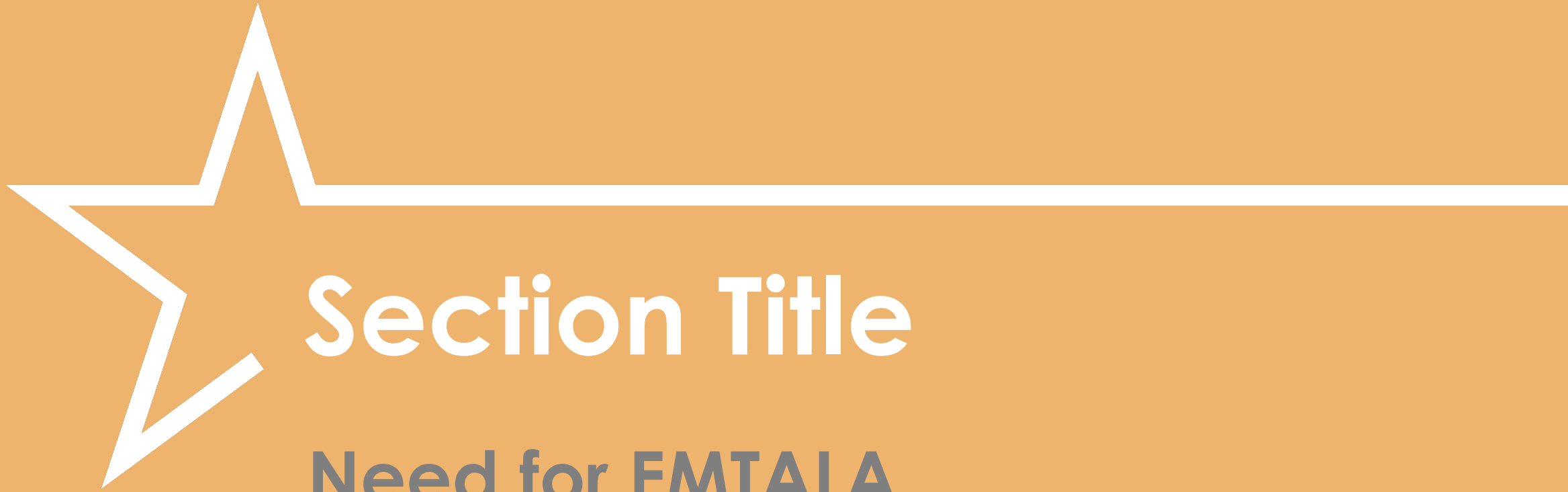




EMTALA and Behavioral Health

Pamela L. Beach
General Counsel





Section Title

Need for EMTALA

Need for EMTALA

- As individuals moved from traditional indemnity coverage to managed care plans, hospitals were forced to absorb cost of emergency care.
- ERs began turning away patients who could not pay.
- It is estimated that prior to the passage of EMTALA, over 250,000 inappropriate transfers of medically unstable patients occurred in 1986 alone.



Section Title

The Government Steps In

The Government Steps In

- Originally, only hospitals built under the Hill-Burton Act (1946) were obliged to offer emergency treatment to those unable to pay.
- The impetus for EMTALA came from highly publicized incidents where hospital emergency rooms allegedly failed to provide care based only on a patient's financial inadequacy.
- EMTALA was enacted to expand the obligation to provide specified emergency care to all hospitals that participate in Medicare programs.



Section Title

EMTALA's Purpose

EMTALA's Purpose

- To provide an “adequate first response to a medical crisis for all patients.”
- Some translate EMTALA's purpose as: “to prevent hospitals from dumping or refusing to care for indigent patients.”
- Technically, EMTALA outlines the legal responsibilities of all hospitals that receive Medicare reimbursement to adequately evaluate, stabilize, and appropriately transfer patients regardless of ability to pay.



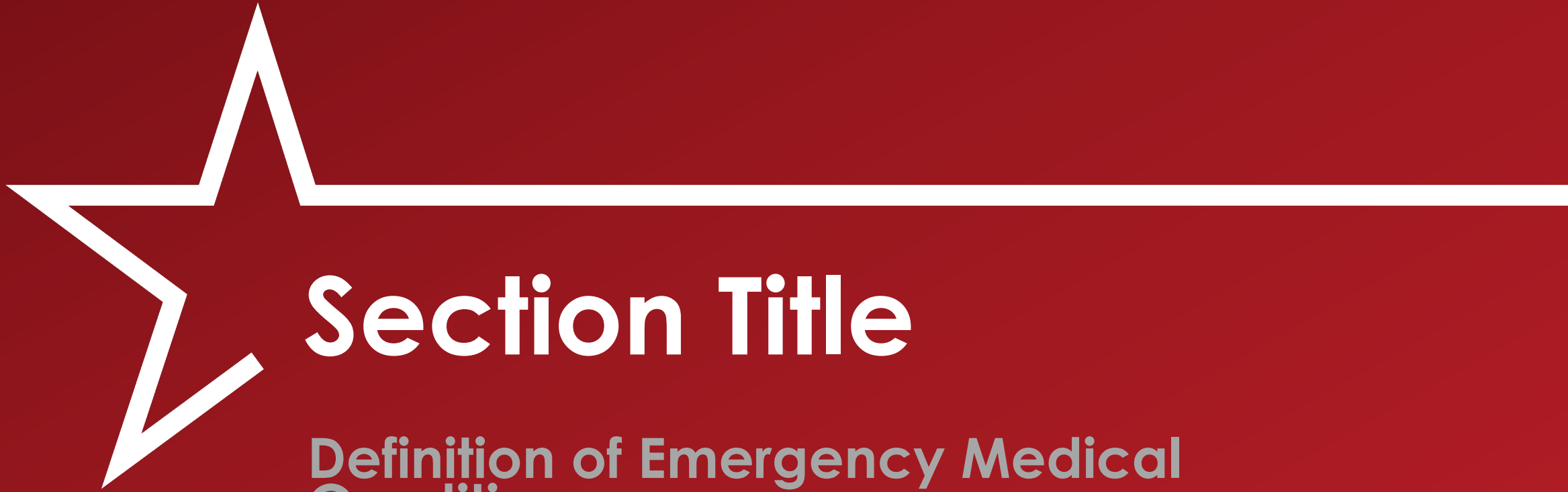
Section Title

Requirements of EMTALA

Requirements of EMTALA

To comply with EMTALA, a hospital must:

- Provide an appropriate medical screening exam to a patient to determine whether a medical emergency exists,
- Stabilize a patient with a medical emergency,
- Transfer a non-stabilized patient only under certain specified circumstances.



Section Title

Definition of Emergency Medical
Condition

Definition of Emergency Medical Condition

An emergency medical condition is the presence of acute symptoms of such severity that the absence of immediate medical attention could reasonably be expected to result in

- Placing an individual's health in serious jeopardy,
- Serious impairment to bodily functions,
- Serious dysfunction of any bodily organ or part.

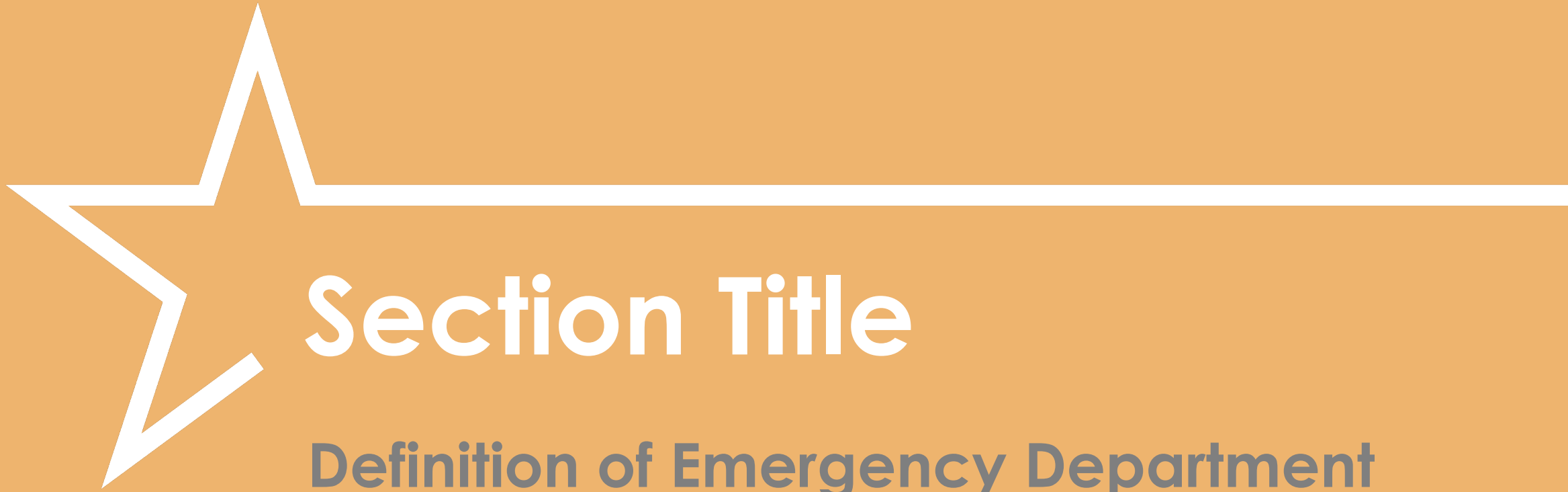


Section Title

Psychiatric Conditions Can Be
Emergency Medical Conditions

Psychiatric Conditions Can Be Emergency Medical Conditions

An individual expressing suicidal or homicidal thoughts or gestures, if determined to be dangerous to self or others, would be considered to have an Emergency Medical Condition

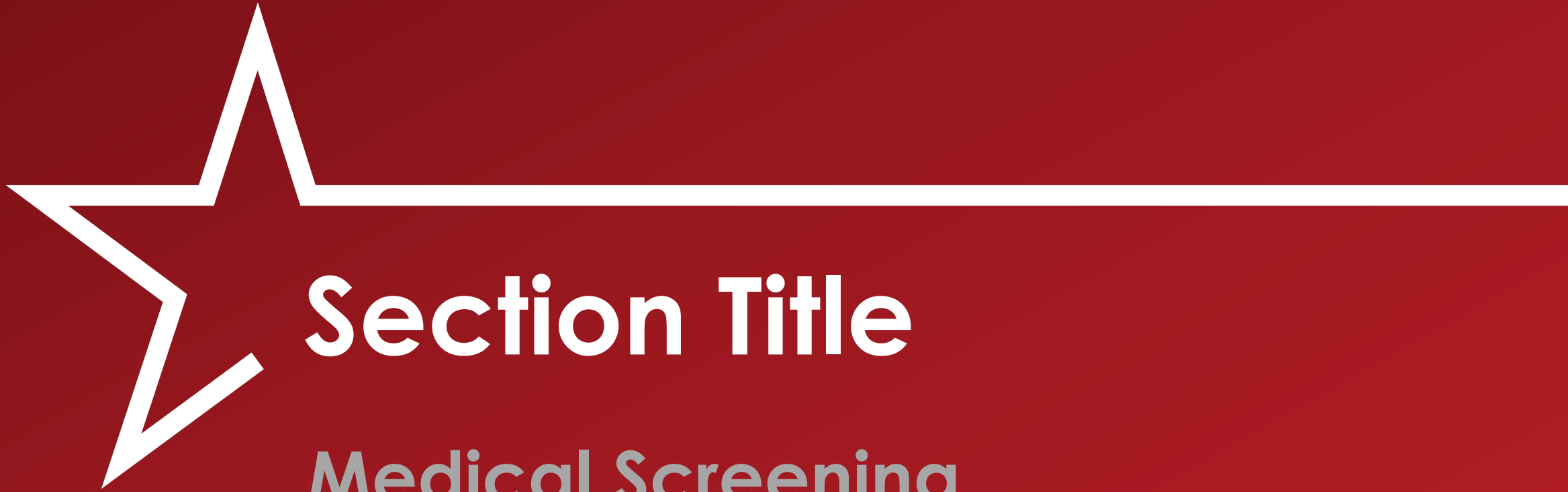


Section Title

Definition of Emergency Department

Definition of Emergency Department

- When EMTALA was first enacted, the emergency department was narrowly defined as a “specially equipped and staffed area of the hospital (that) used a significant portion of the time for initial evaluation and treatment of outpatients and emergency medical conditions.”
- Over time, often because of outrage caused by specific cases, some EMTALA requirements were expanded to include hospital grounds and off-campus facilities.



Section Title

Medical Screening

Medical Screening

- The emergency department must provide a medical screening exam to any patient who requests treatment (regardless of that patient's ability to pay) to determine whether a medical emergency condition exists.
- The exam should be comparable to an exam “offered to other patients presenting similar symptoms.”
- If no emergency medical condition exists, the hospital's obligation to the patient ends.



Section Title

Stabilizing Patients with
Emergency Medical Conditions

Stabilizing Patients with Emergency Medical Conditions

If an emergency medical condition exists, the hospital must:

- Provide treatment until the patient is stabilized.
- If patient can't be stabilized, transfer the patient to a medical facility that is better able to provide the necessary treatment.
- The transfer of the patient must be based on the hospital's inability to provide care, not on the patient's financial circumstances.



Section Title

Stabilizing for Discharge

Stabilizing for Discharge

A patient is considered stable and ready for discharge when, with reasonable clinical confidence, it is determined that the individual has reached the point where his/her continued care, including diagnostic work-up and/or treatment, could be reasonably performed as an outpatient or later as an inpatient, provided the individual is given a plan for appropriate follow-up care as part of the discharge instruction.

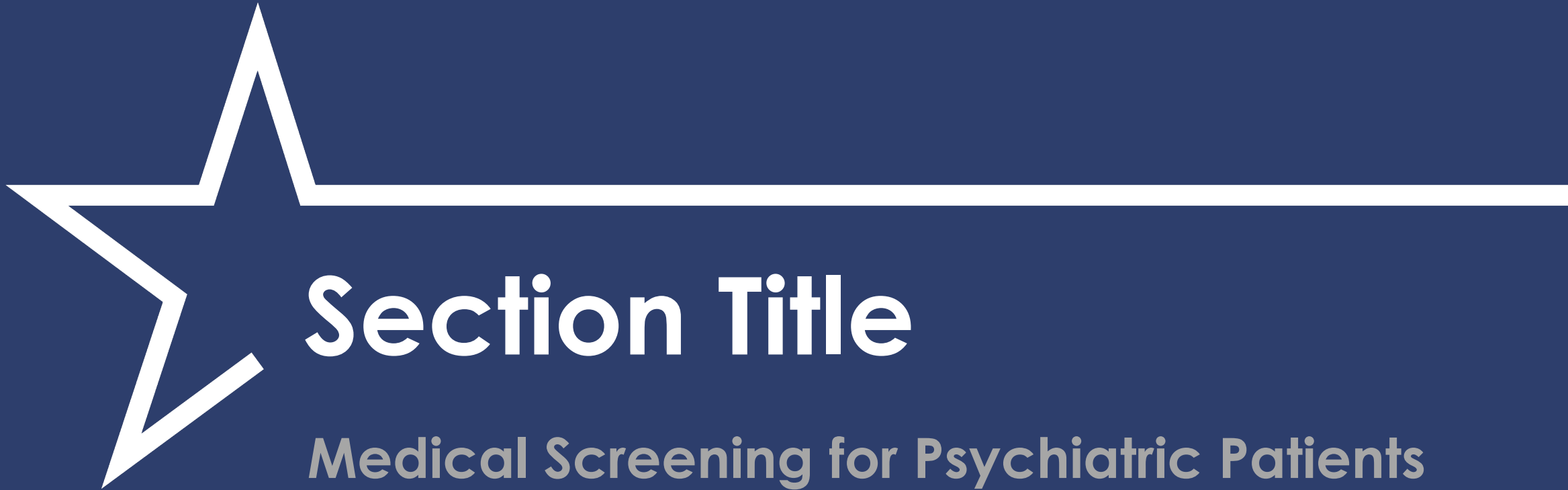


Section Title

If Patient is Unstable and Must be Transferred, Transferring Hospital Must:

If Patient is Unstable and Must be Transferred, Transferring Hospital Must:

- Provide medical treatment, if possible, to minimize the risk of transfer,
- Obtain patient's written consent for transfer,
- Provide signed certificate of transfer,
- Assure that the transfer takes place with qualified personnel and equipment,
- Send copies of medical records related to the emergency condition.

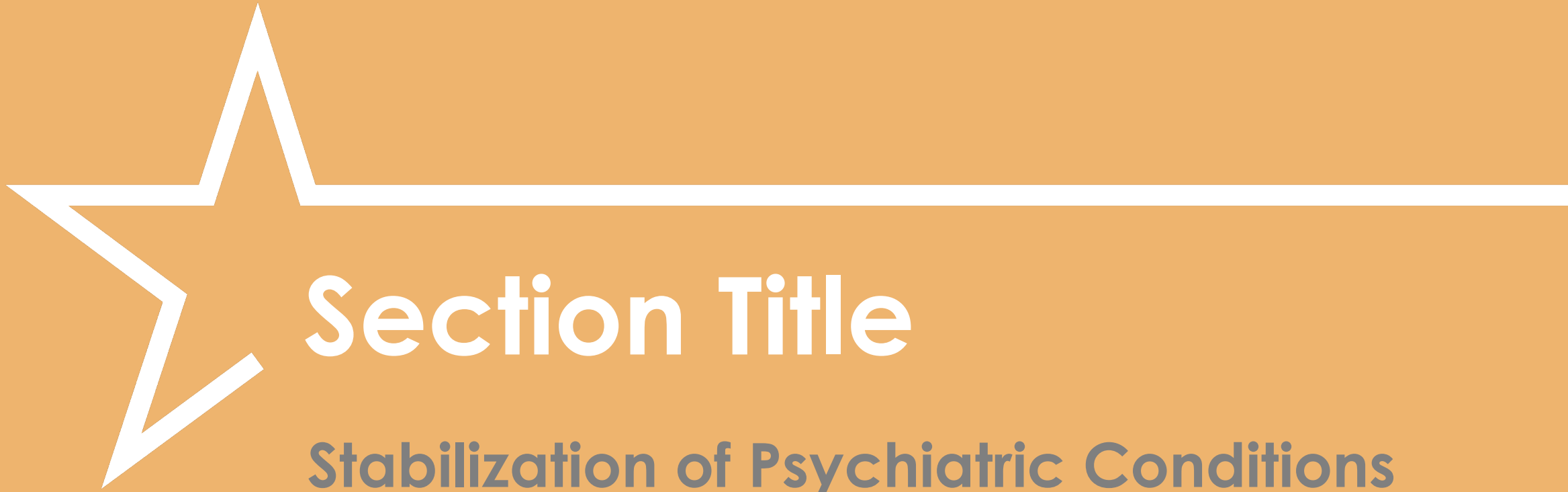


Section Title

Medical Screening for Psychiatric Patients

Medical Screening for Psychiatric Patients

- Once a request for emergency care is made, the determination as to whether an emergency medical condition exists must be made by the examining physician or other personnel of the hospital.
- In certain limited circumstances a hospital may be allowed to rely on outside professionals to screen patients for emergency medical conditions.



Section Title

Stabilization of Psychiatric Conditions

Stabilization of Psychiatric Conditions

- An individual is considered stable when no material deterioration of his/her condition is likely to result.
- Psychiatric patients are considered stable when they are protected and prevented from injuring or harming themselves or others.
- Alleviation of acute symptoms will not automatically constitute stabilization.

Stabilization of Psychiatric Conditions, con't.

- Administration of chemical or physical restraints for purposes of transferring an individual from one facility to another may stabilize a psychiatric patient for a period of time and remove the immediate emergency medical condition.
- If underlying condition persists and is not treated for longevity, the patient may experience exacerbation of emergency medical condition.
- Practitioners must use great care when determining if the medical condition is stable after administering chemical or physical restraints.



Section Title

Transferring Psychiatric Patients

Transferring Psychiatric Patients

Hospitals are not relieved of their EMTALA obligations to screen, provide stabilizing treatment and/or appropriate transfers because of prearranged community or State plans that have designated specific hospitals to care for selected individuals.

Transferring Psychiatric Patients, con't

- If after conducting an appropriate medical screening and/or stabilizing a patient, a hospital needs to transfer an individual to another hospital, it may elect to transfer the individual to a facility designated by such State or local laws.
- The existence of a State law requiring transfer of certain individuals to certain facilities is not a defense to an EMTALA violation for failure to provide an appropriate medical screening or stabilizing treatment.



Section Title

Obligations of Community Centers

Obligations of Community Centers

- Community Centers are required to provide crisis screenings and assessments for individuals experiencing a psychiatric emergency.
- The screening is utilized to determine if the individual is a threat to himself/herself and/or to others.
- The assessment is performed to determine if the individual requires inpatient hospitalization at a State-funded facility.



Section Title

Relationship between Hospital
and Community Center

Questions???





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