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Filing date: **12/29/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	86156209
Applicant	Society of Cardiovascular Patient Care
Applied for Mark	EARLY HEART ATTACK CARE
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Submission	Reply Brief
Attachments	early_heart_attack_care_reply_brief.pdf(13833 bytes) replybrief.PDF(1318639 bytes)
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Signature	/sherryflax/
Date	12/29/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

Applicant: Society of Cardiovascular Patient Care
Serial Number: 86156209
Filing Date: January 2, 2014
International Class: 035
Mark: EARLY HEART ATTACK CARE

APPLICANT'S REPLY BRIEF

Applicant Society of Cardiovascular Patient Care ("Applicant") replies to Examining Attorney's Appeal Brief.

As a preliminary matter, Applicant referred to its canceled registration of U.S. Reg. No. 2092920 for the mark E.H.A.C. EARLY HEART ATTACK CARE RECOGNITION AND RESPONSE CHEST PAIN CENTER in its April 21, 2014, response to Office Action. Accordingly, the fact of the registration is a part of the record below and may be considered as evidence of Applicant's use of the phrase EARLY HEART ATTACK CARE ("Mark") since 1991.

The Mark is not simply a combination of merely descriptive terms. Rather, it is a phrase that creates a distinctive commercial meaning that identifies Applicant's services through its licensees. *See In re The Hallicrafters Co.*, 153 USPQ 376 (TTAB 1967) (tagline QUALITY THROUGH CRAFTSMANSHIP not merely descriptive for radio equipment); *In re Colonial Stores Inc.*, 394 F.2d 549, 157 USPQ 382 (C.C.P.A. 1968) (SUGAR & SPICE registrable for bakery products). Because the term CARE is too vague to be descriptive of Applicant's services,

the Mark is registrable. *In re Morton-Norwich Product, Inc.*, 209 U.S.P.Q. 791, 791 (T.T.A.B. 1981) (COLOR CARE registrable as suggestive of laundry bleach not harmful to color fabrics).

Applicant has used its Mark exclusively for nearly twenty-five years. Long use of the Mark is highly relevant in determining that a mark has acquired distinctiveness. *See In re Uncle Sam Chemical Co., Inc.*, 229 USPQ 223 (TTAB 1986) (SPRAYZON for cleaning preparations acquired distinctiveness where president submitted declaration attesting to sales figures and *over eighteen years of substantially exclusive and continuous use*).

According to the Examining Attorney, proof of exclusivity of use is a primary consideration to establish secondary meaning. *In re Steelbuilding.com*, 415 F.3d 1293, 75 USPQ2d 1420 (Fed. Cir. 2005). The Examining Attorney has failed to provide even a single third party reference to EARLY HEART ATTACK CARE that does not refer to Applicant's services. Accordingly, her evidence is competent to demonstrate the acquired distinctiveness of the Mark.

The Examining Attorney argues that the hundreds of licensed third party users of the Mark must expressly identify Applicant as the licensor in order to establish that consumers associate the Mark with the services. There is no legal basis for this requirement. The licensees are the consumers, and they are aware of the source of the services being provided by virtue of the license relationship. Attached are the web pages referenced in Applicant's Internet search results that refer to EARLY HEART ATTACK CARE. Each demonstrates that Applicant's licensees use EARLY HEART ATTACK CARE as a trademark.

For the foregoing reasons, Applicant respectfully requests that its application be remanded and its Mark be allowed for publication.



Visit the Society of Cardiovascular Patient Care for information on hospital accreditation

Follow us: [Facebook icon]

Home | Train Your Community | Our Mission | Our Founder | EHAC Stories | Contact

The EHAC Course Having Chest Pains? A Letter from Dr. Bahr Chain of Survival EHAC Art

Do you know the Symbols of Early Heart Attack Care? Save a life. Learn more.

Welcome to Deputy Heart Attack, the official website that spreads the message that EHAC can save lives. Join us and:

- Take the Deputy Heart Attack course
- Understand the symptoms
- Spread the word



The Deputy Badge



The Good Samaritan or Buddy Badge

Updates:

- DHA Achieves 500,000 EHAC Pledges
- Share Early Heart Attack

Thank you to the

521056

who have taken the oath & been deputized into action!

Deputy Heart Attack® Course

In earlier days, a deputy protected the community and kept people informed of danger. Will you have a deputy?



Why is the Sheriff deputizing Early Heart Attack Care Givers?

He wants your help in the crisis to save friends and family from dying

Spread the EHAC® Message!

Deputy Heart Attack and EHAC®, which are sponsored by the Society of Patient Cardiovascular Patient Care (SCPC) have created the materials you need to share



Thank You for Sharing EHAC®!



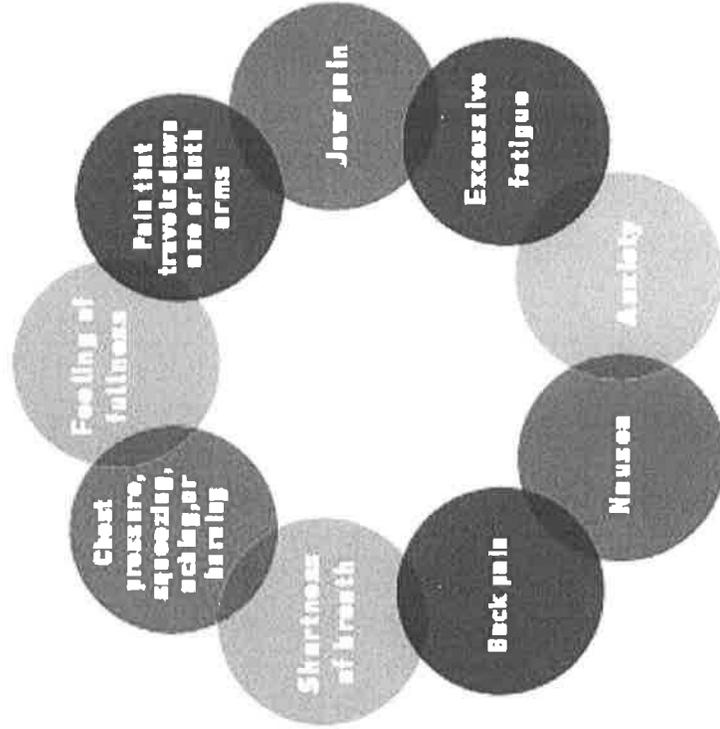
WHAT IS EHAC?

Early Heart Attack Care (or EHAC) education asks you to learn the signs and symptoms of a heart attack so you can become an active bystander to save a life - even if it's yours. Why?

- Over 800,000 people die in the US every year from a heart attack
- On average, 50% of those patients die played, but ignored, the warning signs

LEARN THE EARLY SIGNS & SYMPTOMS

Someone may experience any or all of these symptoms. When they start, they can be mild or come and go. Over time, the symptoms and pain increase until the victim collapses.



DID YOU KNOW?

66% of heart damage occurs within the first two hours of a heart attack. EHAC is knowing the subtle danger signs of a heart attack and acting upon them immediately - BEFORE HEART DAMAGE OCCURS

WHAT ARE THE RISK FACTORS?

These are the general risk factors. Discuss your risk for a heart attack with your doctor

- Chest pain, pressure, burning, aching or tightness - it may come and go
- A family history of cardiovascular disease
- High blood pressure
- Overweight or obese
- Sedentary lifestyle
- Using tobacco products
- Metabolic disease, diabetes or other illnesses
- For women it can also include birth control pills, a history of pre-eclampsia, gestational diabetes or having a low birth weight baby

WHAT IS THE DIFFERENCE? MEN VS WOMEN

Heart attack symptoms can be different between men and women. Why does it matter? Women are less likely to seek immediate medical care and are more likely to die.

- Men normally feel pain and numbness in the left arm or side of chest, but in women these symptoms may appear on the right side.
- Women may feel completely exhausted, dizzy or nauseous.
- Women may feel upper back pain that travels up into their jaw.
- Women may think their stomach pain is the flu, heartburn or an ulcer.

WHAT ARE ATYPICAL PRESENTATIONS?

In an atypical presentation, the signs and symptoms are different. How? The patient not complain about pain or pressure in the chest. So alert for the following:

- A sharp or "knife-like" pain that occurs with coughing or breathing.
- Pain that spreads above the jawline or into the lower body.
- Difficulty or labored breathing.

SURVIVE. CALL 9-1-1. DON'T DRIVE.

ing Started  Suggested Sites  USPTO. ESTIA. Notice...

There are three versions of the EHAC Course - The Short Course, The Standard Course and The Standard Course in Spanish.

Instructions for navigating the Deputy Heart Attack Course and obtaining your certificate:

There is a **short version** of the course which includes:

- 1. Summary Information
- 2. EHAC Quiz
- 3. Become Deputized

The **standard version** of the course is in English and Spanish. The course consists of:

- 1. Questions About Heart Attacks
- 2. Why Don't Patients Come in Early?
- 3. Overcoming Patients Reluctance
- 4. Television Heart Attack
- 5. What is Early Heart Attack Care (EHAC)?
- 6. The Challenge
- 7. Early Symptom Video or Cliff Scene
- 8. Deputization Program
- 9. EHAC Quiz
- 10. Become Deputized

Review sections 1 through 9 and then take the quiz in section 10 to become deputized. When you come to section 7 either play the video on "Early Symptom Recognition" or review the cliff scene for visualization of the three presentations of a heart attack. You need to score at least 70% in order to be deputized (certified).

Upon completion, your deputy certificate will appear in the browser with your name and date, if necessary, or if you are completing this as part of your employment requirements, please print and retain this for your records.

When you have completed the course you will become part of the solution to the heart attack problem and hopefully will extend this message to as many people as possible. If you like we will even send you a deputy badge that states "Heart Attacks Have Beginnings" so that you can enlighten many of those who come into contact with you when they question the meaning of this statement. Don't forget to enter your mailing address on the next panel.

- Heart attacks need not kill or destroy muscle if you listen when your body is to tell you something.

- Be aware of a pressure - not necessarily in the chest. If it subsides when you but increases with activity, it is your of a heart attack. Quick treatment by experts can stop it.

- Get medical help as soon as possible. straight to the nearest hospital emergency room. And don't try to rationalize it as something else. Your body knows what talking about.

- Delay in seeking medical attention is a risk factor. It is more important than cholesterol, smoking or other risk factors.
- Early Heart Attack Care is knowing the danger signs and symptoms and acting on them before damage occurs.

- By listening to your heart, many heart attacks might be prevented.

Meet our Founder

Our Raymond Behr is passionate about





SOCIETY OF CARDIOVASCULAR PATIENT CARE

Home > Education > EHAC

EHAC®

The What and Why of Early Heart Attack Care™

Dr. Raymond Bahr, Founder of the Society of Cardiovascular Patient Care, created the Early Heart Attack Care (EHAC) program. It has become a benchmark of community outreach and education for heart disease. Central to the program is the EHAC Pledge.

EHAC Pledge

"I understand that heart attacks have beginnings that may include chest discomfort, shortness of breath, shoulder and/or arm pain, and weakness.

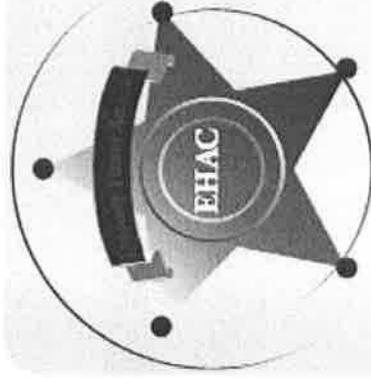
These may occur hours or weeks before the actual heart attack.

I solemnly swear that if it happens to me or anyone I know, I will call 9-1-1 or activate our Emergency Medical Services."

Education

- Conferences
- Certifications
- EHAC
- Accreditation Webinars
- Analytics Webinars
- Workshops
- Online Education

Take the First Step



EHAC Course

The Deputy Heart Attack Program & Early Heart Attack Care (EHAC) Education

The Deputy Heart Attack program disseminates Early Heart Attack Care (EHAC) education. The Deputy Heart Attack program garners its name from earlier days when the sheriff would deputize every citizen in order to protect the town from imminent danger. By participating in this program, participants become "deputies" who learn the early heart attack symptoms and provide immediate medical care in order to prevent a death or serious heart damage.

The History:

The Deputy Heart Attack Program and Early Heart Attack Care education was created by a cardiologist - Dr. Raymond Bahr. Although he was not a cardiologist at the time, Dr. Bahr's life was forever changed when he did not recognize the signs in a friend who died from

1 Early Heart Attack Care



2 Heart Attack: A Community Problem

What is Community Source?

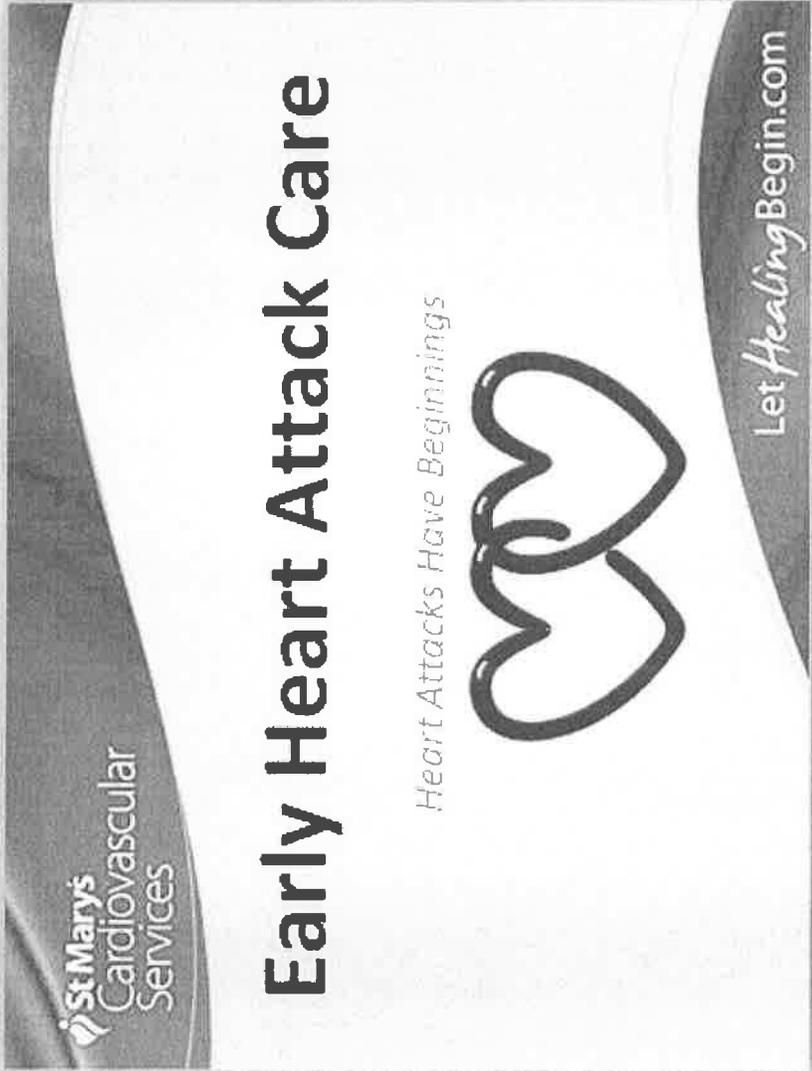
3 Course Outline

1. Early Warning: The Warning
2. What to do Right
3. Stages of the Heart Attack
4. Recognize the Warning
5. Don't wait
6. For Patients with the Risk

4 Part 1

ANATOMY AND PHYSIOLOGY 2011

© 2011



St Marys Cardiovascular Services

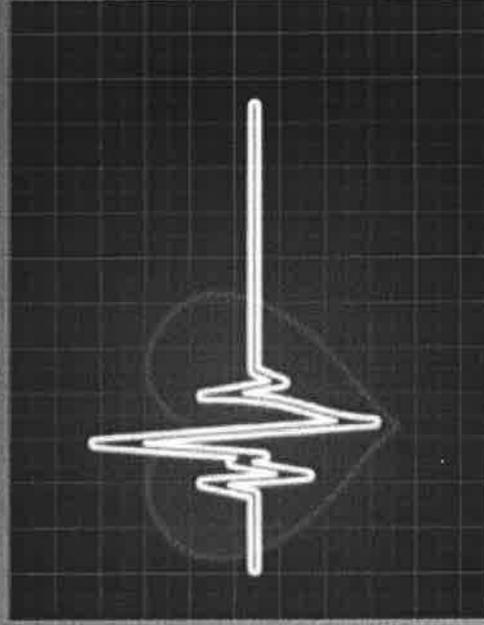
Early Heart Attack Care

Heart Attacks Have Beginnings

Let Healing Begin.com

EARLY HEART ATTACK CARE

Heart Attacks Have Beginnings



Carla Schmidt, BSH, CVT, STEMI Coordinator
Edited by Betty Jax, MSN, ARNP, RN-BC

December 2012



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a LifeBridge Health company

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[Northwest Hospital](#) > [Early Heart Attack Care \(EHAC\)](#)

Early Heart Attack Care (EHAC)

About half of all people who have a heart attack experience early heart attack symptoms, which are often mild. However, if these symptoms are recognized and the person can get immediate treatment, in many cases the heart attack can be prevented.

Heart attacks often begin gradually, before the heart is damaged. The sooner someone who is having a heart attack can get care, the better his or her outcome will be.

Early symptoms of a heart attack are:

- Nausea
- Pain that travels down one or both arms



Patient Services

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DID YOU KNOW HEART ATTACKS HAVE BEGINNINGS?

THESE "BEGINNINGS" OCCUR IN OVER 60% OF PATIENTS. Most importantly, if recognized in time, these "beginnings" can be treated before the heart is damaged!

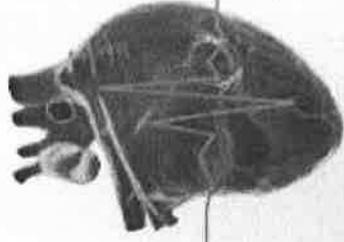
ALARMING STATISTICS:

Heart disease caused approximately 1 of every 6 deaths in the United States in 2016.

In 2011, an estimated 785,000 Americans will have a first-time heart attack, and an estimated 470,000 will have a repeat heart attack.

Every 25 seconds, an American will have a coronary event, and every minute, someone will die of one.

BY WORKING TOGETHER, WE CAN CHANGE THESE SOBERING STATISTICS!



Blanchard Valley Hospital

**Early
Heart
Attack
Care**



EHAC

Williamson
MEDICAL CENTER

Get Started Suggested Sites USPTO, ESTTA, Notice...

EMORY HEALTHCARE

We're all in this together.

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CASE STUDIES

LIVE CHAT

PAST CHATS

POSTING POLICY

ALL BLOGS

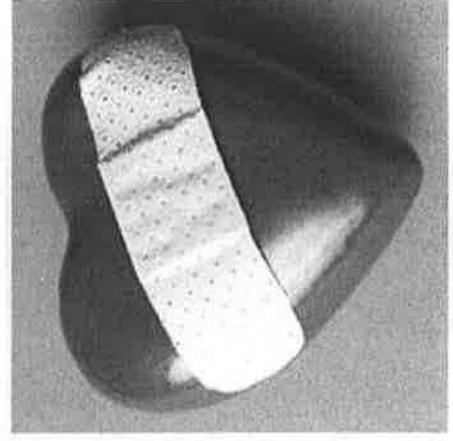
Like 103 people like this.

Early Heart Attack Care: Know How to Recognize the Beginnings of a Heart Attack

February 6, 2014, 10:11 pm By Emory Johns Creek Hospital

Every 25 seconds, someone in the United States will have a coronary event, and every minute someone will die of one. This is one of a number of alarming statistics about heart attacks, which are still the leading cause of deaths for both men and women in the U.S. While hospitals and healthcare providers have made major in-roads in providing rapid and highly effective treatment for acute cardiac events, patients are not always aware of the early warning signs and may delay seeking treatment.

A study by the American Heart Association found that half the people suffering from heart attack symptoms waited as long as four hours to seek help. When you consider 85 percent of heart damage occurs within the first two hours of a heart attack, even one hour is too long to wait. According to the Society of Chest Pain Centers (SCPC), about 50% of sudden cardiac deaths happen outside of a hospital, which indicates



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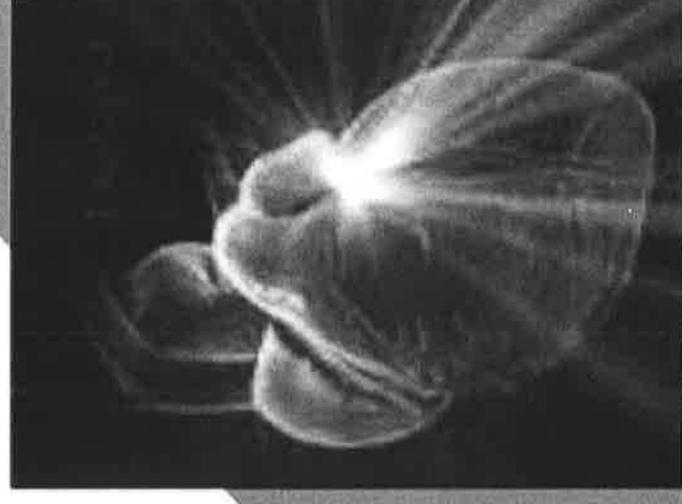
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EARLY HEART ATTACK CARE (EHAC)

*HEART ATTACKS
HAVE BEGINNINGS*



Want to know more about Early Heart Attack Care (EHAC) Education?

Get the latest news, insights, and ideas from Early Heart Attack Care (EHAC) Education when you join LinkedIn.

Join the world's professionals. It's the best thing you can do for your career. And it's free.

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Do you know Early Heart Attack Care? Save a life. Learn more.

- 50% of heart attacks have early signs & symptoms

seeks care upon recognition,

and 21% of people die every year in the U.S. due to cardiovascular disease.



The Deputy Badge

The Good Samaritan or Buddy Badge



21 followers

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Avg ER Wait

10 mins

Eastern Idaho Regional Medical Center as of 8:41am today

Early Heart Attack Care

Heart attack and heart disease is the leading cause of death in the U.S. for both men and women. Warning signs may show up individually, or in any combination. Click here to read specifically about [women's warning signs](#) for heart disease, which can be different and often more subtle than men's.

If you have any warning signs, call 911 immediately.

Be prepared to immediately provide this information to the 911 dispatcher. Please note that they cannot pinpoint your location if you are on a cell phone.

- Your name
- The address of the emergency
- Your call-back phone number
- A description of exactly what is happening

Common warning signs:

Main Services

Video Library



Henry County Hospital

myhealth *Your medical home on the web.*

SIGN-UP or LOGIN

Health Services » Specialized Services » [Early Heart Attack Care](#)

Heart Attacks Have Beginnings

EARLY HEART ATTACK CARE

- EHAC
- EHAC Campaign
- What Are Early Symptoms
- Heart Attacks Can Be Helped
- Types of Heart Attacks
- Seek Immediate Medical Attention
- Overcoming Reluctance
- What Can You Do?

These "beginnings" occur in over 50% of patients.

But, most important, if recognized in time, these "beginnings" can be treated before there is damage to the heart.

Alarming statistics:

- Heart disease causes approximately 1 out of every 4 deaths in the United States
- About 50% of sudden cardiac deaths occur outside of a hospital suggesting many people don't act on early warning signs
- Survey results show only 27% of respondents were aware of all the major symptoms and knew to call 9-1-1

By sharing early heart attack education - or EHAC - we can change these



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Lafayette East

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Heart & Vascular

FRANCISCAN ALLIANCE > HOSPITALS > LAFAYETTE EAST > SERVICES > HEART & VASCULAR > EARLY HEART ATTACK CARE

FONT SIZE SHARE PRINT

- Chest Pain Center
- Acuity Adaptable Model
- S49 Heart Scan
- Cardiac Rehab
- Cardiac Catheterization
- Children's Heart Center

Early Heart Attack Care (EHAC)

- Early Heart Attack Care
- HeartCaring for Women
- When You Have a Heart Attack
- Revive and Survive

The Franciscan St. Elizabeth Health Heart Center recognizes the importance of early heart attack care (EHAC).

That's why we've joined the EHAC campaign to educate our community and care givers of the earliest signs and symptoms of a heart attack. Preventing a heart attack prevents heart damage.

For the 50% of people experiencing these symptoms, the heart attack can be prevented with early treatment -- before your heart is damaged!

Take the online course

If you're committed to preventing heart attacks, visit deputyheartattack.org and take the EHAC pledge.

What causes a heart attack?

Over time plaque builds up in the areas that feed blood to the heart, when the plaque tears away...



Survive. Don't Drive!

A heart attack is a medical emergency. DO NOT try to drive yourself to the hospital.



Fountain Valley Regional HOSPITAL & MEDICAL CENTER

(714) 968-7700 | 17100 Euclid St, Fountain Valley, CA 92708

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Early Heart Attack Care

Learn how to anticipate, react and help prevent

Chest pain is one of the most common symptoms of a heart attack and one of the most common reasons people go to the emergency room. Each year more than 1 million Americans have a heart attack, and nearly half of those are fatal. Emergency room physicians will tell you that for a heart attack to be treated effectively, the treatments must start within 30 minutes from when the symptoms start. Fountain Valley Regional Hospital and Medical Center encourages everyone to get informed on heart attack care and prevention, for your sake and the sake of your loved ones.

Cardiac, Thoracic and Vascular Procedures	Cardiac Catheterization Lab Procedure	Cardiac
Diseases & Conditions	Classes & Events	Cardiac
Electrophysiology (EP) Services	Early Heart Attack Care	Cardiac
Non-Invasive Cardiology	Hybrid OR	Cardiac
Treatments & Procedures	Tests & Screenings	Cardiac