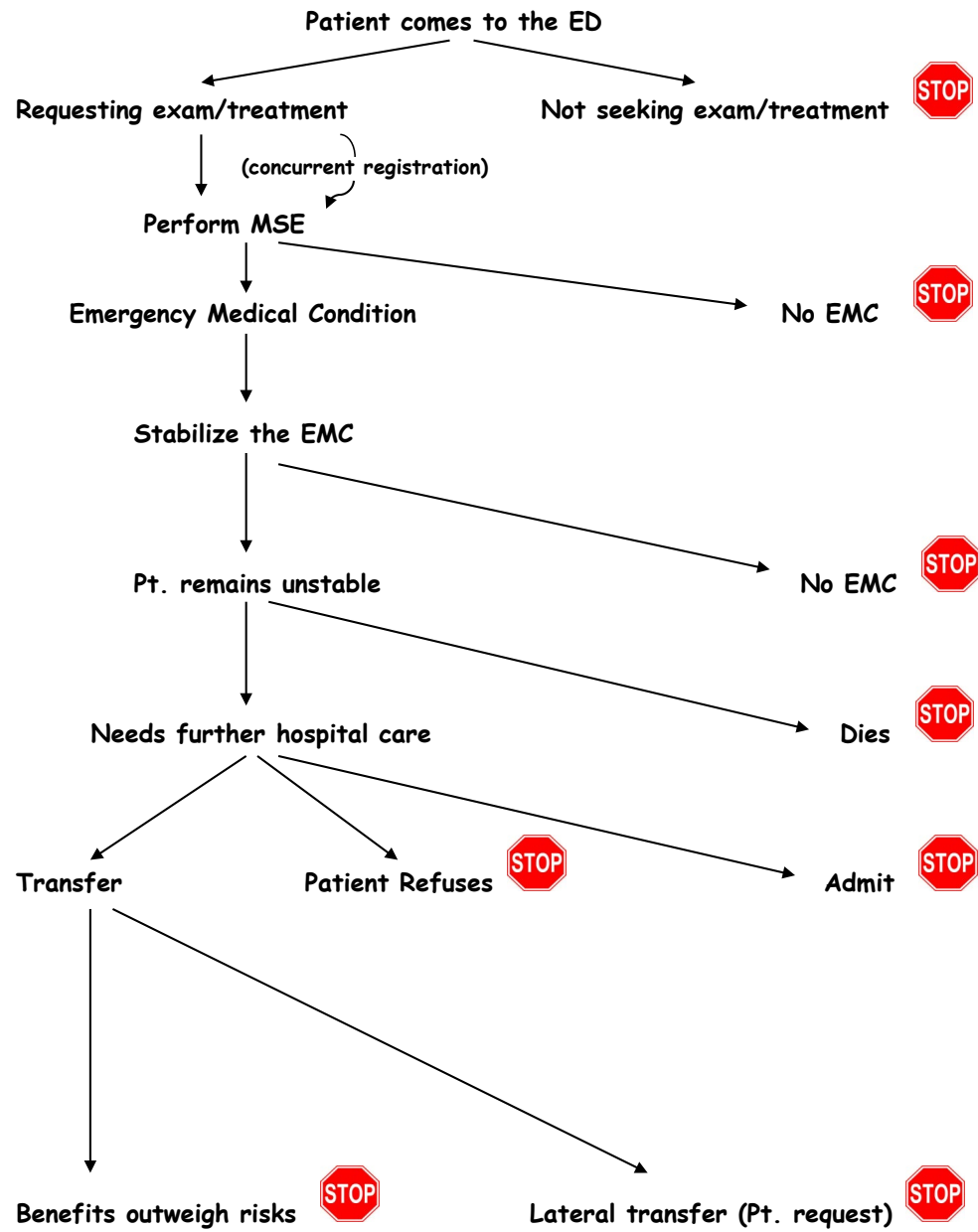


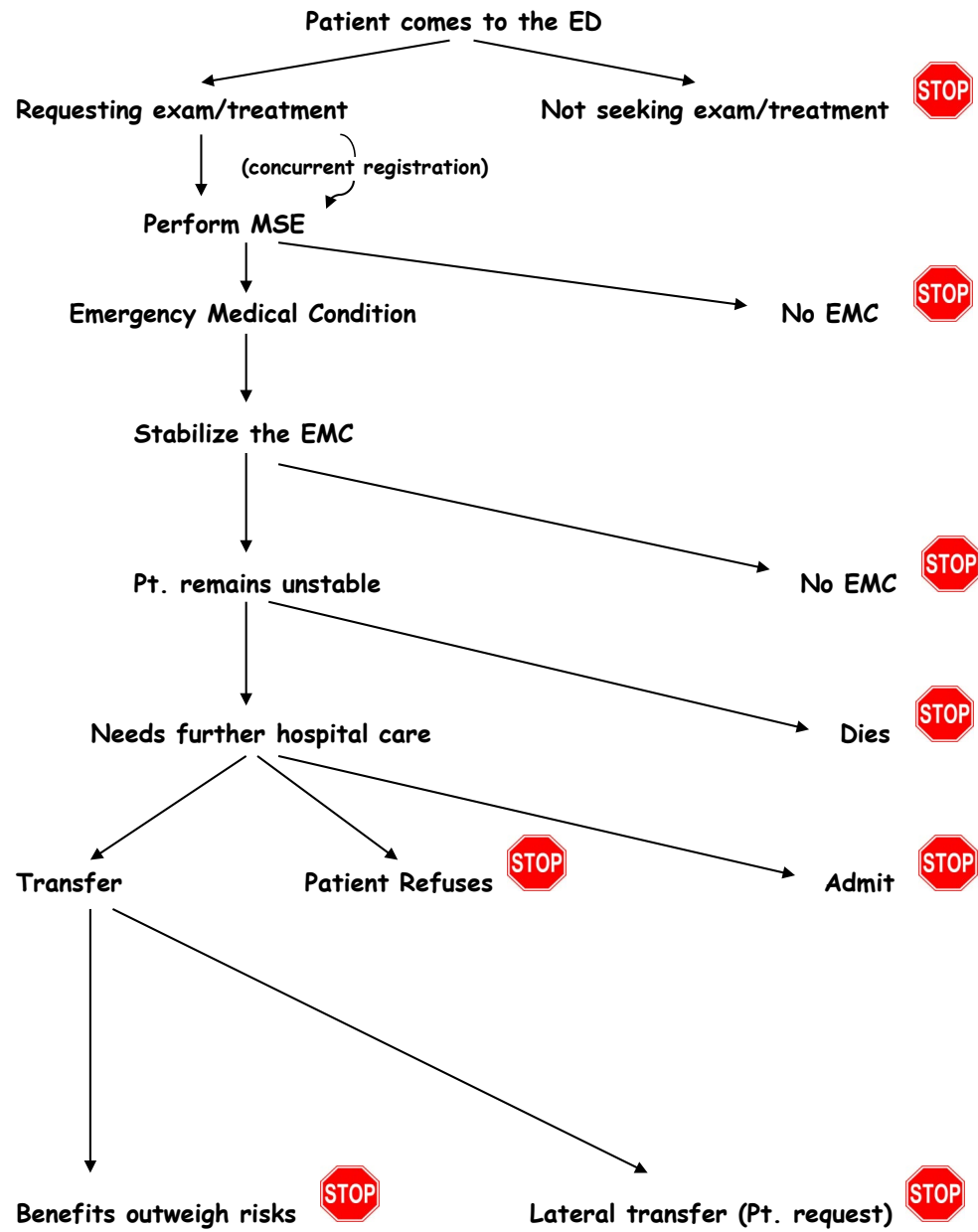
- Physicians must be members of the medical staff and have privileges
- On-call list must have physician's name, not a group name

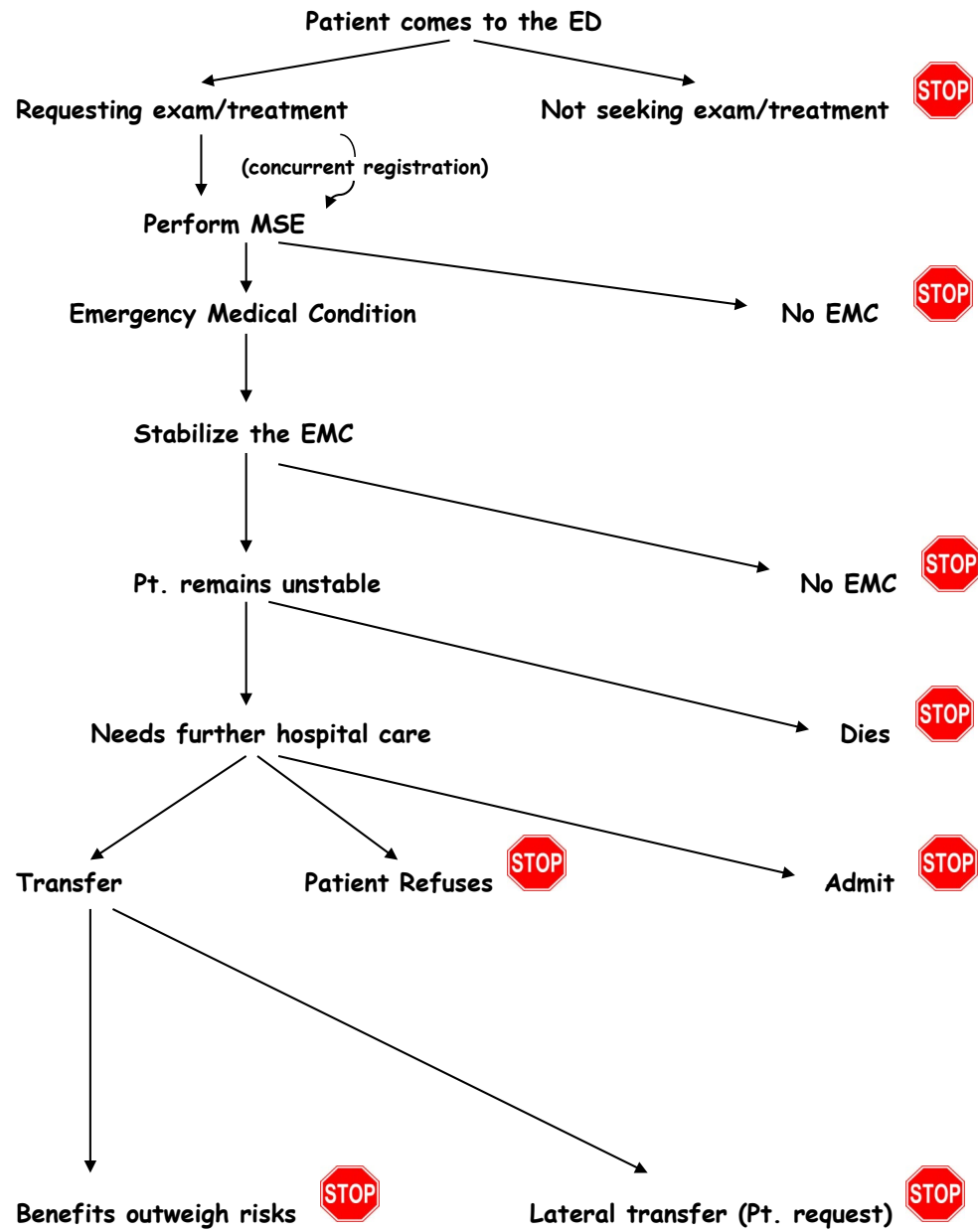
On-call physician needs to know . . .

- Hospital on-call policies
- Response time
- Community call arrangements
- EMTALA requirements
- Use of representatives, e.g., PAs









EMTALA ends when:



1. Patient is admitted in “good faith” (whether stable or not)
2. Patient refuses to consent to treatment or transfer
 - Must offer further evaluation
 - Inform of the risks and benefits of either treatment at your facility or a transfer
 - Medical record should describe the exam or treatment that was refused
 - Get the refusal in writing
3. Patient is appropriately transferred

Appropriate transfer

- Initial stabilization within capability
- Receiving facility has capacity and agrees
- Certification that benefits outweigh risks
- Appropriate means of transfer



Lateral transfers

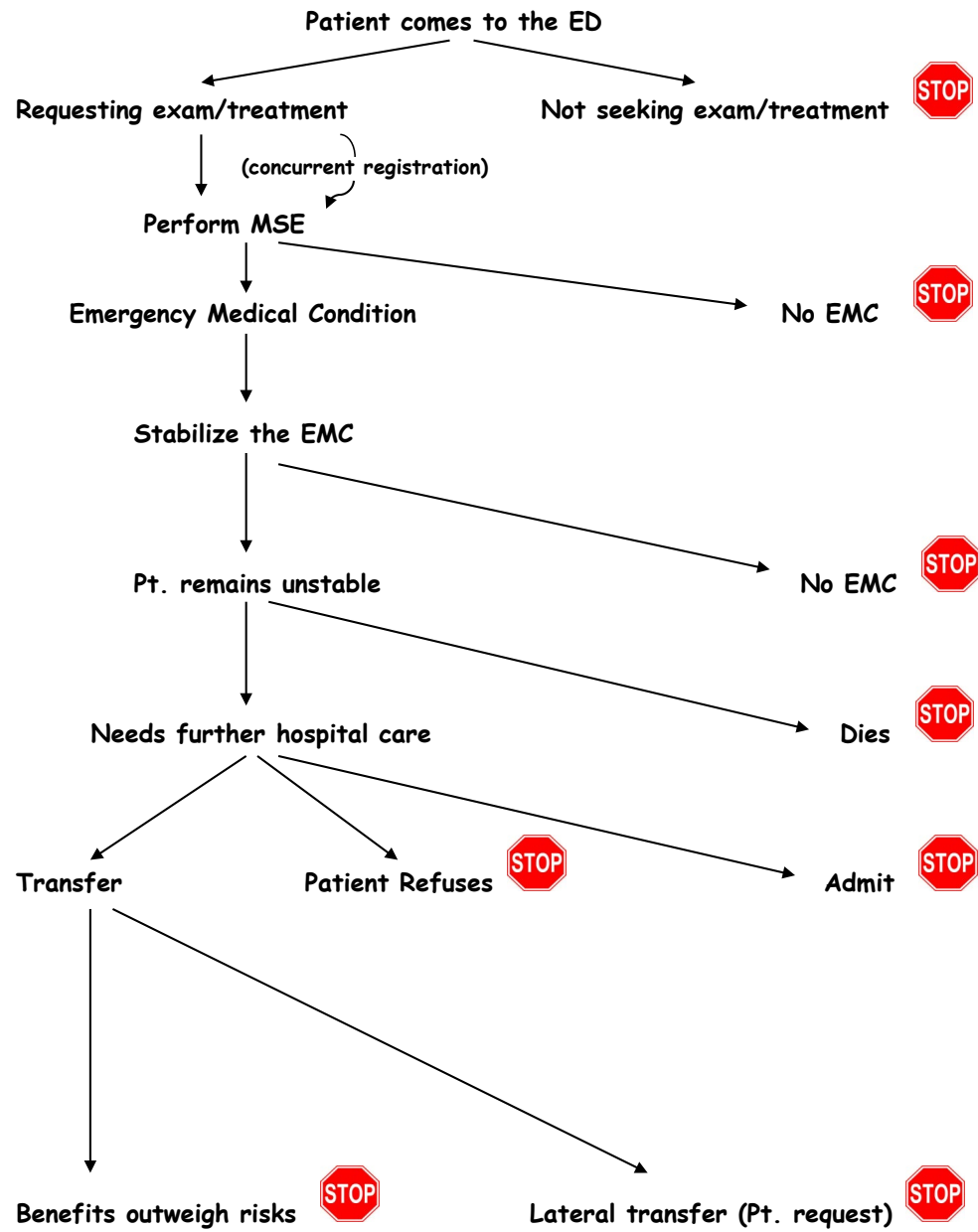
- Patient request
- Advise of hospital's EMTALA obligations to evaluate them
- Advise of risks of transfer
- Transfer request should be in writing and signed by the patient with the reason the patient requested the transfer



Receiving hospital



- On-call list
- If specialized capabilities and capacity-can't refuse a transfer
- Doesn't apply to inpatients





Questions? Thank you!

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