# Avoiding Delays in Diagnosis

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### Seeing the Patient

### Seeing the Patient

### Executing the Diagnostic Plan

### Do I have to see him?

### Do I have a duty to him?

# Duty Owed

# Duty Owed Duty Breached

Duty Owed Duty Breached Causation





Duty Owed Duty Breached Causation Damages











### Simply being a physician does not create a duty.

### Ethical

### Ethical

### Good Samaritan Laws



### Ethical

### Good Samaritan Laws

### Duty to Rescue Laws

### Simply being a physician does not create a duty.

# A doctor-patient relationship creates the duty.

A doctor-patient relationship is formed when a doctor has contact with a patient.



## Anytime



### Anytime

# In Person/Remotely



### Anytime

# In Person/Remotely

### Via a third person



### 

### Anytime

### In Person/Remotely

### Via a third person

### Independent of Payment

Kelley v. Middle Tennessee Emergency Physicians, P.C.

133 S.W.3d 587 (Tenn 2004)

# Scheduling an Appointment?

# Appointment plus records?

# Triage?

# TAKE HOME #1 Do not triage new patients.

"I'm sorry. We can't give you any advice or treatment until the doctor sees you."

### Curbside Consult?

Legal Risks of "Curbside" Consults Cotton VR Am J Cardiol 2010; 106:135-8.

### Not a Curbside



### Not a Curbside

# Formally interpreting studies



### Not a Curbside

## Formally interpreting studies

# On call for ED (EMTALA)

### Cover my practice?



TAKE HOME #2 When in doubt, see and/or take care of the patient.



### Seeing the Patient

### Executing the Diagnostic Plan



# Seeing the Patient

Executing the Diagnostic Plan (Delivering the Standard of Care)

#### The Standard of Care

## What a reasonable physician would do under the circumstances





# 64 yr old man MI 2009, DM, HTN, High Chol

64 yr old man MI 2009, DM, HTN, High Chol

## Seen by PCP & Cardiologist

#### Calls PCP

#### Calls PCP

#### Recent Onset Knee Pain



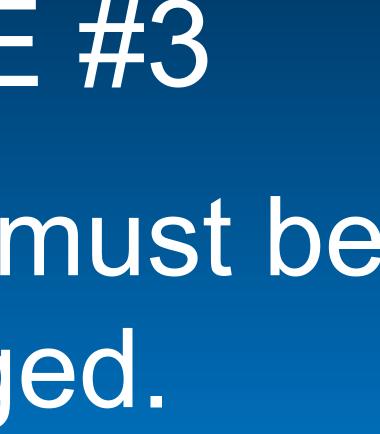
#### Calls PCP

#### Recent Onset Knee Pain

### Triaged



# TAKE HOME #3 Existing patients must be properly triaged.



## Sig pain, No swelling or erythema

### Sig pain, No swelling or erythema

### X-Ray – Joint Space Narrowing

### Sig pain, No swelling or erythema

### X-Ray – Joint Space Narrowing

#### Pain Meds, Referred to Ortho

# Is the PCP responsible for ensuring that the patient goes to the ortho appointment?

#### The Standard of Care

## What a reasonable physician would do under the circumstances



### Sig Pain, No swelling or erythema

### X-Ray – Joint Space Narrowing

### Pain Meds, Referred to Ortho

# TAKE HOME #4 Make sure the patient knows his role.

## "Diagnostic plan discussed with patient"

#### Next Day

#### Patient seen by Ortho



### PCP, Cardiologist, Ortho

### PCP, Cardiologist, Ortho

#### Co-Management

# 64 yr old man MI 2009, DM, HTN, High Chol, Knee Pain

# TAKE HOME #5You must define your role.

# 64 yr old man MI 2009, DM, HTN, High Chol, Knee Pain

#### Decide to Scope Knee

### Pre-op CXR



#### Pre-op CXR

### 1.5 cm lung nodule



#### Pre-op CXR

### 1.5 cm lung nodule

### New from 18 months ago



### Nodule appears benign

#### Nodule appears benign

#### Rx - Repeat CT 6 months

#### Nodule appears benign

#### Rx - Repeat CT 6 months

#### Report sent to Ortho

# Who is responsible for follow-up of the lung nodule?

# PCP & Cardiologist - MI, DM, HTN, High Chol

# PCP & Cardiologist - MI, DM, HTN, High Chol

#### Ortho - Knee



# PCP & Cardiologist - MI, DM, HTN, High Chol

#### Ortho - Knee

### Lung Nodule





# Is he your patient?

### Do you have a duty to him?

### The Standard of Care

# What a reasonable physician would do under the circumstances

#### 

# Ignore the nodule, it has nothing to do with his knee.

# Someone else will probably find it very soon.

#### Option #2

### You could do the follow-up.

#### Option #3

# You could have his PCP do the follow-up.



### Put it in writing to the PCP



### Put it in writing to the PCP

#### Tell the patient



### Put it in writing to the PCP

#### Tell the patient

### Document what you did



# TAKE HOME #6 You must clearly define, and regularly redefine, your role.

