# Peer Review: Legal and Practical Aspects

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**For nursing the number of credits designated is the number of credits awarded**

Copic is accredited as a provider of Continuing nursing education (CNE) by the American Nurses Credentialing Center's Commission on Accreditation (ANCC). This activity was designated for 0.75 nursing contact hour.

# Process for Claiming Credit

In order to earn CME/CE credit learners should complete the evaluation questions that will assess if practitioners have learned the most important recommendations and conclusions from this course. Each LIVE CME activity consists of the full participation of the learner, and a course evaluation. The assessment/evaluation remain locked until the learning activity is completed.

**Process for Completing the Activity:**

1. Read the Financial Disclosures.

2. Read the target audience, learning objectives, and financial disclosures.

3. Complete the LIVE educational activity.

4. Complete the activity evaluation/assessment on Copic's LMS platform and/or Survey Monkey

It is estimated that this activity will take approximately 0.75 hour to complete.

# Objectives

- Identify what activities are included in peer review

- Recognize the obligations of peer review participants

- Create policies and procedures to ensure that a practice's peer review activities are protected under federal and state law **Peer Review Toolkit**

# Why would we do peer review?

- Isn't this just something for hospitals?
- If we do peer review, does that mean we have to report to the state medical board?
- Our practice already reviews cases, so isn't that peer review?
- Having peer review policies and procedures seems like a lot of work. What's the benefit?
- Who has the time or money to have an attorney work with us?
- If we have to do one more thing, I think my head will pop off!

# Things to consider . . .

- How does peer review affect patient safety?

- What's required from a legal standpoint?

- What are the practical considerations?

# Isn't peer review just for hospitals?

## Nebraska

"Professional health care service entities" may form peer review committees to conduct quality review activities

Nonprofit corporations, PCs, LLCs, and partnerships that render health care services through individuals credentialed under the Uniform Credentialing Act

# What is considered peer review?

**Peer Review Committee:**

- Conducts credentialing or quality review activities involving the <u>competence</u> of, <u>professional conduct</u> of, or the <u>quality of care</u> rendered by a healthcare <u>provider</u> or a healthcare <u>entity</u>

- Conducts any <u>hearing</u> process as a result of a PRC's <u>recommendations</u> or <u>actions</u>

# Things to consider . . .

- Hospital vs. practice setting

- What are the barriers?

- Goals for your peer review program-education and promoting best practices

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# The "Easy Button"

**COPIC Peer Review Toolkit:**

- State-specific article on peer review for physician practices and clinics

- Peer Review Checklist of what's required

- A sample Confidentiality Agreement for peer review participants

- Peer Review Policy templates that a practice can tailor to meet its needs

# Is this peer review?

- Discussing someone else's case

- Texting about a patient complaint

- Quarterly case reviews

- Raising concerns about a colleague's behavior



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# Why do we need peer review and what do peer review laws do?

- Self-policing for professionals-should someone have clinical privileges?

# Why do we need peer review and what do peer review laws do?

- Self-policing for professionals- should someone have clinical privileges?

- Creation of a legal privilege

- Protections, immunity, for reviewers and participants

# Federal Health Care Quality Improvement Act (HCQIA)

- Created a peer review process that guarantees due process for physicians being reviewed and immunity for anyone participating in good faith

- Grants qualified immunity from damages for actions taken by professional review committees



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# Federal Health Care Quality Improvement Act (HCQIA)

Immunity to committee members provided they:

✓ Took the action <u>to further the quality of health care</u>

✓ Made a reasonable effort to <u>obtain the facts</u> of the matter

✓ Followed appropriate <u>due process</u> procedures, and

✓ Took the action <u>warranted by the facts</u>



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# State Peer Review Laws



- Legal protections for confidential reviews vary state-by-state:  Protects <span style="color:red">documents</span>!

- Need to have policies and procedures in place to claim these protections

- COPIC resources-consistent with federal and state law

- Work with your legal counsel on how best to protect peer review information

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# What is protected as peer review?

- PRC <u>proceedings</u>, <u>records</u>, and <u>reports</u> are privileged and confidential

- <u>Original source</u> documents are <u>not</u> protected but are only available from original sources

# What are some benefits of peer review for clinics and practices?



**<u style="color:red">Prevent</u> patient harm** - <u>Identify and address</u>:

- patient safety incidents, including near-misses

- unscheduled patient returns

- patient complaints

- cases identified through screening by quality indicators

- reported unprofessional conduct

- concerns regarding a possible impaired provider

- competency and need for education

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# Case example:

Patient presented with cough x 1 week after recovering from influenza. Tx. with cough suppressant and told to return if sxs worsened.

Patient later went to ED and admitted to ICU with bi-lobar pneumonia, hypoxia, hypotension, and presumed sepsis

On review, no vital signs performed on half of acute visits. Workflow challenge for medical assistants to check vital signs was corrected.



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# Case example:

36yo physician with practice for six years-well liked by staff and her patients

Difficult divorce last year, missed work for a back injury.

Behind on documentation, patient complaints that she hasn't responded to their questions.

Concerns reviewed in accordance with the clinic's Practitioner Health Policy



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# Case example:

Practice manager receives several complaints from two nurses and an MA that a 54yo physician with practice for 10 years is "difficult to work with."

Referred in accordance with practice's **<span style="color:red">Practitioner Behavior Policy</span>**.

<u>Collegial Intervention</u>:
- how the practitioner viewed the event
- how could the specific situation have gone better; and
- what can be done in the future to keep this from re-occurring

# Using peer review beyond retroactive case reviews . .



Address practitioner <u>behavior</u>, professional conduct

Address practitioner <u>health</u>

Address <u>knowledge or skill deficits</u>

# Frequently Asked Questions

- What policies are required?

- What's not protected?

- Reporting requirements?

# Frequently Asked Questions



- Address issues <u>before</u> provider is unsafe to practive

- Reporting is already required if there is first-hand knowledge of another licensee's incompetence, unprofessional conduct, or impairment

- Peer review allows an opportunity to address these issues



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# Frequently Asked Questions

- Understanding peer review?

  ✓ Practitioners and employees should understand their role

  ✓ Onboarding



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# Is this peer review?
## (revisited)

- Discussing someone else's case

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# Thank you!

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