

Instructor	Professor Thaddeus Mason Pope
Course Title	Health Law: Quality & Liability
Format	Midterm Exam, Spring 2023
Total Time	Four (4) hours
Total Pages	17 pages

Reference Materials Allowed

Open Book (all reference materials allowed)

Take-Home Exam Instructions

1. Please know your **correct Spring 2023 exam number** and include this number at the top of each page of your exam answer (for example, in a header).
2. Confirm that you are using and have typed the **correct exam number** on your exam document.
3. You may **download** the exam from the course Canvas site any time after 12:01 a.m. on Thursday, March 9, 2023, and before 11:59 p.m. on Sunday, March 19, 2023.
4. You must **upload** (submit) your exam answer file to the Canvas site within four (4) hours of downloading the exam.
5. You must **upload** your exam answer file no later than 11:59 p.m. on Sunday, March 19, 2023. Therefore, the latest time by which you will want to **download** the exam is at 7:59 p.m. on Sunday, March 19, 2023. Otherwise, you will have less time to write your answers than the full permitted four (4) hours.
6. Write your answers to all parts of the exam in a word processor. Save your document as a **single PDF file** before uploading to Canvas.
7. Use your exam number as the **file name** for the PDF file that you upload.

Instructions Specific to This Examination

GENERAL INSTRUCTIONS:

1. **Honor Code:** While you are taking this exam, you are subject to the Mitchell Hamline Code of Conduct. You may not discuss it with anyone until after the end of the entire

- midterm exam period.** It is a violation of the Code to share the exam questions. (There may be an accommodation student taking this exam at a different time.) Shred and delete the exam questions immediately upon completion of the exam. Professor Pope will repost the exam after the end of the midterm exam period.
2. **Competence:** By downloading and accepting this examination, you certify that you can complete the examination. Once you have accepted (downloaded) the examination, you will be held responsible for completing the examination.
 3. **Exam Packet:** This exam consists of seventeen **(17) pages**, including these instructions. Please make sure that your exam is complete.
 4. **Identification:** Write your exam number on the top of each page of your exam answer.
 5. **Anonymity:** Professor Pope will grade the exams anonymously. Do **NOT** put your name or anything else that may identify you (except for your exam number) on the exam. **Failure to include your correct exam number will result in a 5-point deduction.**
 6. **Total Time:** Your completed exam is due within four (4) hours of downloading it, but in no case later than 11:59 p.m. on Monday, March 19, 2023.
 7. **Time Penalty:** If you upload your exam answer file more than four (4) hours after downloading the exam, then Professor Pope will lower your exam grade **by one point** for every minute over the 4 hours. If the timestamp on your uploaded exam indicates that you have exceeded the 4-hour limit by more than 20 minutes, then Professor Pope may refer the situation for a Code of Conduct investigation and potential discipline. Please save enough time after editing to upload your exam.
 8. **Timing:** Professor Pope has designed this exam for completion in about 4 hours. That means you should be able to write complete answers to all the questions in 4 hours. Yet, since this is a take-home exam, you will want to take some extra time (perhaps 45 minutes) to outline your answers and consult your course materials. You will also want to take some extra time (perhaps 45 minutes) to revise, polish, and proofread your answers, such that you will not be submitting a “first draft.”
 9. **Scoring:** This midterm exam comprises 20% of your overall course grade. While the scoring includes 100 points, these points will be weighted.
 10. **Open Book:** This is an OPEN book exam. You may use any written materials, including, but not limited to: (a) any required and recommended materials, (b) any handouts from class, (c) PowerPoint slides, class notes, and (d) your own personal or group outlines.
 11. **Additional Research:** While you may use any materials that you have collected for this class, you are neither expected **nor are you permitted** to do any online or library research (e.g., on Lexis, Westlaw, Google, reference materials) to answer the exam questions unless specifically directed to do so.

12. **Format:** The exam consists of three main parts:

Part One 25 multiple choice questions
Worth 2 points each, for a combined total of 50 points
Estimated time = 50 minutes (2 minutes each)

Part Two 3 essay questions
Worth 10, 15, and 25 points each, for a combined total of 50 points
Estimated time = 110 minutes

That adds up to less than 3 hours. Remember, you have four hours to complete this exam. Therefore, you have time to revise, polish, and proofread.

13. **Grading:** All exams will receive a raw score from zero to 100. The raw score is meaningful only relative to the raw score of other students in the class. Professor Pope computes your course letter grade by summing the midterm, final, and quiz scores. Professor Pope will post an explanatory memo and a model answer to Canvas a few weeks after the exam.

SPECIAL INSTRUCTIONS FOR PART ONE

1. **Numbered List of Letters:** In your exam document create a vertical numbered list (1 to 25). Next to each number type the letter corresponding to the best answer choice for that problem. For example:
 1. A
 2. D
2. **Ambiguity:** If (and only if) you believe the question is ambiguous, such that there is not one obviously best answer, neatly explain why immediately after your answer choice. Your objection must both (a) Identify the ambiguity or problem in the question and (b) Reveal what your answer would be for all possible resolutions of the ambiguity. I do not expect this to be necessary.

SPECIAL INSTRUCTIONS FOR PART TWO

1. **Submission:** Create clearly marked separate sections for each problem. You do not need to “complete” the exam in order. Still, structure your exam answer document in this order:
 - Essay Question 1
 - Essay Question 2
 - Essay Question 3
2. **Outlining Your Answer:** I strongly encourage you to use at least one-fourth of the allotted time per question to outline your answers on scrap paper before beginning to write. Do this because you will be graded not only on the substance of your answer but also on its clarity and conciseness. In other words, organization, precision, and brevity count. If you run out of insightful things to say about the issues raised by the exam

question, stop writing until you think of something. Tedious repetition, regurgitations of law unrelated to the facts, or rambling about irrelevant issues will negatively affect your grade.

3. **Answer Format:** This is very important. **Use headings and subheadings.** Use short single-idea paragraphs (leaving a blank line between paragraphs). Do not completely fill the page with text. Leave white space between sections and paragraphs.
4. **Answer Content:** Address all relevant issues that arise from and are implicated by the fact pattern and that are responsive to the “call” of the question. Do not just summarize all the facts or all the legal principles relevant to an issue. Instead, apply the law you see relevant to the facts you see relevant. Take the issues that you identify and organize them into a coherent structure. Then, within that structure, examine issues and argue for a conclusion.
5. **Citing Cases:** You are welcome but not required to cite cases. While it is sometimes helpful to the reader and a way to economize on words, do not cite case names as a complete substitute for legal analysis. For example, do not write: “Plaintiff should be able to recover under A v. B.” Why? What is the rule in that case? What are the facts in the instant case that satisfy that rule?
6. **Cross-Referencing:** You may reference your own previous analysis (e.g., B’s claim against C is identical to A’s claim against C, because __.” But be very clear and precise what you are referencing. As in contract interpretation, ambiguity is construed against the drafter.
7. **Balanced Argument:** Facts rarely perfectly fit rules of law. So, recognize the key weaknesses in your position and make the argument on the other side.
8. **Additional Facts:** If you think that an exam question fairly raises an issue but cannot be answered without additional facts, state clearly those facts (reasonably implied by, suggested by, or at least consistent with, the fact pattern) that you believe to be necessary to answer the question. Do not invent facts out of whole cloth.

Exam Misconduct

The Code of Conduct prohibits dishonest acts in an examination setting. Unless specifically permitted by the exam or proctor, prohibited conduct includes:

- Discussing the exam with another student
- Giving, receiving, or soliciting aid
- Referencing unauthorized materials
- Reading the questions before the examination starts
- Exceeding the examination time limit
- Ignoring proctor instructions

MULTIPLE CHOICE QUESTIONS

- Below are 25 multiple choice questions.
 - Each question is worth 2 points for a combined total of 50 points.
 - Recommended time is 50 minutes (2 minutes each).
1. **A medical practice refuses to provide transfer assistance to patients who need such assistance to get onto tables for procedures, and instead requires them to pay a medical transportation provider to transport them from their homes in gurneys or stretchers and place them on the table. Does this violate the ADA?**
 - A. No, because the medical practice is not denying care.
 - B. No, because these patients are not disabled.
 - C. No, so long as the medical practice treats all these patients the same.
 - D. Yes

 2. **Suppose the practice mentioned in Question 1 is a small dental practice with only one dentist, a receptionist, and a dental assistant. Under the ADA, must the practice hire additional staff to provide transfer assistance.**
 - A. Yes, because the practice has an unconditional duty to accommodate persons with disabilities.
 - B. No, because the ADA imposes only a negative prohibition on discrimination, not an affirmative positive duty to assist patients.
 - C. No, because the ADA only requires that practices deploy existing resources to help the disabled, not that they hire or contract with additional staff.
 - D. No, if the extra expense would constitute an undue burden.

 3. **Patient was on daily opioid therapy for pain. But patient was dismissed from their provider and has been unable to find a new provider to prescribe daily opioids. Does patient have a potential ABANDONMENT claim against the first provider?**
 - A. No, because clinicians can terminate the treatment relationship at any time for any, non-invidiously discriminatory reason.
 - B. No, if patient was given 30-day notice of the dismissal.
 - C. No, if the clinician had good reason for the dismissal such as failed pill counts.
 - D. Yes, because patient has been unable to find a new provider.

4. **Patient was on daily opioid therapy for pain. But the clinician “force” tapered (tapering without patient consent or approval) the patient down to a lower strength. This forced tapering was not a slow taper but a rapid taper leading to sudden discontinuation. Does patient have an ABANDONMENT claim?**
- A. Yes, if the patient was not given adequate notice of the forced tapering.
 - B. Yes, if the patient was unable to find another provide the original opioid therapy regimen.
 - C. No, only because the provider had a good reason to taper.
 - D. No.

5. **General Psych is a regional acute mental health services company. On March 1, 2023, General Psych closed its Saint Paul location, giving less than a day’s notice to the staff and the adolescent clients it served. General Psych sent this email:**

General Psych is undergoing a companywide reorganization, which unfortunately means that restructuring throughout the company is necessary. Due to this restructuring, we have come to the decision to close our Saint Paul office effective tomorrow.

At the time of the closure, 20 children aged 12 to 17 were being treated for severe mental health conditions including severe depression, anxiety, and suicidal ideation. Are the clinician owners of General Psych liable for patient ABANDONMENT?

- A. No, because the company has closed its doors and has not terminated its treatment relationships with any specific patients.
- B. No, because the patients can always go to the local ED under EMTALA if they have an emergency medical condition.
- C. No, because the termination of treatment was for financial reasons, having nothing to do with race, gender, national origin, or age of the patients.
- D. Yes.

6. Patient was in recovery for an opioid use disorder and would continuously present to physician's office while under the influence. His urine drug screens repeatedly came back positive for opioids, thereby violating the rules of the physician-patient opioid contract. Physician explained to patient the gravity of this situation and the potential to be fired from the practice as a patient if he continued to misuse opioids. After multiple additional warnings and conversations, physician felt she had no choice but to fire him. Physician sent patient a certified letter with a requested return receipt, outlining the reasons for the termination and explaining that physician would continue to direct his care for emergency issues until 30 days' notice. Is physician liable for patient ABANDONMENT?
- A. No, because the physician had a good reason for termination.
 - B. No, because physicians are free to fire their patients at will.
 - C. No, because physician provided adequate notice for patient to find alternate care.
 - D. Yes.
7. Plaintiff was a 45 year old female who presented to the plastic surgeon for breast augmentation following a rupture of a prior breast implant. The plaintiff alleged that the implants utilized during the procedure were too large. The plaintiff subsequently elected to undergo a revision breast augmentation using smaller size implants. The plaintiff argued that she wanted the plastic surgeon to utilize the same size implants as her prior breast augmentation, but that the implants inserted by the plastic surgeon were larger than what she had wanted, resulting in cosmetic deformity. What is plaintiff's MOST likely successful cause of action?
- A. Informed consent
 - B. Battery
 - C. EMTALA
 - D. None of the above
8. "Pager" is a new doctor-on-demand service. Patients can forgo the emergency room or urgent care center. Instead, they can summon a doctor for a house call for treatment of, for example, common infections such as bronchitis. A home visit costs \$200. Alternatively, for \$50, patients can exchange text messages with photos in the case of a condition such as a rash or insect bite. Patient used this text/photo option and was injured as a result of a misdiagnosis by a Pager physician.
- A. Patient can sue the physician for malpractice
 - B. Patient cannot sue the physician for malpractice, because a treatment relationship cannot be formed through text messages.
 - C. Patient cannot sue the physician for malpractice, because this was a mere informal consult.
 - D. Patient cannot sue the physician for malpractice, because the physician had no duty to treat the patient.

9. **Patient was suffering what she thought was an emergency. Rather than going to the hospital emergency room, patient called Pager (the service described in the previous problem) and paid the \$200 home visit fee through the Apple-Pay app on her phone. But no doctor came. Fortunately, it was just gas. Patient's EMTALA claim:**
- A. Fails, because patient was not on Pager property.
 - B. Fails, because the patient did not actually have an emergency medical condition.
 - C. Fails, because Pager has no obligation to comply with EMTALA.
 - D. Might succeed because the Pager physician did not even do a screening.
10. **Which of these patients is NOT entitled to a medical screening exam under EMTALA?**
- A. A child is brought into the ED by a non-hospital-owned ambulance and has a complaint.
 - B. A woman collapses on the sidewalk in front of (and about 75 feet away from) the hospital ED.
 - C. A man gets chest pain while visiting a patient in the maternity ward.
 - D. All the above are entitled to a medical screening exam.
11. **A gynecologist refuses to treat a woman with HIV out of a fear of contracting HIV.**
- A. This is not a violation of the ADA, because of the "direct threat" defense.
 - B. This is not a violation of the ADA, because the ADA only applies once a treatment relationship is formed, and the physician has no obligation to form one.
 - C. This is a violation of the ADA, because so long as the physician utilizes universal precautions, it is generally safe to treat persons with HIV or AIDS.
 - D. This is a violation of the ADA, because physicians must treat all prospective patients with disabilities, so long as they have the capacity to do so.
12. **You work at Hospital B. Hospital A has, without first asking for consent, transferred a patient to you with an un-stabilized emergency medical condition. You are sure that the transfer was motivated by financial, non-clinical reasons. Your most appropriate course of action is to:**
- A. Immediately transfer the patient back to Hospital A.
 - B. Discharge the patient without stabilizing the emergency medical condition because she arrived on your property illegitimately.
 - C. Report the violation to CMS.
 - D. Delay stabilizing treatment until Hospital A sends you its risk-benefit certification.

13. **This term describes the situation in which a physician informally asks for another Physician's opinion about a patient's symptoms or test results, and the second physician does not actually examine the patient.**
- A. Malpractice
 - B. Curbside consultation
 - C. Independent Medical Exam
 - D. Second opinion
14. **Patient arrives at the hospital and gets an appropriate screening that reveals she has healthcare needs but no emergency. Patient has no medical insurance or ability to pay.**
- A. Hospital is not legally required to treat patient.
 - B. Hospital must treat patient under EMTALA.
 - C. Hospital must treat patient if she is disabled under the ADA.
 - D. Hospital must treat patient because it cannot discriminate on the basis of ability to pay.
15. **Which of the following is probably NOT an emergency medical condition under EMTALA?**
- A. Broken bone
 - B. Severe burn
 - C. Heart attack
 - D. All of these might pose a serious threat to the individual's health or well-being.
16. **Mother develops chest pain while visiting her daughter in a pediatric hospital. Under EMTALA, the pediatric hospital:**
- A. Has no duty to mother because it treats only children.
 - B. Has no duty to mother because she was not accepted as a patient.
 - C. Transfer mother to an appropriate hospital.
 - D. Stabilize the mother as best they can and then transfer to an appropriate hospital.
17. **Which of the following accommodations are generally acceptable when communicating with patients with significant hearing loss?**
- A. Lip reading
 - B. Notes written on paper
 - C. Remote sign language interpreter
 - D. More than one of the above
 - E. None of these

18. Which of the following is sufficient to create a physician-patient relationship?
- A. Conducting laboratory tests
 - B. Reviewing the patient's test results
 - C. Both the above
 - D. Neither of the above unless there is a meeting between the physician and patient.
19. Moira was seen in a Georgia emergency department for a variety of complaints, suffered from sepsis and was misdiagnosed. The emergency department physician, Dr. S, telephoned Dr. D, the on-call urologist, and related Moira's history and complaints, exam findings, test results, and medications. At the conclusion of their discussion, Dr. D instructed the emergency department physician that Moira should be given Flomax to help pass the stone and she should see him in his office the following Monday. Moira was discharged from the emergency department but subsequently developed a severe case of septic shock as well as severe respiratory and renal failure. The plaintiff subsequently filed a medical negligence action against Dr. D. If Dr. D files for summary judgment, the court should:
- A. Grant the motion because Dr. D was not in a treatment relationship with Moira.
 - B. Grant the motion because patients cannot bring claims against individual physicians in the emergency department context.
 - C. Deny the motion because curbside consults are sufficient to form a treatment relationship.
 - D. Deny the motion.
20. Tests were administered at another Georgia hospital to a plaintiff-patient, and the results were sent to two cardiac interventionists for review. The cardiac interventionists were employed by the hospital and were compensated and responsible for reviewing cardiac test results and making the decision regarding surgical intervention or noninterventionist care. After reviewing the plaintiff's test results and discussing the case with the treating physician, the cardiac interventionists informed the treating cardiologist that the plaintiff was a candidate for surgical intervention. The plaintiff then underwent an angioplasty procedure during which he went into cardiac arrest and died. If the cardiac interventionist file for summary judgment, the court should:
- A. Grant the motion because this was an independent medical exam.
 - B. Grant the motion because this was a curbside consult.
 - C. Deny the motion because a treatment relationship is not required.
 - D. Deny the motion.

21. A patient presents to the emergency department with a laceration on the back of the hand and an obvious tendon injury. The emergency physician calls the orthopedic physician on call who correctly points out that tendons do not need to be repaired immediately. The orthopedist tells the emergency physician to close the wound loosely, apply a splint, and send the patient to the off-campus orthopedic office the next day. The emergency physician cleans, loosely sutures, and splints the wound. She discharges the patient and refers him to the orthopedic physician.
- A. The hospital has violated its screening duty.
 - B. The hospital has violated its stabilization duty.
 - C. Both A and B.
 - D. Neither A nor B.
22. A patient presents to physical therapy for an outpatient visit. During PT the patient develops chest pain and is rushed to the emergency department. Under EMTALA:
- A. Hospital has an obligation to screen.
 - B. Hospital has an obligation stabilize this patient.
 - C. Both A and B.
 - D. Neither A nor B.
23. A 5-year-old child presents to the emergency department with a fever and an earache. The emergency physician performs a standard complete examination for these symptoms and finds otitis media, a supple neck, and minimal temperature. The child is awake, happy, and playful. The physician diagnoses non-serious otitis media and discharges the child on appropriate antibiotics. The next day the patient presents to the same department with meningitis and is severely brain injured as a result. Which of the following is true?
- A. This is an EMTALA violation because the child had an un-stabilized emergency medical condition when discharged.
 - A. This was an EMTALA violation because the screening was inaccurate and inadequate.
 - B. This must be a per se violation of EMTALA.
 - C. There is no EMTALA violation because no emergency medical condition was identified.
 - D. This is both medical negligence and a violation of EMTALA.

24. **The EMTALA statute says that it applies to any individual who “comes to” the emergency department. Plaintiff alleges that language means “the act of going to, approaching.” If plaintiff is in an Uber heading toward the hospital about 1 mile away, does EMTALA apply?**
- A. Yes
 - B. Yes, but only if the patient has an emergency medical condition.
 - C. Maybe. The statute is ambiguous, and the court can interpret the language.
 - D. No. The agency has construed the statutory meaning of hospital property, and courts generally defer to agency interpretation.
25. **Hospital clinicians makes a contemporaneous documentation in patient’s medical record after a typical exam: “no EMC identified.” If this hospital fails to stabilize the patient’s emergency medical condition, then this hospital likely:**
- A. Has violated EMTALA.
 - B. Has violated EMTALA if a reasonable hospital would have found the EMC.
 - C. Has violated EMTALA because it misdiagnosed the patient.
 - D. Has not violated EMTALA.

Essay Question 1

- This question is worth 10 points.
- Limit your response to 1000 words. This is only a limit, not a target or suggested length.
- Recommended time is 30 minutes.

Your client is a physician dermatologist. She explains that one of her patients has a thin invasive melanoma and has already no-showed twice for 60-minute surgical appointments. These missed appointments are serious because this patient requires timely surgical management. Although there are no formal guidelines recommending the timing of definitive surgery after biopsy, the standard of care is generally within 4 to 6 weeks.

Your client further explains that the patient called, today, requesting yet another appointment. The physician's office rules (signed by all patients on initial admission to the practice) state that if a patient no-shows twice, then they are automatically dismissed from the practice. But your client is concerned about the risk of potential mortality if this melanoma remains untreated.

The bottom line is that your physician client is unsure whether or how to dismiss this patient. She is conflicted. On the one hand, unfilled appointments prohibit other patients from receiving care. After all, the practice is full, and the waiting list is long. The office policy is based on principles of distributive justice and fairness for other patients who need to be seen. Moreover, unfilled 1-hour appointments cost the practice money. On the other hand, this patient needs treatment. He has a cutaneous malignancy that could be life-threatening if not treated appropriately.

YOUR MISSION: Advise your physician client on how she should handle this no-show patient to minimize her legal risk.

Essay Question 2

- This question is worth 15 points.
- Limit your response to 1000 words. This is only a limit, not a target or suggested length.
- Recommended time is 30 minutes.

Since many healthcare disciplines have doctoral-level programs, non-physicians are now using the title “Dr.” in their practice. For example, “Doctor of Nurse Practitioner (DNP),” “Doctor of Physical Therapy (DPT),” and Doctor of Nurse Anesthesia Practice (DNAP).” This is not surprising. People who put in the effort to earn advanced degrees want recognition and respect. Even law professors (like Thaddeus Pope) with Ph.D.’s are often referred to as “Dr.”

But in the clinical treatment world, use of the word “Dr.” may confuse and mislead patients. The patients may believe that “Dr. Rothstein” is a traditional medical doctor (M.D. or D.O. licensed as a physician) even when “Dr.” Rothstein is a DNP, DPT, or DNAP. To address this potential consumer confusion, in 2022, Indiana enacted S.B. 239, which prohibits anyone who is not a physician from using a medical specialty title or designation such as “anesthesiologist,” “cardiologist,” or “dermatologist.”

On March 6, 2023, Woodrow goes to The Skin Clinic for a full body skin and mole exam. The Skin Clinic is not located in Indiana or any other state that specifically regulates use of titles like “Dr.” or “dermatologist.” But it operates on an old riverboat and it is unclear within which state’s borders it operates. Woodrow is examined by Monica Beck, an advanced practice registered nurse (APRN) with a Ph.D. in nursing, and with training in dermatology.

Monica introduces herself to Woodrow: “Good morning, I am Dr. Beck, your dermatologist.” After the exam, Monica gives Woodrow a clean bill of health. But, in fact, Woodrow had a melanoma that spread before it was later caught by another clinician. Because the melanoma was caught so late, it was less treatable, reducing the likelihood of cure or remission. Unlike Monica, most “dermatologists” physicians. Most of them are board-certified (an even higher level of specialized credentialing). Most board-certified dermatologists would have caught Woodrow’s melanoma that Monica missed on March 6, 2023.

YOUR MISSION: Identify and assess any legal claims that Woodrow might have against Monica?

Essay Question 3

- This question is worth 25 points.
- Limit your response to 1500 words. This is only a limit, not a target or suggested length.
- Recommended time is 50 minutes.

YOUR MISSION: You are an attorney representing Saint Jude Hospital. The following Complaint (excerpted below) was just filed against the hospital and the physician chair of its emergency department. Identify and assess the legal risks presented by this Complaint.

1. On September 10, 2022, Decedent was dropped off at the Saint Jude Hospital Emergency Room in a personal vehicle by her son. Decedent walked into the Emergency Room to seek medical attention for shortness of breath.
2. According to the Emergency Department Physician Record: Decedent was seen, evaluated, and examined in serial fashion. The patient was admitted the same day. However, the attending physician advised that data obtained from conventional hospital tests in the emergency department was a single data point. There was no evidence of an emergency medical condition. Additional tests were needed to identify the underlying cause of Decedent's shortness of breath.
3. The Saint Jude Hospital emergency room and the attending physicians were fully aware that Decedent was suffering from severe rheumatoid arthritis, and she was taking Humira (adalimumab) which is an immunosuppressant medicine, which lowered the ability of Decedent's immune system to fight infections and would make an infection worse. The hospital and the attending physicians were in the full knowledge that Decedent's shortness of breath, manifested for at least three weeks before she showed up in the Emergency Room.
4. This data that Saint Jude Hospital had indicated that Decedent's acute symptoms were of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in (i) placing the health of Decedent in serious jeopardy, (ii) serious impairment to bodily functions, or (iii) serious dysfunction of any bodily organ or part. This is exactly the result we see in the medical records within short time after she was admitted to the hospital.
5. Because of her history of having severe Rheumatoid Arthritis, it was imperative that the Hospital needed to have a Rheumatoid Arthritis specialist on-call to evaluate her condition. As she was taking high risk medication (Humira) prior to coming to the Saint Jude Hospital Emergency Room, the risks of infectious diseases were very high.

6. While Saint Jude Hospital Emergency Room provided the staff and facilities available at the hospital, further required medical examination and treatment required transfer to another medical facility.
7. On September 17, 2022, seven days after Decedent initially presented to the emergency department, Saint Jude Hospital attempted to transfer Decedent to the University of Tennessee Medical Center which had capacity and specialized resources relating to complex lung diseases. But when the University of Tennessee refused to accept the transfer, Saint Jude failed to make any other transfer attempts.
8. To stabilize Decedent's emergency medical condition (Acute Respiratory Failure with Hypoxia) it was imperative that Saint Jude Hospital had to diagnose the underlying disease causing the emergency medical condition (Acute Respiratory Failure with Hypoxia).
9. Even though Saint Jude Hospital center admitted Decedent to provide treatment in the capacity that they had within their facilities, Decedent was admitted as a subterfuge, because Saint Jude Hospital Center did not know the underlying definitive cause for Decedent's worsening symptoms. Saint Jude Hospital admitted Decedent even though they did not have an on-call Rheumatoid Arthritis Specialists and they did not have the capability to Stabilize her Emergency Medical Condition.
10. Given Decedent's medical history and severity of her Rheumatoid Arthritis, Saint Jude Hospital knew they did not have the Higher Level of Care available at tertiary referral hospitals which Decedent would require if her symptoms worsened. The tertiary care level is for extremely specialized care over a short or extended period involving complex and advanced equipment, treatment, or procedures, often for severe or life- threatening conditions. The 'assessment' on the medical records the day she checked into Emergency, included Acute Respiratory Failure with Hypoxia. Saint Jude Hospital admitted Decedent to stabilize her when it did not have the resources to do so.
11. Saint Jude Hospital knew about Decedent's Rheumatoid Arthritis and the high-risk medication (Humira) she was taking before she came to the Emergency Room. Saint Jude Hospital knew they did not have on-call Rheumatoid Arthritis Specialist and the chances of her condition getting worse were high.
12. Because Saint Jude Hospital did not have a definitive diagnosis for Decedent's worsening hypoxia, she wasn't treated for her underlying disease. That caused her condition (Acute Respiratory Failure with Hypoxia) to worsen. She ultimately ended up on High Flow Oxygen.
13. A Progress Note on Decedent's inpatient chart states: "Pt is lying in bed on high flow oxygen. She can participate in conversation, however, becomes increasingly short of breath with limited conversation. She shares understanding that doctors are trying medications to improve her breathing. She endorses understanding that they are trying everything that they can, but that there is worry about how sick her lungs are."

14. Several days later, another Progress Note states: “I told patient we have exhausted all treatment options and that I recommend comfort measures only. We will stop all labs, glucose checks, and insulin/medications. We will focus on her comfort with opioids as needed for sensation of shortness of breath.”
15. But Saint Jude Hospital’s moving the patient to hospice and comfort care only was premature. Decedent still had treatment options available. Saint Jude Hospital failed to explore and consider all treatment options, such as a lung transplant or ECMO. Saint Jude Hospital failed to stabilize Decedent’s emergency medical condition (acute respiratory failure with hypoxia).
16. Saint Jude Hospital never stabilized the emergency medical condition for which Decedent came to the Emergency Room. Instead, Saint Jude Hospital stopped providing curative care and focused on comfort measures only. Decedent died six days later, on September 25, 2022.