

COPIC's Claims Management



Unparalleled Protection When You Need It Most

COPIC focuses on doing what we can to prevent medical liability claims from occurring. However, despite best efforts, we know that adverse outcomes happen and our industry-leading claims management process is designed to provide trusted support through every step.

COPIC's Claims department collaborates with top defense attorneys and works under the philosophy that when medicine meets the standard of care, we provide a solid, vigorous defense; and when patients are injured due to a failure to meet the standard of care, COPIC supports fair and expeditious compensation. Our claims management process includes resources that are unique to COPIC and an approach that protects the practice of good medicine.

IT ALL STARTS WITH EARLY REPORTING

COPIC encourages early incident reporting, which serves as a trigger for our involvement to help our insureds address situations quickly and gather information while the incident is fresh in everyone's minds. Call COPIC to report an incident at (720) 858-6395 during our business hours (Mon-Fri, 8am-5pm, Mountain Time). You can also initiate the reporting process on our website, which will result in a follow-up call, by logging into the Service Center and selecting "Incident Reporting."

CLAIMS ARE ANALYZED THROUGH MULTIPLE, IN-DEPTH REVIEWS

Each incident report is reviewed by COPIC's Patient Safety and Risk Management department as well as our Claims team. Claims are also analyzed in two expert settings:

1 Our **Claims Roundtable** is an evaluative peer review and discussion of a claim/lawsuit from multiple perspectives that includes claims consultants, COPIC risk managers, defense attorneys, medical specialty experts, and patient advocates. All facets of the claim are discussed including plaintiff's allegations, standard of care, damages, causation, and other related elements.

2 Our **Claims Committee** is structured as a discussion with the purpose of evaluating the treatment provided and whether it met the standard of care. The Claims Committee consists of providers from COPIC's faculty consultants and Board of Directors including providers in the same specialty as the cases presented, as well as key COPIC staff from Claims, Patient Safety and Risk Management, Legal, and Underwriting.

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PROGRAMS THAT ADDRESS CHALLENGES WITH CLAIMS

- ➔ COPIC's **Care for the Caregiver®** program helps support insureds dealing with the emotional stress of a lawsuit. When the need is identified, a defendant is matched with a specially trained "peer" provider who has personally gone through the legal process. These peers offer a shared perspective to address difficult feelings—anger, guilt, stress, fear, and isolation—often associated with a medical liability claim/lawsuit.
- ➔ COPIC's **Lawsuit Stress Support Session** is a forum for insureds, their significant other, and staff to share their experiences and learn what to expect during litigation.
- ➔ COPIC's **PR/Reputation Support** offers insureds another level of support. The COPIC Defense Team has teamed up with a strategic communications firm to provide expert guidance when dealing with situations where there is negative media coverage, online reputation management, and/or other related communication issues.

Throughout the entire claims process, our defense team works closely with insureds to make sure they are prepared for all aspects of a claim and our ultimate goal is to get them back to what they are trained for—taking care of patients.

2023 PRACTICE ADMINISTRATOR MEETINGS



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.

2023 MEETING DATES

(all meetings take place from noon-1pm, MST):

- **April 5:** Focus on Legislative Updates and Public Affairs
- **July 5:** Focus on Claims
- **November 1:** Topic TBD

Email invitations are sent to practice administrator staff several weeks prior to the meeting. If you would like to be added to the invitation mailing list, or have any questions, please contact Andrea Jones at ajones@copic.com.

COPIC HUMANITARIAN AWARDS UPCOMING NOMINATION DEADLINES

Recognizing Physicians Who Are Making a Difference

COPIC's Humanitarian Award is given out each year to honor physicians who have gone above and beyond in volunteer medical services and contributions to their communities. We specifically look to recognize those individuals who unassumingly volunteer outside the spectrum of their day-to-day lives.

Since 2001, through the Humanitarian Award, \$540,000 has been donated to 49 health care nonprofits across seven states.

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. Below is a list of upcoming nomination deadlines. To download a nomination form and to see a list of prior award winners, please visit www.callcopic.com/humanitarian-award.

Nomination deadlines by state:

- Colorado: May 1–August 15
- Minnesota: May 1–June 20
- Nebraska: February 1–April 30
- North Dakota: April 1–August 31
- South Dakota: February 1–March 10
- Utah: March 1–July 31



EXAMPLES OF CYBER CLAIMS IN HEALTH CARE

One of the best ways to learn where cyber risks may exist in your organization is to see examples of claims and data breaches. The following examples are actual situations and provide a brief summary along with details about how the organization's cyber liability insurance partner helped address the incident.

INSIDER



A health care organization's employee posted patient treatment information on a social media website. The employee did not include the patient's name, but because the disclosure occurred in a small town, the public could determine the patient's identity. **The cyber liability insurance partner connected the organization to experienced outside privacy legal counsel, who provided advice on notification to the individual, as well as satisfying the necessary regulatory response.**

HACKING OR MALWARE; DATA BREACH



A health care organization was attacked by a sophisticated foreign phishing attack which exposed information in employee email boxes of nearly 20,000 pediatric patients. Employees had clicked on the phishing emails and either gave up credentials or launched malware into their network. Forensics found some evidence of data exfiltration. The data contained patients' names, clinical information, phone number, addresses, insurance information, and some social security numbers. **The cyber liability insurance partner coordinated outside legal counsel, forensics, notification, a call center vendor, and credit monitoring. An Office for Civil Rights (OCR) investigation is pending.**

PHYSICAL LOSS/ NON-ELECTRONIC RECORD; DATA BREACH



Imposter posing as an x-ray disposal vendor stole barrels of x-ray films from a hospital loading dock. The hospital's employees did not ask for identification nor did they question why the vendor's employees were not in their usual truck and uniforms. The stolen barrels contained several hundred patient x-rays. **The hospital worked with the cyber liability insurance partner to coordinate outside legal counsel to draft notification letters, frequently asked questions, and a media statement.**

UNINTENDED DISCLOSURE; DATA BREACH



An IT vendor had inadvertently unsecured a file containing over 30,000 patients' billing information such that it was searchable on the internet using search engines such as Google. The hospital discovered the incident during security testing when a larger health care system acquired the hospital. The information exposed included names, social security numbers, dates of birth, addresses, treatment information, and insurance information. **The hospital utilized outside legal counsel, forensics, notification services, a call center, credit monitoring, and crisis management. The hospital was investigated by OCR and four attorneys general.**

Content provided by Beazley, www.beazley.com

These examples highlight the various risks an organization can face and the importance of having a trusted cyber liability insurance partner to help navigate the aftermath of an incident and respond appropriately.

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.

The Claims handling and breach response services are provided by Beazley USA Services, a member of Beazley Group. Beazley USA Services does not underwrite insurance for COPIC. Policies purchased through COPIC are subject to COPIC's underwriting processes. CICO23_US_02/23



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COPICNEWS

ISSUE 194 • 1ST QUARTER 2023

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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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COPIC Insurance Company

- Switchboard**
720/858-6000 or 800/421-1834
- Fax**
877/263-6665
- 24/7 Risk Mgmt. Hotline**
(for urgent, after hours inquiries)
866/274-7511
- To Make an Incident Report**
720/858-6395
- Legal Helpline**
720/858-6030
- Claims Department**
720/858-6157
- Patient Safety & Risk Management Department**
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COPIC Financial Service Group, Ltd.

- 720/858-6280
- Fax**
720/858-6281
- Website**
www.copicfsg.com

COPIC Medical Foundation

- 720/858-6060
- Fax**
720/858-6005
- Website**
www.copicfoundation.org

www.callcopic.com

Connect with COPIC  



THE LEGISLATIVE LANDSCAPE

COPIC’s Public Affairs team is focused on the year ahead as we settle into the rhythms of the legislative session. Returning to the familiar busyness and buzz of the policymaking world is a reminder as to why we do this work: COPIC has long believed that taking an active role in advocating on legislative issues is an important way to allow the health care community to devote its resources to quality improvement and patient care.

It is for this reason that COPIC continuously monitors regulation and legislation in Colorado to ensure access is maintained to safe, quality health care delivery and new, unreasonable burdens are not placed on health care providers. COPIC tracks legislation using the lens of stabilizing the tort environment, promoting learning in health care, ensuring the delivery of safe, quality care, and protecting the patient and physician relationship.

COLORADO LEGISLATIVE UPDATE

The First Regular Session of the 74th Colorado Legislature convened on Monday, January 9, 2023. Colorado legislators quickly went to work confirming chamber leadership and making committee assignments for the 120-day session ahead. Democrats have a trifecta, holding majorities in both chambers (a supermajority in the House and just shy of one in the Senate) and the governorship. We have already seen 212 bills introduced so far this session, many focused on affordable housing, energy development, water conservation, lowering the cost of prescription drugs, and expanding access to mental health.

This year, COPIC remains focused on reviewing legislation and supporting our partners in health care and at the legislature about the impacts to health care delivery. Health care has been the target of numerous bills the last few years creating additional regulatory burdens on top of a system still recovering from a pandemic. Burnout is at an all-time high as the workforce is being asked to do more with less.

According to a *Becker’s Hospital Review* article¹, a startling number of health care workers—nearly 30%—have left the profession since the beginning of the pandemic, with another 30% considering leaving the profession in the next few years.

These are all factors COPIC takes into consideration when reviewing policies introduced at the state legislature, understanding that there is a delicate balance to ensure the delivery of safe, quality care for Coloradans. COPIC remains focused on working closely with our partners at the Colorado Medical Society and the Colorado Hospital Association to navigate the current health care environment, monitor introduced legislation, and keep you informed on how these policies will impact the practice of medicine.

¹ www.beckershospitalreview.com/workforce/about-1-in-5-healthcare-workers-have-left-medicine-since-the-pandemic-began-here-s-why.html

Visit COPIC’s Legislative Action Center at www.callcopic.com/lac for information on bills we are tracking during the legislative session, sign up for newsletter updates, or find your elected officials. If you have questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning, at ldunning@copic.com.

COLORADO: OPIOID COMPETENCY CME FOR 2023 LICENSURE RENEWAL

Two one-hour virtual seminars, taking place throughout March–April; attendees will receive 1 COPIC point and 1.0-hour of CME for attending.

COPIC is pleased to announce that we will be offering virtual presentations regarding opioids that providers may use to meet the two hours of training requirements as stated by the Colorado Medical Board for licensure renewal in 2023. There is no cost to attend these, and one COPIC point will be awarded per session for eligible insureds.

Per the Colorado Medical Board: Every physician and physician assistant who prescribe opioids is required to complete at least two cumulative hours of training per renewal period in order to demonstrate competency regarding the topics/areas specified in section 12-30-114(1)(a), C.R.S.

Opioid Management: A Practical Approach to a National Crisis (COPIC's 2023 Opioids I for 1-hour CME) Attend one:

- March 7 at noon
- March 21 at 6pm
- April 26 at 5:30pm

Opioid Crisis: Strategies for Reducing the Burden (COPIC's 2023 Opioids II for 1-hour CME) Attend one:

- March 8 at noon
- March 22 at 6pm
- April 26 at 6:30pm

For more information on these seminars, please contact Cathi Pennetta at cpennetta@copic.com or (720) 858-6228.

CME for attending COPIC's opioid seminars will only be issued to providers who are insured by COPIC. Others may attend but will not be eligible for nor will they receive CME certificates for attending.

COPIC RESOURCES FOR COLORADO MEDICAL PROVIDERS

COPIC has developed several resources to help Colorado insureds navigate state regulations, requirements, and other legal issues. Below are two examples of these resources that are available on our website and provide useful information based on common questions we receive.

LAW ENFORCEMENT INTERACTIONS

This booklet addresses situations where the duties of health care providers and law enforcement personnel intersect in the health care system, and helps providers meet their obligations while respecting the requests of law enforcement personnel. It covers topics such as:

- Key considerations for law enforcement interactions
- Disclosures allowed under HIPAA
- Reporting requirements for certain injuries
- Managing situations with sexual assault or child abuse/neglect
- Patient testing for drugs and alcohol

MINORS AND RISK

Designed for health care providers who see patients that are minors, this booklet provides a reference for managing situations when legal issues involving minors arise.

Examples of scenarios covered include the following:

- Consent and responsibilities with divorced parents
- Situations where a minor can consent to medical care without parental consent
- Child abuse and reporting guidelines
- Sexually transmitted infections
- Mental health issues



These items and more are available as part of the Practice Management Resources section on our website at www.callcopic.com/resource-center/guidelines-tools/practice-management-resources. Please note that you will need your COPIC website username and password to login and access these resources.



THE LEGISLATIVE LANDSCAPE

Returning to the familiar busyness and buzz of the policymaking world is a reminder as to why we do this work: COPIC has long believed that taking an active role in advocating on legislative issues is an important way to allow the health care community to devote its resources to quality improvement and patient care.

It is for this reason that COPIC continuously monitors regulation and legislation in Iowa to ensure access is maintained to safe, quality health care delivery and new, unreasonable burdens are not placed on health care providers. By working closely with our partners, COPIC tracks legislation using the lens of stabilizing the tort environment, promoting learning in health care, ensuring the delivery of safe, quality care, and protecting the patient and physician relationship.

Iowa Legislative Update

The Iowa General Assembly convened the 2023 legislative session on January 9, 2023. Fifty-three members, over one-third of the General Assembly, were sworn in for their first term.

The legislature has moved quickly to implement a number of Governor Kim Reynolds' priorities for the 2023 session. As stated in her Condition of the State address, Governor Reynolds highlighted the need to address issues related to the continued fallout from the pandemic, from education and the economy to workforce and healthcare. Additionally, Governor Reynolds explicitly highlighted her desire to see certain tort reforms passed in Iowa this session, specifically dealing with caps on noneconomic damages in medical liability cases.

Within the first month of session, the General Assembly introduced, debated, and passed legislation capping non-economic damages in medical liability cases. The final bill, House File 161, creates a two-tiered cap on damages by retaining the \$250,000 soft cap and adding a hard cap at \$1 million for providers and \$2 million for hospitals. The legislation includes an inflationary adjuster at 2.1% beginning in 2028. The final bill includes language creating a Medical Error Task Force to study and provide recommendations to the General Assembly to address options for reducing

medical errors and improving patient safety. The report is due to the General Assembly by January 8, 2024. Governor Reynolds signed the legislation on February 16, 2023, triggering the law to go into effect immediately for all occurrences on or after that date.

Here is what Governor Reynolds had to say upon the passage of the bill:

“ I'm grateful to the legislature for passing reasonable medical malpractice reform, allowing Iowa's health care industry to become stronger and more accessible. To the OB/GYNs and physicians who have been worried about practicing in Iowa, we are ready for you! These reforms balance the needs of injured patients with the needs of all Iowans to have a robust health care system. As I said in my Condition of the State, these reforms could not wait another year. ”

Passing a bill to cap non-economic damages in medical liability cases has been a multi-year effort in Iowa. COPIC is pleased to finally see this reform passed by the General Assembly and become law. COPIC knows well the benefit that caps on non-economic damages have on reducing excessive recoveries, expediting settlements, reducing overall litigation expenses and

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Iowa Legislative Update (cont.)

resulting in stable premiums for healthcare providers while protecting patients by assuring that they have access to just compensation for their losses.

Further, caps on non-economic damages act as a recruitment and retention tool in the 28 states that have them; caps stabilize premiums for all health care providers, especially those in high-risk specialties such as obstetrics and gynecology. Predictability and stability in the insurance market is a driving force for recruiting and retaining quality Iowa physicians, especially recruiting into rural areas. Improving access to quality care and patient safety in Iowa gets at the heart of COPIC's mission—improving medicine in the communities we serve.

COPIC will continue to work closely with our partners at the Iowa Medical Society to monitor introduced legislation and keep you informed on how these policies will impact the practice of medicine.

Visit COPIC's Legislative Action Center at www.callcopic.com/lac for information on bills we are tracking during the legislative session, sign up for newsletter updates, or find your elected officials. If you have any questions, please contact COPIC's Manager of Public Affairs, Logan Dunning, at ldunning@copic.com.

SAVE THE DATE 2023 SYMPOSIUM



Mark your calendars! This 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.

WHERE WILL IT TAKE PLACE?

As in previous years, the Symposium will be held at the Embassy Suites in Lincoln, Nebraska.

WHAT TOPICS WILL BE COVERED?

The agenda is still being finalized, but this year's event will address topics such as employee engagement and relationship fundamentals, burnout in the medical office, navigating disclosure of adverse events, working with minors and risk, an update on the Information Blocking Rule, and more. Updated details will be posted at www.callcopic.com/symposium.

WHO CAN ATTEND?

COPIC-insured physicians, practice and office administrators, managers, advanced practice providers, and other appropriate staff. Each COPIC insured policy is allotted three individuals to attend at no cost.

WILL CONTINUING EDUCATION CREDIT BE AVAILABLE?

CNE, CME, CPHRM credits, and COPIC points will be available for attendees.

HOW DO I REGISTER?

Registration will be sent prior to the event via email. Please contact Stephanie Heronema with any questions at sheronema@copic.com or (720) 858-6129.



THE LEGISLATIVE LANDSCAPE

COPIC has long believed that taking an active role in advocating on legislative issues is an important way to allow the health care community to devote its resources to quality improvement and patient care. It is for this reason that COPIC continuously monitors regulation and legislation in Nebraska to ensure access is maintained to safe, quality health care delivery and new, unreasonable burdens are not placed on health care providers. By working closely with our partners, COPIC tracks legislation using the lens of stabilizing the tort environment, promoting learning in health care, ensuring the delivery of safe, quality care, and protecting the patient and physician relationship.

Legislative Update

The Nebraska Unicameral convened the 108th Legislature's First Regular Session on January 4, 2023. As per legislative rules, Nebraska has the first 10 legislative days to introduce bills for the session, and 820 bills were introduced for consideration—significantly more than in years past, however not breaking the 1997 record of 885 bills.

On the legislative front, COPIC has been working closely with our partners at the Nebraska Medical Association to support the introduction of Legislative Bill 68 which aims to ensure long-term sustainability for the Nebraska Excess Liability Fund. The bill increases the underlying coverage limits of the Fund from \$500,000 to \$800,000 and increases the annual aggregate limits for physicians and CRNAs from \$1,000,000 to \$3,000,000 to mirror that of hospitals. The bill will go into effect on January 1, 2025.

Ensuring Long-Term Stability of the Fund

Nebraska's Excess Liability Fund (Fund) was created by the Hospital-Medical Liability Act of Nebraska (Act) in 1976. The landmark law ushered in an era of medical liability insurance stability which has endured for nearly 47 years. The Act has served as a way to retain and attract physicians into the state, particularly in Nebraska's rural areas. In fact, the Act has positioned Nebraska as a top state for physicians to practice medicine. In 2022, *Becker's Hospital Review* ranked Nebraska as the #1 medical environment in the country, which includes factors such as tort environment, physicians per capita, and hospital safety.

COPIC understands how important the Act and the Fund are to ensuring access to safe, quality care for Nebraskans and is committed to protecting them. The Act created the Fund which hospitals, physicians, and CRNAs benefit from if they maintain separate liability insurance for an underlying limit of exposure (i.e., COPIC coverage) and then pay a surcharge, based on the premium for that insurance, into the Fund. The assessed surcharge adjusts annually to properly reflect the amount needed to maintain the Fund. The Act limits the surcharge to not exceed 50%. The most recent change to the Fund took place in 2014 with the passing of LB 961 that raised the Fund's cap from \$1,750,000 to \$2,250,000.

Since this change, Nebraska has experienced an annual average severity of medical liability claims that is well above the rest of the country—twice that than the rest of the country in 2021. The actuarial indicated surcharge rate necessary to adequately maintain the Fund has exceeded the 50% limit since 2013. Put simply, the Fund's costs are consistently exceeding revenue.

LB 68 attempts to restore the Fund's financial strength by increasing the base for the surcharge by moving the underlying coverage limit to \$800,000 and aggregate limit to \$3,000,000 for physicians and CRNAs, to match hospitals' limits, which will generate more revenue into the Fund. Additionally, by raising the underlying limit, more claims will be managed by the primary layer of insurance, reducing the number of liabilities to the Fund.

LB 68 passed the Banking and Insurance Committee unanimously on January 27 and is awaiting floor debate by the full Unicameral.

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Other Bills We Are Monitoring

Legislative Bill 25—“Authorize punitive damages as prescribed and provide for distribution”—The bill would authorize a court to award punitive damages in any civil case when a party has displayed actual intent to cause harm or causes an injury through action taken in reckless disregard for the lives or safety of others.

Legislative Bill 87—“Allow persons eighteen years of age to make health care decisions and persons under nineteen years of age in correctional facilities to consent to medical and mental health care”—This bill clarifies for health care providers when a person 18 years of age or younger can consent to their own medical care, including those incarcerated.

Legislative Bill 286—“Provide for confidentiality of a physician wellness program under the Uniform Credentialing Act”—This bill expands the Uniform Credentialing Act by defining “physician wellness program” and including confidentiality protections for both program participants and program mentors.

Legislative Bill 351—“Increase and eliminate limits on medical malpractice liability and change provisions relating to proof of financial responsibility and the Excess Liability Fund”—This bill increases medical liability individual occurrence limits from \$500k to \$10 million; increases individual annual aggregate limits from \$1 million to \$20 million; increases the annual aggregate hospital liability limits from \$3 million to \$30 million; eliminates the cap on cases with wrongful death; and caps the aggregate amount the Excess Liability Fund can pay out for claims at \$30 million per calendar year.

Visit COPIC’s Legislative Action Center at www.callcopic.com/lac for more information on bills we are tracking during the legislative session, sign up for newsletter updates, or find your elected officials. If you have any questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning, via email at ldunning@copic.com.

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