



COPIC Promotes Two Leadership Team Members and Welcomes New General Counsel



COPIC is pleased to announce some key updates to our leadership team. We've appointed a Chief Claims Officer, a new Chief Medical Officer, and new General Counsel.



Sean Gelsey has been promoted to Chief Claims Officer. He brings 30 years of experience in litigation, insurance, and claims management to this role, and previously served as Senior Vice President of Claims & Strategic Partnerships. Sean's leadership includes serving on the board of directors for Every Child Pediatrics, the Center for Personalized Education for Professionals, and Because Emerson Smiles, Inc., an organization that supports families of children with cerebral palsy.



Dr. Eric Zacharias was promoted to Chief Medical Officer. He has led patient safety and risk management efforts for over 20 years for several organizations, including large, multi-specialty groups; a state-wide consortium of medical groups; and community health systems. Dr. Zacharias previously served as Director of Medical Education. He is board-certified, earned his medical degree from Vanderbilt University School of Medicine, and completed his internal medicine residency at University of Colorado Health Sciences Center.



Matt Groves was recently appointed General Counsel after spending over 27 years in private practice, which included many years of working with COPIC on various issues. His background includes a broad range of legal expertise in the areas of business growth, contracts, risk, litigation and trials, and regulatory issues, including significant experience representing physicians, practice groups, and health care systems.

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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, more than \$600,000 has been donated to 56 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/about-copic/copic-humanitarian-award.

Nomination deadlines by state:

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

BITE-SIZE WEBINARS

Looking for a little learning over the lunch hour? COPIC has an educational series that explores trending topics in health care from legal/regulatory updates to managing patient interactions. Save the dates to attend these upcoming presentations, which take place 12–1pm Mountain Time.

- May 1: Chaperones & Sensitivities
- June 5: A Day in the Life of a COPIC Risk Manager
- Aug. 7: A Provider's Guide to Dealing with Child Custody Battles
- Sept. 4: Documentation 2.0
- Nov. 6: Just Culture
- Dec. 4: Noncompliant Patients and Terminating the Relationship

Attendance at the live virtual presentation earns insured facilities 1 COPIC point. Please contact Cathi Pennetta at cpennetta@copic.com or (720) 858-6228 for registration information.

COPIC VIRTUAL MOCK TRIAL:

DISCOVER THE ANATOMY OF A MEDICAL LIABILITY TRIAL

Join us for an interactive program that looks into the courtroom proceedings during a medical liability trial. Moderated by COPIC's Deputy General Counsel, we offer an on-screen enactment of an actual trial featuring members of COPIC's Defense Counsel team, Risk Management and Claims departments, as well as practicing physicians. Attendees will serve as jury members, putting forth a verdict after hearing testimony from the plaintiff, an expert witness, and the defendant.

The Mock Trial program provides an inside view and serves as an education tool to learn and understand the chain of events from the time a lawsuit is filed. *Please note, if you attended a virtual Mock Trial in 2023, this will be the same case and program material of the spinal epidural abscess diagnosis.*

Who should attend: COPIC-insured health care professionals

When will the program be held in 2024:

- Wed., 3/20 from 5–8pm MST
- Tues., 6/25 from 6–9pm MST
- Wed., 8/21 from 5–8pm MST
- Wed., 10/16 from 6–9pm MST

Where: Virtual, Zoom platform

Registration: Contact Gina Rowland at growland@copic.com or (720) 858-6065. Registration is limited; please register early.

* Eligible attendees will receive 2 COPIC points, and 3 CME credits. Providers insured under a facility policy can attend but are ineligible to earn COPIC points.



BUSINESS EMAIL COMPROMISE

Business email compromise (BEC) is a social engineering attack in which a cybercriminal uses compromised email credentials or spoofs a legitimate email address in order to induce an employee to make a wire transfer or other electronic payment to a bank account controlled by the cybercriminal or, in some cases, to transfer sensitive data such as W-2 forms.

How can you reduce the risk of financial losses?

- ✉ For employees who frequently travel and are authorized to request funds transfers, establish a process to confirm requests. For example, set up a predetermined code that a request must include that is not documented within the network. (You don't want a criminal who has access to your network to be able to search for your process.)
- ✉ Provide periodic anti-fraud training that teaches employees to detect and avoid phishing and social engineering scams.
- ✉ If a vendor or supplier requests changes to its account details (including, but not limited to, bank routing numbers, account numbers, telephone numbers, or contact information):
 - ◆ Confirm all requests by a direct call to the vendor or supplier. Make sure to use a phone number the vendor or supplier provided before the request was received.
 - ◆ Before making any changes, send notice of receipt of the request to someone other than the person who sent the request.
 - ◆ Require review of all requests by a supervisor or next-level approver before making any changes.
- ✉ If the request is from a vendor, check for changes to business practices:
 - ◆ Were earlier invoices mailed while the new one was emailed? Were earlier payments by check and now the request is for a wire transfer?
 - ◆ Did a current business contact ask to be contacted via their personal email address when all previous official correspondence used a company email address?
 - ◆ Is the address or bank account to which the payment is to be sent different from previous payments to that vendor?
- ✉ Be suspicious of small changes in email addresses that mimic legitimate email addresses. For example:
 - ◆ **.co** versus **.com**
 - ◆ **abc-company.com** versus **abc_company.com**
 - ◆ **hijkl.com** versus **hijkl.com.**
- ✉ Implement two-factor authentication for remote access to your email system.
- ✉ If you do not have written procedures, develop them.

Source: www.breachsolutions.com/documents/BBS%20USA/Prepare/Training/BEC_best_practices_0518.pdf

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. CIC023_US_2/24

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COPICNEWS

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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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720/858-6000 or 800/421-1834

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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
720/858-6396

Sales Department
720/858-6199

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THE LEGISLATIVE LANDSCAPE

COPIC’s Public Affairs team is focused on the year ahead as we settle back into the familiar rhythms of the new year and the legislative session. Engaging in this space alongside our colleagues is a continual 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.

For this reason, COPIC continuously monitors regulation and legislation in Colorado to promote access to safe, quality health care delivery and to oppose new, unreasonable burdens from being 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.

THE LEGISLATIVE SESSION

The Second Regular Session of the 74th Colorado Legislature convened on Wednesday, January 10, 2024. As a refresher, Democrats currently hold a trifecta, holding majorities in both chambers (a supermajority in the House and just shy of one in the Senate) and the governorship. The legislature meets for 120 days with an expected adjournment date of May 8, 2024.

With this year being the second year of the biennial session, the General Assembly wasted no time with pomp and circumstance and quickly began bill introductions and committee hearings. We anticipate affordability (property tax relief and affordable housing), transportation, and energy development to be at the forefront of the major policy conversations this year. We have already seen over 500 bills introduced so far this session, including numerous health care bills relating to scope of practice, payment reform (prior authorization and reimbursement rates), and maternal health and wellness.

Among those already introduced, below are bills COPIC is currently tracking:

- ➔ **HB24-1014**—Deceptive Trade Practice Significant Impact Standard
- ➔ **HB24-1066**—Prevent Workplace Violence in Health Care Settings
- ➔ **HB24-1153**—Physician Continuing Education
- ➔ **SB24-018**—Physician Assistant Licensure Compact
- ➔ **SB24-082**—Patient Rights to Provider Identification
- ➔ **SB24-121**—Licensure of Critical Access Hospitals
- ➔ **SB24-130**—Noneconomic Damages Cap Medical Malpractice Actions
- ➔ **SB24-141**—Out-of-State Telehealth Providers

UPDATE ON COLORADO’S MEDICAL LIABILITY CLIMATE

On January 18, two ballot measures, Initiatives #149 and Initiative #150, were filed with the Colorado Legislative Council, kickstarting the process to be placed on the November ballot:

- ➔ **Initiative #149** takes aim at the current medical peer review process by allowing patients access to any medical record, medical information or medical communication by a health care professional or institution if it relates to an “adverse medical incident,” including a near miss.
- ➔ **Initiative #150** targets general liability caps currently in place in Colorado by eliminating non-economic damage caps in catastrophic injury and wrongful death cases. This unlimited right to damages would apply regardless of any limit on any type of damages found in current law, such as caps on non-economic damages in medical liability cases.

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LEGISLATIVE LANDSCAPE (FROM PAGE 1)

WHAT THIS MEANS

Initiative #149: This aims to destroy the protections provided in the nearly 50-year-old Colorado Professional Review Act which the Colorado legislature overwhelmingly reauthorized. Professional review (sometimes referred to as peer review) is the process to review and evaluate the competence, professional conduct of, or the quality and appropriateness of care provided by a physician, physician assistant, or advanced practice registered nurse. A professional review committee can evaluate if a professional could benefit from additional education, or if the committee must take an adverse action which must be reported to the state licensing board. The protections afforded to this process by the Colorado Professional Review Act encourage reporting of potential unsafe care, willingness to be reviewed, and open, honest and objective discussion among the reviewers. This initiative would destroy the “safe space” needed to foster an environment where physicians, PAs, and APRNs can critically review the care of their peers and self-report when there is an adverse health care incident or near miss in the interests of improving care for all patients.

Initiative #150: For health care in Colorado to remain both affordable and accessible for patients and providers, a balanced liability climate is essential. If the current \$300,000 cap on non-economic damages is eliminated as proposed, the cost of liability insurance for providers and health care facilities will be significantly impacted. This will drive up costs to a point where Colorado will no longer be an attractive place to practice medicine. This impacts all Coloradans, particularly those in rural areas and high-risk patients requiring specialty care, by making it more difficult to retain and recruit physicians and other health care professionals. This limits access to care, contributes to the rising costs of care, and leads to decreased quality of care.

This initiative affects personal injury claims for medical liability as well as general liability for any business in the state. Hospitals, facilities, and clinics as businesses, however, will feel a double impact. While these increased costs fall on businesses, they will likely result in “cost of doing business” expenses passed down to consumers, impacting the quality and affordability of life for everyone in Colorado.

OUR RESPONSE

Shortly after these measures were filed, Coloradans Protecting Patient Access (CPPA, protectpatientaccessco.org)—the broader coalition representing health care in Colorado, of which COPIC is a member—filed two countermeasures with the Colorado Legislative Council. Both measures ensure that Colorado maintains transparent legal reforms, with a focus on impacted parties’ rights to recover fair compensation for damages. The first initiative (Initiative #170) caps attorney fees in cases of personal injury and wrongful death at no more than 25% of their client’s total damages award. The second initiative (Initiative #171), also known as a “sunshine law,” requires lawyers in personal injury and wrongful death cases to disclose litigation costs to be borne by clients in civil cases proactively and transparently. These measures ensure that an attorney will not benefit from high fees or a failure to disclose expected costs at the expense of their client’s ability to receive fair compensation for their injuries.

Additionally, the CPPA coalition has been willing to negotiate a reasonable increase to the non-economic damages cap at the legislative level. Senate Bill 130, which aims to increase Colorado’s non-economic damages cap from \$300,000 to \$500,000 over a 5-year period, was introduced in February. COPIC and the broader CPPA coalition support this bill as a measured approach to keeping our health care environment balanced by increasing caps to a reasonable level, while ensuring caps are not eliminated altogether.

WHAT’S NEXT

CPPA is currently leading a statewide proactive campaign (www.inyourcornerco.com) to lift up the crucial voices of providers across the state. This growing coalition is positioned to launch a statewide campaign to fight the damaging peer review and caps initiatives.

Keep an eye out for more updates and any calls-to-action to join this campaign effort and ensure we maintain a stable liability climate that benefits both patients and providers.

We continue to work in close coordination with our colleagues at the Colorado Medical Society, the Colorado Hospital Association, and the broader CPPA coalition that stands united on these issues. Visit COPIC’s Legislative Action Center at www.callcopic.com/lac to find information on legislation we are monitoring, find your elected officials, or sign up for our newsletters. If you have any questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning, at ldunning@copic.com.

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THE LEGISLATIVE LANDSCAPE

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For this reason, COPIC continuously monitors regulation and legislation in Iowa to promote access to safe, quality health care delivery and to oppose new, unreasonable burdens from being placed on health care providers. By working closely with our colleagues, 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.

THE LEGISLATIVE SESSION

The Second Regular Session of the 90th Iowa General Assembly convened on January 8, 2024. In her Condition of the State address, Governor Reynolds highlighted the need to address issues related to the realignment of Iowa’s mental health and behavioral health systems, extending postpartum Medicaid coverage, increasing teacher pay, and tax cuts, to name a few.

In addition to those newly introduced this year, bills from the First Regular Session (2023) that were not passed or voted down are considered “carry over” bills and are still eligible for debate. We have seen a wide array of health care focused bills introduced this session including bills relating to scope of practice, payment reform, access to behavioral health services, and maternal health and wellness.

As of the legislative deadline on February 20, the number of bills that remain active for consideration this session has been significantly reduced. COPIC was tracking the following bills up until the recent deadline. Although none of these bills remain eligible for further consideration this session, we will continue our legislative tracking since bills can sometimes come back in the form of an amendment to another bill later in the process.

- ▶ **House Study Bill 160**—An Act relating to compensation discussions regarding adverse health care incidents. *This was a carry-over bill.*
- ▶ **House Study Bill 504**—Relating to recoverable damages and admissible evidence for medical expenses.
- ▶ **Senate File 430**—A bill for an act relating to the duties of insurers under medical malpractice insurance policies. *This was a carry-over bill.*
- ▶ **Senate File 2035**—A bill relating to statute of repose in medical malpractice claims.
- ▶ **Senate File 2038**—An Act relating to the reporting of serious reportable events, and providing penalties.

Legislators will focus on debating the remaining bills until the next legislative deadline on March 20. We anticipate the final day of session will be April 16, 2024, when legislators’ per diem expires and any additional in-session time spent at the Capitol is pro bono work.

MEDICAL ERRORS TASK FORCE UPDATE

The 2023 bill increasing caps on non-economic damages also created a Medical Errors Task Force commissioned to meet September through December of 2023. The task force completed its required meetings in December and submitted a final report including recommendations to the General Assembly on January 8, 2024. Recommendations from the task force’s report include:

- ▶ Continue to improve quality and safety data availability to improve patient safety.
- ▶ Promote the use of Candor to address current and real-time situations.
- ▶ Expand efforts to engage and equip patients as active partners.
- ▶ Adding more Board of Medicine training mandates is not viewed as helpful by the provider community.
- ▶ The Board of Medicine is the primary vehicle of state regulation to protect patients from untrained, unprepared, or unscrupulous health care providers.

LEGISLATIVE LANDSCAPE (FROM PAGE 1)

TASK FORCE REPORT SUMMARY

“One medical error is one too many. Health professionals work hard to save countless lives; however, the incidence of concomitant error is high. All health professions should be focused on the effort to “first do no harm” and work towards decreasing human and system error.

Teamwork, education, and training through structured initiatives are the most effective mechanisms to improve patient safety. Accepting the contributions of team members, reducing barriers to reporting errors, and promoting a work environment where all individuals work together will have the most significant effect on improving patient and staff safety.

The key is to focus on the patient safety of the system. Errors can be prevented by modifying the healthcare system to make it more difficult for practitioners to

perform incorrect actions and easier for them to do correct actions. While individuals need to be held accountable for errors attributable directly to them, the system and culture need to be revised so that reporting errors lead to system improvement and not individual punishment. The greatest good for the greatest number of patients is achieved when the system constantly focuses on continuous quality improvement and avoiding repetition of the same error.”

-Raising the Standard of Care: A Special Report on Medical Error in Iowa*; Tom Evans, MD; Iowa Healthcare Collaborative; December 8, 2023

* The full task force report can be found online at www.legis.iowa.gov/docs/publications/DF/1442259.pdf

COPIC’s Public Affairs team will continue to work alongside our colleagues at the Iowa Medical Society to monitor health care legislation that will impact your ability to deliver safe, quality care.

Visit COPIC’s Legislative Action Center at www.callcopic.com/lac to find information on legislation we are monitoring, find your elected officials, or sign up for our newsletters. If you have any questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning, at ldunning@copic.com.

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WHAT’S NEW ON THE PODCAST?



Within Normal Limits is our podcast that offers valuable insight through conversations with COPIC’s team of experts and recognized physician leaders. Hosted by Eric Zacharias, MD, an internal medicine doctor and COPIC’s Chief Medical Officer, each episode is around 20 minutes and tackles a timely topic with a focus on case study reviews, in-depth discussions, and practical guidance about avoiding common risks and best practices to improve patient care. Recent episodes include:

- ▶ **Documentation: How Much Is Enough?** In this episode, we aim to simplify guidance surrounding “what” and “how much” is needed for patient safety and risk management purposes. Tune in as we discuss basic criteria and what’s realistic outside of policy rules and guidelines.
- ▶ **Burnout, Exhaustion, and Leaving the Practice of Medicine** Join us as David Weill, MD, a transplant doctor and author of *Exhale: Hope, Healing, and a Life in Transplant* shares openly about losing and saving patients, dysfunctional teams and systems, and burnout in transplant medicine.
- ▶ **AI’s Impact on Medicine (Part 2)** Our guest in this episode is Dr. Michael Victoroff, who talks about applications and risks with using AI in medicine—such as support for diagnosing and creating a treatment plan, image interpretation in radiology, and concerns with visit notes.

Within Normal Limits is available on popular platforms such as Apple Podcasts, Google Podcasts, and Spotify. You can also go to www.callcopic.com/wnlpodcast for more information. New episodes are posted throughout the year, so be sure to subscribe and enjoy the podcast.



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For this reason, COPIC continuously monitors regulation and legislation in Nebraska to promote access to safe, quality health care delivery and to oppose new, unreasonable burdens from being placed on health care providers. By working closely with our colleagues, 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.

THE LEGISLATIVE SESSION

The Second Session of the 108th Nebraska Legislature kicked off on Wednesday, January 3rd. As a refresher, the Unicameral operates on a two-year cycle. With 2024 being the second year of the biennial session, senators will convene for a 60-day session with an anticipated adjournment date of April 18, 2024.

Nebraska legislative rules require all bills to be introduced within the first 10 days of session, setting January 17th as the final day new bills could be introduced. In addition to those newly introduced, bills from the First Regular Session (2023) that were not passed or voted down carry over and are still eligible for debate. This year, 597 bills were introduced (compared to 820 last year), bringing the two-year session total to 1,417. By mid-February, Senators, committees, and the Speaker were required to designate their priority legislation for the session. Priority bills are expected to be the focus of the legislative floor debate for the rest of the session, effectively reducing the number of bills that will be considered this year. Below are bills COPIC is currently tracking:

Carry-over Bills

- ▶ **Legislative Bill 25**—Authorize punitive damages as prescribed and provide for distribution. This bill was granted a priority designation status by Senator Justin Wayne.
- ▶ **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.
- ▶ **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.

Newly Introduced Bills

- ▶ **Legislative Bill 1060**—Provide an exemption from newborn screening.

COPIC’s Public Affairs team remains focused on working closely with our colleagues at the Nebraska Medical 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 and the delivery of quality care. Visit COPIC’s Legislative Action Center at www.callcopic.com/lac to learn about legislation we are monitoring, find your elected officials, or sign up for our newsletters. If you have any questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning, at ldunning@copic.com.

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HAVE YOU LISTENED TO THE PODCAST?



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- ▶ AI’s Impact on Medicine
- ▶ Addressing the Issue of Maternity Care Deserts
- ▶ Documentation: How Much Is Enough?
- ▶ Increasing Racial and Ethnic Diversity in Medical Education
- ▶ Burnout, Exhaustion, and Leaving the Practice of Medicine

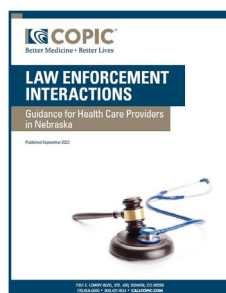
Within Normal Limits is available on popular platforms such as Apple Podcasts, Google Podcasts, and Spotify. You can also go to www.callcopic.com/wnlpodcast for more information. New episodes are posted throughout the year, so be sure to subscribe and enjoy the podcast.

NEBRASKA RESOURCES AVAILABLE 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 protecting patients’ privacy. When these duties intersect with law enforcement 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:

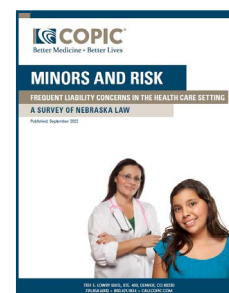
- Key considerations for any law enforcement interaction
- Reporting adult victims of abuse, neglect, or violence
- Disclosures for law enforcement purposes under HIPAA
- Drug and alcohol testing
- Serious threats to health or public safety



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

This booklet helps medical providers understand and navigate legal issues they may encounter with patients who are minors. The situations addressed include the following:

- Parental rights around making medical decisions with children; and issues with divorced parents
- Minors and HIPAA
- Situations when a minor can consent to medical care without parental consent
- Dealing with sexually transmitted infections
- Child abuse and reporting



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