

The Value of Early Reporting



There is a phrase that we repeatedly tell our insureds—

“Contact COPIC after any major unexpected outcome or incident that could adversely affect a patient’s care.”

We also stress the importance of doing this in a timely manner. Why? Because early reporting is probably one of the most important aspects of protecting our insureds. The sooner we know, the sooner we can activate our resources and expertise in ways that benefit you.

- ▶ There is no penalty for early reporting of an incident.
- ▶ Promptly notifying COPIC of an incident allows us to consider all possible approaches for the best response and resolution.
- ▶ Early reporting enables us to capture details while an incident is fresh in everyone’s minds.
- ▶ It also allows us to evaluate whether a situation is appropriate for COPIC’s 3Rs Program or the Candor process in Colorado, Iowa, and Utah; these programs provide an alternative to traditional litigation that seek to maintain the physician-patient relationship and resolve matters after an adverse outcome.
- ▶ Reporting an incident also serves as a trigger to help determine if and how your insurance coverage may apply.

In addition to unexpected outcomes that adversely affect patients, you should report situations where litigation might occur (e.g., threats or a notice of a lawsuit, attorney requests for medical records), disciplinary or professional review actions against an insured, and data breaches and other cyber liability issues.

Here are our general guidelines for reporting an incident to COPIC:

1 Ideally, the provider involved should report the incident—we recognize that some systems may have specially trained risk managers to assist in reporting and we can accept a report from these managers on behalf of an insured.

2 Make every effort to report within a reasonable time (usually 24 to 72 hours) after the provider or practice becomes aware of the incident.

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3 Report incidents by calling COPIC or initiating the process on our website. The best way to report an incident is by using one of these two ways that alerts us of the incident and reduces discoverability of information:

- Call COPIC to report an incident at (720) 858-6395. COPIC's business hours are Mon-Fri, 8am-5pm (MT).
- Initiate the reporting process on our website, which will result in a follow-up call by an occurrence nurse specialist. To submit an online incident report, login to the Service Center and select "Incident Reporting."

4 Have the following information ready: patient identification, policy number, date(s) of service or incident, and procedure/medical services provided to include a summary of the incident.

- Please note that you do not need to obtain a patient's consent—written or otherwise—to share HIPAA Protected Health Information (PHI) with COPIC in an incident report.



HOW TO PROTECT AGAINST EMAIL FRAUD

Email fraud occurs when criminals impersonate a business contact to trick you, an employee, customer, or vendor into transferring money or sensitive information (like passwords) to the criminal. This scam is also known as Business Email Compromise (BEC). Email fraud is particularly difficult to detect with traditional software tools because it doesn't use malware or malicious URLs that can be scanned and analyzed with standard software defense tools. Our cyber liability partners at Tokio Marine have highlighted five ways to protect against BEC:

1 Implement "2 Factor Authentication"—Passwords are no longer good enough to protect email accounts. Multi-factor authentication (MFA) is a simple and cost-effective measure that adds another layer of protection to password-protected remote access to your email.

2 Stop Malicious Wire Transfers—Criminals often impersonate vendors and other business partners and convince organizations to directly wire them money. Wire fraud typically starts with either a change to existing wire instructions or a setting up of new instructions. Employees should be periodically trained to ALWAYS verify (1) any change to existing wire instructions or (2) setting up new wire instructions. This verification should include independent verification by calling a known and trusted phone number.

3 Train Employees—Employee mistakes cause 95% of all cyber crime losses! Teach your employees to stay alert and recognize dangerous phishing emails. Employees should never click on an attachment or a link in an email from an unverified sender.

4 Secure Your Email System—You can automatically filter out some phishing emails. Activating these filters is an easy way to cut your risk by reducing the number of dangerous phishing emails from landing in your employees' mailboxes. Email filtering can quarantine suspicious emails and scan documents and files before they are opened. Every "bad" email you can stop before it hits an inbox reduces your risk.

5 Use Advanced Endpoint Protection—Criminals are finding ways around traditional anti-virus detection methods to infect organizations with dangerous new malware. Next-generation endpoint protection uses artificial intelligence, behavioral detection, machine learning algorithms, and more, to better protect your client against new or unknown zero-day threats compared to traditional signature-based threats. Keep your anti-malware software updated so that you are running the latest versions detecting the newest cyber threats.

Did you know that COPIC's medical liability insurance policies include embedded cyber liability coverage? The coverage is designed to offer protection and support against growing cyber risks, and it also provides access to resources that you can utilize to proactively plan for and prevent cyber breaches.

Visit www.callcopic.com/coverage-options/cyber-liability for more information.



PRACTICE ADMINISTRATOR MEETING: November 2, 2022

COPIC hosts these virtual meetings to address topics of interest to practice administrators and provide access to our team of experts. They also provide an interactive forum to connect with peers and discuss challenges in health care.

- ▶ The next meeting will be Wednesday, November 2, from noon-1pm (Mountain time)
- ▶ The topic will focus on human resources
- ▶ Email invitations are sent to practice administrator staff several weeks prior to the meeting. If you would like to be added to the email list, or have any questions, please contact Andrea Jones at ajones@copic.com.



COPIC'S PATIENT SAFETY AND RISK MANAGEMENT FORUM

Our annual Forum is an opportunity for professionals at insured medical facilities to gather and hear from national experts and COPIC staff about current issues in health care. Through presentations, interactive sessions, and networking with peers, this event is designed to address topics that are of concern and provide attendees with actionable guidance that they can utilize with their facility teams.

The 2022 Forum will take place October 5-7 at the Gaylord of the Rockies Resort and Convention Center in Aurora, CO.

Registration information was sent to eligible insureds in July. If you have any questions, please contact Stephanie Heronema at (720) 858-6129 or sheronema@copic.com.



UPDATED CATALOG OF COPIC EDUCATION

As an accredited provider of CME and CNE education, COPIC offers a wide range of educational seminars on topics such as medication errors, managing unanticipated outcomes, documentation, telehealth, difficult patient interactions, HIPAA regulations, and more.

We recently updated the COPIC Education Catalog, which provides a comprehensive list of available seminars with descriptions, length of time to complete, associated COPIC points/CME credits, and more. Download the catalog at www.callcopic.com/professional-education.

- ▶ To schedule a seminar at your practice/facility, contact Carmenlita Byrd at cbyrd@copic.com or (720) 858-6131.
- ▶ To view a current listing of seminars and courses, please go to www.callcopic.com/education



COPIC HUMANITARIAN AWARD NOMINATIONS

Nominate a physician who has gone above and beyond their clinical practice and made a difference in the community.

The COPIC Humanitarian Award is presented annually to honor a physician for volunteer medical services and contributions to their community. The recipient of the award designates a \$10,000 donation from COPIC to be provided to a health care-related 501(c)(3) organization within their respective state. If you know a worthy candidate, please nominate him or her for this award.

- ➔ **COLORADO**
Nominations accepted May 1–Aug. 15
- ➔ **NORTH DAKOTA**
Nominations accepted April 1–Aug. 31

A nomination form can be downloaded at www.callcopic.com/about-copic/copic-humanitarian-award. For more information, please contact Laura Wadleigh at lwadleigh@copic.com.



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Did you miss a previous edition of COPIC newsletters? Don't worry. A full archive of past newsletters can be accessed on callcopic.com.

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- 720/858-6280
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THE LEGISLATIVE LANDSCAPE

SESSION IN REFLECTION

The second session of the 73rd Colorado Legislature adjourned on Wednesday, May 11, 2022. In total, 657 bills were introduced this session—a slightly higher total than last session’s 623 bills. The Colorado General Assembly passed a \$36 billion state budget, roughly \$2 billion larger than the state’s current budget.

COPIC’s primary efforts this year were focused on the following:

- ➔ Reducing burdens on emergency departments when handling patients on involuntary commitment procedures (M-1 hold)
- ➔ Protecting language that helps defend against frivolous lawsuits
- ➔ Advocating for appropriate use of and access to the Prescription Drug Monitoring Program (PDMP)
- ➔ Reducing administrative burdens on providers and facilities by removing the outdated uniform credentialing process for Colorado’s health care providers
- ➔ Supporting the creation of the International Medical Graduate (IMG) Assistance Program, which streamlines the process for international medical graduates to obtain licensure in Colorado

The 2022 session was another challenging year for health care. COPIC continued to guide our legislative efforts by the “Three C’s”—convening, collaborating, and contributing. From January to May, COPIC worked to convene our partners in the health care community to have frank conversations about health care policy and the impacts on health care delivery in Colorado.

COPIC was a contributing voice during the year-long stakeholder process with Mental Health Colorado around HB 1256, the bill reforming involuntary commitment procedures in emergency departments. Through this process, COPIC advocated on behalf of rural emergency medicine and found success by recognizing everyone’s shared commitment to safe, quality care for all patients and the desire to protect access to and safety within rural emergency departments.

Collaboration with our partners at the Colorado Hospital Association, Colorado Medical Society, and many

others led to the successful repeal of the outdated and antiquated Uniform Credentialing Act, easing administrative burdens on credentialing entities in Colorado. In summation, we recognize that engagement with key stakeholders and partners within the health care community is essential to the betterment of the practice of medicine in Colorado, and we will continue to view and engage on policies through this lens.

Looking ahead, the general assembly will set up interim committee working groups to consider legislative proposals during the coming months leading up to the 2023 session. Colorado’s primary and general election results will also dictate policy priorities heading into next year. The pace of play and slate of legislation could look significantly different if Republicans manage to pick up a handful of seats in the Senate, flipping it from Democrat to Republican control.

COPIC’s Public Affairs team worked alongside our colleagues at the Colorado Medical Society and the Colorado Hospital Association to monitor health care legislation that will impact your ability to deliver safe, quality care. Our focus now turns from following the legislature to monitoring and engaging on the rulemaking stakeholder process. If you have any questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning, at ldunning@copic.com.

MANDATE REQUIRING UNIFORM CREDENTIALING APPLICATION REPEALED

Health care professionals and entities will no longer have to use the Colorado Health Care Professional Credentials Application (CHCPCA) as part of the credentialing process

During the 2022 Colorado legislative session, Senate Bill 22-226, which focused on programs to support the health care workforce, was passed. It included an amendment that repeals the Health Care Credentials Uniform Application Act. **Effective May 18, 2022, health care professionals will not be required to maintain a Colorado Health Care Professional Credentials Application (CHCPCA) and health care entities will not have to use these applications as part of their credentialing process.**

WHAT IS CREDENTIALING?

The terms privileging and credentialing are often used interchangeably but are distinguished under Colorado law. “Credentialing” means obtaining, verifying, and assessing the qualifications of a health practitioner to provide treatment, care, or services in or for a health facility.¹ “Privileging” means the authorizing by an appropriate authority, such as a governing body, of a health practitioner to provide specific treatment, care, or services at a health facility subject to limits based on factors that include license, education, training, experience, competence, health status, and specialized skill.²

WHAT HEALTH CARE ENTITIES ARE REQUIRED TO DO CREDENTIALING OF HEALTH CARE PROVIDERS?

Many health care entities must “credential” (assess and validate the qualifications of) a health care professional before:

- Allowing them to provide care at their facility or for their organization;
- Allowing them to participate in their health plan; or
- Providing them professional liability insurance.

Credentialing entities include licensed health care facilities; health care professional services corporations, LLCs or group practices; independent practice associations; insurance companies, HMOs or other entities that contract for the provision of health benefits; and professional liability insurance carriers.

WHAT WAS THE PURPOSE OF THE HEALTH CARE CREDENTIALS UNIFORM APPLICATION ACT?

Because many health care providers must be credentialed through multiple credentialing entities in order to practice, the original intent of the Act (which became effective in 2004) was to make credentialing more efficient, less costly, and less duplicative by making it uniform through the use of a single application form for the collection of core credentials data.

WHY IS THE ACT BEING REPEALED?

The Colorado Health Care Professional Credentials Application was reviewed annually by the Health Care Credentials Application Review Committee, which is made up of representatives of statewide credentialing entities, other key stakeholders, and two members at large. When the committee members met in 2019, no changes were suggested for the application at the time, but the committee questioned the continued applicability, benefit, and use of the application. Because of the impact of COVID-19 on the health care community, the committee did not meet again until May 2021. At that meeting, the consensus was that the requirement for a single uniform application was a deterrent for efficient credentialing.

Because there is not a centralized electronic platform to store and access the application, it has not created the benefits for the health care systems or providers as intended.

Most credentialing organizations use an electronic application that must be modified from the uniform application or requires supplemental information. As a result, the state-sponsored uniform application no longer meets the act’s goal of being more efficient, less costly, and less duplicative. The committee members were supportive of repealing the act since it was no longer meeting the original legislative goals and created additional burdens for credentialing entities.

ARE THERE ANY CONCERNS WITH HOW THIS REPEAL WILL IMPACT HEALTH CARE?

The committee members do not anticipate any negative impact on patient safety because of the independent obligations entities have to ensure that those they credential to practice within their organizations, participate in their health plans, or provide professional liability insurance for, have the appropriate qualifications and competence to provide safe patient care. These entities will continue to require the relevant information currently included in the CHCPCA form, but in a more efficient way that allows them to use an electronic application.

HOW DOES THIS IMPACT COPIC'S APPLICATION PROCESS?

COPIC will no longer require the CHCPCA form as part of its application process. COPIC’s core application will be available on our website for Colorado policyholders, and we will remove the CHCPCA form.

¹ C.R.S. § 25-1.5-607(1).

² C.R.S. § 25-1.5-607(2).



THE LEGISLATIVE LANDSCAPE

SESSION IN REFLECTION

The second session of the 89th Iowa General Assembly adjourned on Wednesday, May 25th. Legislators worked well past the 100-day mark as they negotiated remaining priorities and finalized the state budget. It was a disagreement over private school vouchers that led to a stalemate between the House and the Senate and the governor's office.

Since the Legislature convened in January, COPIC's focus, along with our colleagues at the Iowa Medical Society, has primarily been on advancing a priority measure of Governor Kim Reynolds that includes a hard cap on non-economic damages in medical liability cases. With the backing of the governor, a broad health care coalition behind the cap effort had added support and momentum heading into the session. Unfortunately, the bill that aimed to put a cap on medical liability non-economic damages could not overcome the opposition in the House and the politics at play, therefore it was not included in the final standings bill,

the last omnibus bill considered in the session. The effort this year rallied many sectors of the health care community, from doctors to hospitals, insurance companies, nursing homes and many others, to work together to pass cap legislation. More progress was made this year toward the ultimate goal of passing legislation that would stabilize the liability environment in Iowa.

In addition, below are bills that COPIC engaged on and monitored this session. These bills have passed the general assembly and were either signed or vetoed by the governor.

PASSED LEGISLATION

House File 803: This is a carry-over bill from the 2021 session that expands duties that can be performed by physician assistants (PAs) to include, by statute, duties that currently can only be performed by a physician. The bill does not remove the requirement for PAs to be supervised by a physician.

House File 2598: This is the legislature's final standings bill which houses language from House File 2248. This language can be found in Division 11 of the bill.

➔ **House File 2248:** This bill requires a health care provider who determines that a patient is a candidate for outpatient surgery and refers the patient to an ambulatory surgical center, to provide the patient with a written document listing the factors the patient should consider in order to make a fully informed decision about the patient's recommended course of care.

LEGISLATION THAT FAILED TO PASS

House File 2279: This bill was a measure that includes language creating a hard cap on medical liability non-economic damages at \$1 million. This was a companion bill to Senate File 2275.

Senate File 2275: This bill was a measure that included language creating a hard cap on medical liability non-economic damages at \$1 million. This was a companion bill to House File 2279 which was amended in the House to remove the cap, but the bill failed to pass a vote on the House floor.

House File 2584: This bill sought to create new language to provide for the licensing and regulation of ambulatory surgical centers. The bill would have prohibited the establishment, operation, or maintenance of an ambulatory surgical center in the state without obtaining a license.

COPIC's Public Affairs team works alongside our colleagues at the Iowa Medical Society to monitor health care legislation that will impact your ability to deliver safe, quality care. Focus now turns from following the legislature to monitoring and engaging on the rulemaking stakeholder process. If you have any questions, please contact COPIC's Manager of Public Affairs, Logan Dunning, at ldunning@copic.com

2022 IMS/COPIC PHYSICIAN HUMANITARIAN AWARD: DR. HENDRIK SCHULTZ



COPIC and the Iowa Medical Society (IMS) are proud to announce that Dr. Hendrik Schultz is the 2022 recipient of the IMS/COPIC Physician Humanitarian Award. Dr. Schultz is a triple board-certified internal medicine, hospital medicine, and infectious disease physician who serves as chief medical officer at Medical Associates of Dubuque.

Dr. Schultz has served many organizations through the years and his ascension to several leadership positions displayed his commitment to the organizations and contributing to the greater good of health care. His experience ranges from volunteering at the Iowa City Medical Clinic to serving as president and treasurer of the Dubuque County Medical Society, and most recently, he was appointed to the Dubuque County Board of Health. As a volunteer for the Dubuque County Board of Health during the pandemic, Dr. Schultz was an invaluable resource for the board and the residents of Dubuque Counties COVID-19 Response. For his service, Dr. Schultz received local and national recognition, including being named a 2021 Fellow by the Infectious Diseases Society of America.

The IMS/COPIC Physician Humanitarian Award is presented each year to honor a physician in Iowa for

volunteer medical services and contributions to their community through principles focused on human dignity, social justice, and compassion.

Dr. Schultz designated the Dubuque County Visiting Nurse Association to receive the \$10,000 donation associated with the award. Since 1910, the Visiting Nurse Association has worked collaboratively with Dubuque’s private and public sectors to reduce the spread of infectious disease, ensure that infants and children are properly immunized, educate the public regarding healthy lifestyles, promote good oral health, provide in-home supportive services to elderly individuals, offer parenting support, and more.

The IMS/COPIC Physician Humanitarian Award was presented to Dr. Schultz on April 22 at the President’s Reception of the Iowa Medical Society.

THANKS FOR ATTENDING THE 2022 SYMPOSIUM!

We are pleased that we were able to return to hosting this conference in person and had such a wonderful turnout. It was a great opportunity to connect with our insureds and provide a forum for them to learn about current issues in health care and meet directly with COPIC experts. And we were glad to welcome first-time attendees who represented 43% of the audience at the Symposium.

The 2022 agenda covered topics that ranged from cyber/HIPAA liability and difficult patient encounters, to peer review and current legal issues. As in past years, we always reach out for feedback from attendees and look for ways to improve the Symposium in the future. Some comments we received included:

Always helpful to hear what the latest or current issues are in the hospital setting. Appreciate the insight to make sure we are on track or if we need to adjust our process.

The case studies are fantastic as well as the discussion around the laws and how to address them such as information blocking and law enforcement.

Share more stories/examples of claims that have been reported. These help to get other organizations thinking of their processes to help prevent situations from happening or making sure to review and tighten up practices that may have changed.

Continue offering a variety of topics with real-life scenarios.



Mark your calendars! Next year’s Symposium will be at the Embassy Suites in Lincoln, NE on April 19–21, 2023. Registration and information will be sent out prior to the event.



THE LEGISLATIVE LANDSCAPE

RECAP OF THE 2022 SESSION

The second session of the 107th Nebraska Legislature adjourned on April 20, 2022. Senators introduced 593 bills this year, 145 of which were passed into law. In total, 1,277 bills were introduced during the two-year session. With this being the second year of a two-year biennial session, bills that were not passed this session will not carry over to next year and are considered indefinitely postponed.

COPIC continues to engage with legislators and state officials in conversations around regulatory implementation of bills impacting medicine and rulemaking stakeholder processes. These conversations demonstrate the importance of the “Three C’s”—convening, collaborating, and contributing. These are the cornerstones that support our public policy engagement—*convening* partners around a common goal, *collaborating* on collective strategy, and *contributing* to the ongoing conversations with health care providers, the lobby corps, state officials, and members of the Nebraska Legislature. Looking ahead, the Unicameral will look significantly different in 2023 with a new governor and at least 15 senators in the 49-member legislative body being newly elected or appointed. Eleven senators will be term-limited out of office, two decided not to seek re-election, and two will resign after winning higher office. The Legislature is expected to convene again next year on January 4, 2023. Below is a list of the bills COPIC closely monitored this session that were signed into law:

Legislative Bill 697

This bill creates language around the licensure of rural emergency hospitals and services provided. The bill allows current Critical Access Hospitals and rural Prospective Payment System hospitals with fewer than 50 beds to convert to Rural Emergency Hospital status in order to furnish certain outpatient hospital services in rural areas, including emergency department and observation services. This measure is supported by the Nebraska Hospital Association.

Legislative Bill 1014: American Rescue Plan Act Funding to Support Health Care

This bill appropriates federal funds allocated to the State of Nebraska pursuant to the federal American Rescue Plan Act of 2021 (ARPA). This omnibus ARPA appropriations bill houses language from the following measures:

- ➔ **Legislative Bill 1066:** This bill appropriates ARPA funds to DHHS and the University of Nebraska for behavioral health care services.
- ➔ **Legislative Bill 1075:** This bill appropriates ARPA funds to DHHS for technology that will support statewide pediatric mental health services.
- ➔ **Legislative Bill 1089:** This bill appropriates ARPA funds to DHHS for licensed and Medicaid-certified nursing facilities.

Credentialing Review (407) Program: Optometry Scope Review

The Credentialing Review (407) Program was created to review proposals for changes in scope of practice or for new credentialing on the part of representatives of Nebraska health professions. A scope review by the Nebraska Optometry Association is currently before the review committee requesting that optometrists be able to administer “Selective Laser Trabeculoplasty (SLT).” This laser surgery procedure is currently only provided by licensed ophthalmologists. COPIC is monitoring these public hearings and will keep you updated on any changes.

COPIC’s Public Affairs team works alongside our colleagues at the Nebraska Medical Association to track health care legislation that will impact your ability to deliver safe, quality care. If you have any questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning, at ldunning@copic.com.



THANKS TO EVERYONE WHO ATTENDED THE 2022 SYMPOSIUM

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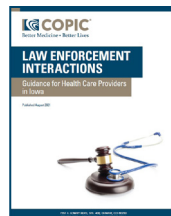


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NEBRASKA RESOURCES ON COPIC'S WEBSITE

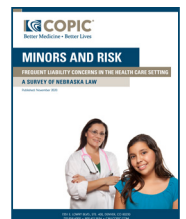
>>Law Enforcement Interactions

Health care providers may experience interactions with law enforcement personnel that create uncertainty around their responsibilities to patients, including the duty to protect patients' privacy. Law enforcement personnel are tasked with ensuring public safety and conducting criminal investigations. When these duties intersect as they relate to patients in the health care system, providers should understand how to meet their obligations while respecting the requests of law enforcement personnel. This guide addresses situations such as considerations for law enforcement interactions, reporting adult victims of abuse, neglect, or domestic violence, disclosures for law enforcement purposes under HIPAA, drug and alcohol testing, and more.



>>Minors and Risk: Frequent Liability Concerns in the Health Care Setting

This booklet was developed to help medical providers understand and navigate legal issues they may encounter with patients who are minors. The situations addressed include parental rights around making medical decisions with children, minors and HIPAA, situations when a minor can consent to medical care without parental consent, dealing with sexually transmitted infections, child abuse and reporting, and mental health and minors.



Both of these booklets are available for download at www.callcopic.com/resource-center/guidelines-tools/practice-management-resources