



## COPIC 101: Your Limits of Liability



It is important to understand the coverage limits you've purchased from your medical liability carrier and how they may apply to covered claims. There are two types of coverage limits that form your policy:

**1** | The **per-occurrence limit** is the maximum amount available for any one covered claim.

**2** | The **aggregate limit** is the maximum amount available to cover all claims over the course of the policy term, typically a year.

The most common limits of liability sold for physicians are \$1 million per occurrence and \$3 million in the aggregate, but this may vary based upon a number of factors. There are several elements that should be considered when evaluating the limits of liability that you should carry. Balancing the insurance need with the cost and peace of mind should be reviewed alongside some other major considerations outlined below.

### State Considerations

States have laws dictating the minimum liability coverage requirement that must be met to practice medicine in the state. Trends in claims and payments can also vary by state. Tort reform and/or Patient Compensation Funds may offer additional coverage and protections. Physicians practicing in multiple states need to ensure they are licensed and familiar with the indemnity requirements in each state.

Policies generally provide coverage for payments to a plaintiff as compensation for an alleged incident, as well as defense costs. Traditionally, these indemnity payments include both economic (actual medical costs) and non-economic (pain and suffering) damages. States with tort reform may limit the amount of damages paid through caps, however, these caps may be pierced in certain situations. Physicians practicing in states where tort reform does not exist may lead some to consider higher limits due to the uncertainty this creates.

### Third-Party and Contractual Requirements

Medical staff privileging and contracts may require the medical professional to purchase minimum levels of insurance.

### Nature of Practice

The practice type (low- or high-risk specialty), the number and types of procedures performed, and the number and type of other risks insured under the policy (e.g., employees, corporations, etc.) should be considered when determining the level of coverage necessary.

COPIC recommends that you review your coverage and policy limits each year for state considerations and changes to your practice. Selecting the right limits not only protects your patients, but also yourself in the event of a medical liability allegation. For an additional premium, and to increase your peace of mind, you may consider increasing your limits of liability. A supplementary application and underwriting approval are required for all increased limit requests. Changes in the limits you carry are provided on a go-forward basis and will not apply to previously reported or known claims.

Contact your agent or COPIC underwriter at (720) 858-6176 or [underwriting@copic.com](mailto:underwriting@copic.com) to discuss your limit options or to request a quote for increased limits.

INSIDE

2

2021 CMF  
GRANT  
RECIPIENTS

2

COPIC  
HUMANITARIAN  
AWARD  
NOMINATIONS

2

2021 PRACTICE  
ADMINISTRATOR  
MEETINGS

3

A FOND FAREWELL TO  
GERRY LEWIS-JENKINS,  
COPIC COO

4

COPIC'S 2020  
ANNUAL REPORT



## COPIC MEDICAL FOUNDATION: 2021 GRANT RECIPIENTS

The COPIC Medical Foundation's 2021 cohort of grantees includes five organizations that are impacting health care in communities across the country.

The grants awarded this year were focused on initiatives designed to reduce fragmentation across care settings, a top patient safety concern. The following organizations were selected based on supporting scalable or replicable solutions, focusing on the testing of new ideas or growing existing solutions, and then seeking avenues for larger application.

**>>Children's Health Fund** (New York and national)  
A review, update, and dissemination of the successful Referral Management Initiative to incorporate new technologies to enhance care coordination procedures for pediatric populations living in under-resourced communities.

**>>Children's Hospital Colorado Foundation** (Colorado)  
The ImpACT Navigation Hub: A centralized resource hub to coordinate the transition of young adult patients with pediatric onset conditions to adult care.

**>>Children's National Medical Center** (Washington, D.C.)  
Improving coordination of pediatric mental care after psychiatric hospitalization.

**>>Kansas Healthcare Collaborative** (Kansas)  
AlignAllHealth: A collaborative tool that combines all health information technology with highly trained clinical and care management staff to support innovative and data-driven care management processes for high-risk patients.

**>>Mile High Health Alliance** (Colorado)  
The "Orange Flag" Project: Using historic, predictive and real-time data to inform emergency department personnel of a patient's high utilization of emergency services to aid in care coordination.

The Foundation plans to remain focused on projects that reduce fragmentation across care settings for its next grant funding cycle. We anticipate that the next Request for Proposals (RFP) will be posted in November 2021 with applications due mid-January 2022.

## COPIC HUMANITARIAN AWARD NOMINATIONS

**Nominate a physician who has gone above and beyond their clinical practice and made a difference in his or her 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.

A nomination form can be downloaded at [www.callcopic.com/about-copic/copic-humanitarian-award](http://www.callcopic.com/about-copic/copic-humanitarian-award)

- ➔ **COLORADO**  
Nominations accepted May 1–Aug. 31
- ➔ **MINNESOTA**  
Nominations accepted June 15–Aug. 31
- ➔ **NEBRASKA**  
Nominations accepted May 1–June 11
- ➔ **NORTH DAKOTA**  
Nominations accepted May 1–Aug. 31
- ➔ **UTAH**  
Nominations accepted March 1–July 31

## 2021 PRACTICE ADMINISTRATOR MEETINGS

COPIC hosts these meetings to address topics of interest to practice administrators and provide access to our team of experts. These meetings are being held virtually in 2021 until further notice.

**Tuesday, July 20**  
Noon–1pm (MST)  
Tales from the Legal Helpline  
presented by  
COPIC's Legal Department

**Please RSVP to Andrea Jones at [ajones@copic.com](mailto:ajones@copic.com) to receive details about how to connect remotely.**

# GERRY LEWIS-JENKINS, COPIC COO A FOND FAREWELL TO AN INSPIRING LEADER



There are certain goodbyes you know are coming, but that does not make them any easier. The retirement of Gerry Lewis-Jenkins is one of these. For 30 years, Gerry has held an energetic presence at COPIC and within the health care community. She is known for her thoughtful leadership, unwavering optimism, infectious humor, and ability to build strong relationships. In April, Gerry retired from COPIC, and while this is a tough goodbye for all of us, there is joy in looking back at the impact she made.

Prior to joining COPIC in 1991 as the Director of Business Development, Gerry served as Executive Director of Humana Health Plans of Colorado. She was recruited by Dr. Jerry Buckley, COPIC's former CEO and a board member at the time. He felt that her experience in managed care would enhance COPIC's ability to support insureds, and he knew she was a fit for the company's culture.

"It was about the people at COPIC and how they were so passionate about what they did. They believed they would create a new model for medical liability insurance and make a difference. That resonated with me and that is what we did," said Lewis-Jenkins.

"There are so many things I admire about Gerry. At the top of the list was her tireless dedication to COPIC's mission and our policyholders. In addition, no matter how busy Gerry was, she was always there for her family," said Steve Rubin, COPIC's President.

“Gerry personifies integrity. She demonstrated daily that when we do the right thing, for our policyholders, our employees and ultimately patients, success follows. She has tremendous knowledge and experience, but what makes her stand out is that she proved that kindness and compassion work in leadership.”

-Kristin Stepien  
COPIC's Senior VP of Sales  
and Business Development

Gerry's first experience in health care was as a registered nurse, which she said was "one of my biggest sources of pride," and cultivated her compassion for medical providers and patients. This connection to health care remained throughout her years at COPIC and was evident in how she approached her work.

One of Gerry's notable accomplishments was her role in COPIC's expansion into Nebraska and forming a partnership with the Nebraska Medical Association (NMA). She looked at this partnership not as a financial arrangement, but as an opportunity to work together to improve health care.

"If you add up all the mileage she put in with Nebraska, she probably walked across the state and back. The relationship she fostered with NMA created a model for future endorsements with state medical associations," said Dr. Gerry Zarlengo, COPIC's CEO. "She is authentic and sincere, and encouraging in a way that helps those around her to grow and learn."

"Gerry is known for her positive perspective. Even when things are difficult, she knows how to remain resilient and turn challenges into opportunities," said Bev Razon, COPIC's Senior Vice President of Public Affairs. "She also understands what drives people and how to work with diverse groups to get everyone together to achieve common goals."

“I have so many great relationships that extend from senior leadership to practicing nurses. I hope that when others think about me, they see me as someone who is straight forward and honest,” said Lewis-Jenkins. “I truly value the human side of my professional relationships. They have helped carry me through all sorts of challenges.”

Gerry also served as an inspiration and a mentor for other women. "She knows what it is like to have ambition and balance that with being a good mom. Her presence was symbolic that women were valued and respected in leadership roles," said Razon.

Gerry plans to remain involved in health care by serving as the Chair of the Board of Directors for Craig Hospital and as a member of Pinnacle Assurance's board. These roles were influenced by her involvement with COPIC's Board of Directors. "They taught me to be a better board member. It was a gift to work with them over the years. They were passionate and smart. I will miss the intellectual challenges and how we pushed ourselves to constantly do better," said Lewis-Jenkins.

As she departs, Gerry feels good about the path COPIC is on. "In today's environment, there are more challenges to balance your mission with financial goals. Financial stability is important, but you can't lose sight of your purpose," said Lewis-Jenkins. "I cherish my time at COPIC and realize that I am leaving with a lot more than what I am leaving behind."



Better Medicine • Better Lives

7351 E. Lowry Blvd., Ste. 400, Denver, Colorado 80230

PRSR STD  
US Postage  
**PAID**  
Permit #1668  
DENVER, CO

# COPICNEWS

ISSUE 187 • 2<sup>ND</sup> QUARTER 2021

INSIDE

- 1 COPIC 101: YOUR LIMITS OF LIABILITY
- 2 2021 CMF GRANT RECIPIENTS
- 2 COPIC HUMANITARIAN AWARD NOMINATIONS
- 2 2021 PRACTICE ADMINISTRATOR MEETINGS
- 3 A FOND FAREWELL TO GERRY LEWIS-JENKINS, COPIC COO
- 4 COPIC'S 2020 ANNUAL REPORT

Did you miss a previous edition of COPIC newsletters? Don't worry. A full archive of past newsletters can be accessed on [callcopic.com](http://callcopic.com).



## COPIC'S 2020 ANNUAL REPORT

COPIC produces its annual report to highlight news, accomplishments, financial details, and other information. As we reflect on 2020, we want to recognize all physicians, medical providers, and health care professionals and their commitment to health care during an unprecedented year.

It was a time that reinforced how we are "better together" and how our mission of improving medicine in the communities we serve is always at the heart of what we do. COPIC's 2020 Annual Report is available for download at [www.callcopic.com/about-copic/newsroom](http://www.callcopic.com/about-copic/newsroom). To request a hardcopy, please email Gina Rowland at [growland@copic.com](mailto:growland@copic.com).

### Board of Directors

- Gerald Zarlengo, MD  
*Chairman and CEO*
- Steven A. Rubin  
*President*
- Matthew J. Fleishman, MD, FACR
- Harris A. Frankel, MD
- Brian C. Harrington, MD, MPH, FAAFP
- Davis K. Hurley, MD
- Sophia Meharena, DO
- Kathryn A. Paul
- Harold R. Roth, MBA, JD, LLM
- Alan Synn, MD
- Rebecca Vogel, MD, FACS

CONTACT US:

### 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**  
720/858-6396  
720/858-6003 (fax)
- Sales Department**  
720/858-6199
- Customer Support**  
720/858-6160
- Underwriting**  
720/858-6176
- Credentialing**  
720/858-6160

### COPIC Financial Service Group, Ltd.

- 720/858-6280
- Fax**  
720/858-6281
- Website**  
[www.copicfsg.com](http://www.copicfsg.com)

### COPIC Medical Foundation

- 720/858-6060
- Fax**  
720/858-6005
- Website**  
[www.copicfoundation.org](http://www.copicfoundation.org)

[www.callcopic.com](http://www.callcopic.com)

Connect with COPIC  



## THE LEGISLATIVE LANDSCAPE

### COORDINATING AREAS OF SHARED PRIORITY

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. COPIC monitors regulation and legislation in Colorado to ensure that access to safe, quality health care delivery is maintained and new, unreasonable burdens are not placed on health care providers.

In a normal year, the Colorado General Assembly would be close to wrapping up their 120-day session in early May. This year, however, due to the early COVID-19 delay, legislators are expected to work through the first week of June. While much does not seem “normal” this year, one thing that has remained consistent is the large number of health care related bills. COPIC has continued to work closely with our partners at the Colorado Medical Society and the Colorado Hospital Association to track legislation, share insight and analysis on bills, and coordinate on areas of shared priority. COPIC reviews legislation to assess impact on the tort environment, learning in health care, the safe delivery of quality care, and the important patient-physician relationship. A few of the health care related bills COPIC is monitoring are highlighted below:

**HB21-1005: Health Care Services Reserve Corps Task Force.** This bill creates the health care services reserve corps task force in CDPHE. The purpose of the task force is to evaluate and make recommendations on the creation of a health care services reserve corps program, in which medical professionals could cross-train to be able to serve the state in an emergency or disaster and receive student loan relief for their service.

**HB21-1012: Expand Prescription Drug Monitoring Program (PDMP).** This bill expands the current PDMP to track information regarding all prescription drugs that are prescribed in Colorado.

**HB21-1085: Secure Transportation Behavioral Health Crisis.** The bill creates a regulatory and service system to provide secure transportation services, with different requirements from traditional ambulance services, for individuals experiencing a behavioral health crisis.

**HB21-1188: Additional Liability Under Respondent Superior.** This bill seeks to overturn the Colorado Supreme Court’s Ferrer ruling which adopted the McHaffie rule. The bill, if passed, allows plaintiffs to sue not only a negligent employee but will allow them to sue the employer for both vicarious liability for the acts of their employee and for derivative claims against the employer.

**HB21-1251: Appropriate Use of Chemical Restraints on A Person.** This bill aims to limit the use of ketamine in a nonhospital setting.

**HB21-1232: Standardized Health Benefit Plan Colorado Option.** This bill, as introduced, gives the health care industry two years to reduce health insurance premiums by 20% in the individual and small group market and, if unable, allows the Commissioner of Insurance to establish the Colorado Option Plan and set price caps on health care services provided by hospitals and doctors. The Plan requires hospitals and doctors to accept patients under the Plan or face disciplinary actions to their professional or facility license.

**SB21-061: Claims for Economic Damages Incurred by Minors.** This bill seeks to change current law that permits only parents or guardians to seek pre-majority medical expenses for an injury to a minor. It provides that a minor can bring a cause of action for injuries caused by another and extends the statute of limitations.

**SB21-88: Child Sexual Abuse Accountability Act.** This bill establishes a civil cause of action for sexual misconduct against a minor.

**SB21-126: Timely Credentialing of Physicians by Insurers.** This bill aims to expedite licensure credentialing for providers in Colorado.

**Licensure & Program Sunsets up for renewal in 2021:**

- SB21-092: Sunset Surgical Assistants & Surgical Technologists
- SB21-093: Sunset Continue Healthcare Infections Advisory Committee
- SB21-094: Sunset Continue State Board of Pharmacy
- SB21-097: Sunset Continue Medical Transparency Act
- SB21-098: Sunset Prescription Drug Monitoring Program
- SB21-101: Sunset Direct-Entry Midwives

Be sure to visit COPIC’s Legislative Action Center at [www.callcopic.com/resource-center/legislative-action-center](http://www.callcopic.com/resource-center/legislative-action-center) for links to these bills and others we are following.

If you have any questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning at [ldunning@copic.com](mailto:ldunning@copic.com).

## COLORADO COPIC HUMANITARIAN AWARD—DR. BEN GALLOWAY

Dr. Ben Galloway is a well-known and respected Denver-area forensic pathologist. His background includes several notable roles—an Associate Clinical Professor at the University of Colorado Health Sciences Center, the Deputy Coroner of Denver, and a member of the pathology staff of Denver Health.



Quiet and unsung, Dr. Galloway is a steadfast champion of social justice and racial equality. His life, work, and commitments epitomize what it means to be a kind-hearted humanitarian. Throughout his career, he is recognized as a physician leader who worked tirelessly to reach out and support those most in need.

As a volunteer at Judi’s House, a community-based nonprofit bereavement center, Dr. Galloway supports grieving families and children. Judi’s House asked him to provide testimony at events over the years about his own personal experience of losing a niece to suicide. Because of Dr. Galloway’s work as a forensic pathologist, he has always shown a strong sensitivity for families experiencing loss. For his commitment to its work, Judi’s House honored him with its 2017 Healing Hand Award.

Since its inception in 2016, Dr. Galloway also served on the Board of Directors of the Center for Health and Hope, a support and advocacy organization for those affected by HIV and AIDS. In this role, he used his medical knowledge combined with his own values of care, compassion, and concern to mobilize others to be involved in efforts around fighting global HIV and AIDS.

Additionally, Dr. Galloway immersed himself in the work of Vitalant (formerly known as Bonfils Blood Center). Vitalant is a stronger organization because of Dr. Galloway. He has been a central figure in the organization’s work for more than 25 years.

The list of Dr. Galloway’s volunteer activities, contributions, and recognitions is extensive. For these and many other reasons, COPIC has

selected him as the honoree for the 2020 COPIC Humanitarian Award.

The COPIC Humanitarian Award recognizes a physician going above the call of duty as a volunteer in the Colorado health care community. Dr. Galloway chose Judi’s House as the beneficiary of the \$10,000 donation associated with the award. In March 2021, Dr. Galloway was recognized at the Colorado State Capitol, where he was formally introduced before the Colorado General Assembly.



*Dr. Galloway with his wife, Jean, and Rep. Iman Jodeh after being recognized at the Colorado State Capitol.*

## NOMINATE A COLORADO PHYSICIAN FOR THE COPIC HUMANITARIAN AWARD

Each year, COPIC honors a Colorado physician for his or her volunteer medical services and contributions to the community outside of their day-to-day work. If you know a worthy candidate, please nominate him or her for this award.



The recipient of the award designates a \$10,000 donation from COPIC to be provided to a health care-related 501(c)(3) organization of the recipient’s choosing (on his or her behalf).

Nominations are being accepted **May 1–August 31, 2021**. To nominate a physician, please visit our website at [www.callcopic.com/about-copic/copic-humanitarian-award](http://www.callcopic.com/about-copic/copic-humanitarian-award) to download a nomination form.



## THE LEGISLATIVE LANDSCAPE

### COORDINATING AREAS OF SHARED PRIORITY

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. COPIC monitors regulation and legislation in Iowa to ensure that access to safe, quality health care delivery is maintained, and new, unreasonable burdens are not placed on health care providers.

The Iowa Legislature commenced the 89th General Assembly on Monday, January 11th and is scheduled to adjourn on Friday, April 30th. COPIC worked closely with its partners to advance important tort reform legislation this session.

**House File 592**, similar to last year’s tort reform bill, “hardens” the non-economic damage cap in medical professional liability lawsuits. The bill sets the cap at \$1 million and removes the “soft cap” exception that allows a jury to forego the cap if so determined. As of the writing of this publication, both House File 592 and its Senate companion, Senate File 557, have passed out of committee and are awaiting further debate by both chambers.

In addition to this tort reform legislation, a few of the health care related bills COPIC is monitoring are highlighted below:



#### House File 117

A bill relating to the licensure of ambulatory surgical centers, providing for fees to be considered repayment receipts, and providing penalties.



#### House File 852

A bill allowing an Iowa-based private or public hospital or affiliated nonprofit organization that has a resident physician program to apply for reimbursement for the cost of the hospital’s or affiliated NPO’s medical liability insurance premiums.



#### House File 592

A bill relating to noneconomic damage awards against health care providers.



#### Senate File 557

The Senate companion bill to House File 592 noted previously. It is a bill relating to noneconomic damage awards against health care providers.



#### House File 764

A bill relating to disciplinary hearings conducted by professional licensing boards.

COPIC works closely with our partners at the Iowa Medical Society and Iowa Healthcare Access Coalition to track legislation and inform policy positions using the lens of stabilizing the tort environment, promoting learning in health care, ensuring the delivery of safe, quality care, and protecting the communications between patients and physicians.

As always, COPIC will continue to monitor legislative activities with our partners. To learn more about COPIC’s legislative and policy engagement efforts, contact Logan Dunning, COPIC’s Manager of Public Affairs, at [ldunning@copic.com](mailto:ldunning@copic.com).

For information on legislation or to find your elected officials, visit us at [www.callcopic.com](http://www.callcopic.com) and go to the Legislative Action Center link under the Resource Center section.

## IOWA 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 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:



- Key considerations for any law enforcement interaction
- Reporting adult victims of abuse, neglect, or domestic 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 was developed to help 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; including 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
- Mental health and minors

Both of these booklets are available for download at [www.callcopic.com/resource-center/guidelines-tools/practice-management-resources](http://www.callcopic.com/resource-center/guidelines-tools/practice-management-resources)

## IOWA CANDOR LAW RESOURCES



### What Is Candor?

The term “Candor” is used in health care to describe a framework for addressing adverse health care incidents in a way that preserves the provider-patient relationship, allows for open communication, and supports improvements in patient safety. In 2015, Iowa passed the Iowa Candor Law that enables health care providers and facilities to offer timely and thorough responses to patients who experience an adverse incident.

### How Does Candor Work?

It formalizes a non-adversarial process where there can be open communication about what happened, why it happened, and what can be done to prevent this in the future. This process is initiated by the health care

provider involved in the incident. The discussions under Candor are confidential and privileged, and this facilitates communication between providers and patients in a way that is not hindered by the threat of these communications being used against the provider or facility in subsequent litigation. Under certain circumstances, the process may include an offer of compensation.

### What Candor Resources Does COPIC Offer?

Resources are available on COPIC’s website on our Iowa Candor Law page, [www.callcopic.com/resource-center/guidelines-tools/iowa-candor-law-resources](http://www.callcopic.com/resource-center/guidelines-tools/iowa-candor-law-resources). As with all incidents, COPIC insureds should call us to report an incident, and an occurrence specialist nurse will evaluate it with our team to determine if Candor is appropriate.






## THE LEGISLATIVE LANDSCAPE


### COORDINATING AREAS OF SHARED PRIORITY


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. COPIC monitors regulation and legislation in Iowa to ensure that access to safe, quality health care delivery is maintained, and new, unreasonable burdens are not placed on health care providers.


The Nebraska Unicameral convened on Wednesday, January 6th for the First Regular Session of the 107th Legislature and will meet until June 3rd, 2021. In total, 684 bills were introduced before the January 20th cutoff. Of note, Senator Justin Wayne brought back his bill (Legislative Bill 160) to increase the existing medical liability cap and raise the underlying Fund limits; as before, COPIC remains in strong opposition to the bill. Fortunately, after meetings with the Nebraska Medical Association, Senator Wayne announced at the bill’s committee hearing that he would hold the bill until after the Department of Insurance conducts its study scheduled for later this year. The Nebraska Medical Association and Nebraska Hospital Association testified against the bill and 55 letters were sent in opposition. The bill will be held over for consideration until next year’s session. We will continue to work with our partners to defend Nebraska’s stable tort environment.


In addition to this tort reform bill, a few of the bills COPIC is monitoring are highlighted below:


 **Legislative Bill 139:** This bill adopts the COVID-19 Liability Protection Act. The bill provides general safe harbor and premises liability protections on potential COVID-19 lawsuits for a broad range of individuals and organizations—among them medical and other health care providers, first responders, and medical facilities.

 **Legislative Bill 160:** This bill changes provisions of the Nebraska Hospital-Medical Liability Act. The bill increases the existing medical liability caps and the underlying Fund limits (mentioned above).

 **Legislative Bill 390:** This bill would allow holders of medical licenses from other states to more easily receive a license to practice in Nebraska. This applies to certain health care professions that are regulated by Nebraska’s Uniform Credentialing Act.

 **Legislative Bill 400:** This bill amends the Nebraska Telehealth Act, which applies to the Medicaid program, to expand the definition of “telehealth” to include audio-only services for the delivery of behavioral health services.

 **Legislative Bill 411:** This bill requires the sharing of information with the designated health information exchange (HIE). This bill aims to require health care facilities to participate in and provide clinical information to the State-sponsored HIE by September 1, 2021.

 **Legislative Bill 583:** This bill requires electronic prescriptions for controlled substances. The bill mandates electronic prescribing for controlled substances beginning January 1, 2022 and provides for exceptions.

COPIC works closely with our partners at the Nebraska Medical Association to track legislation and inform policy positions using the lens of stabilizing the tort environment, promoting learning in health care, ensuring the delivery of safe, quality care, and protecting the communications between patients and physicians.

Be sure to visit COPIC’s Legislative Action Center at [www.callcopic.com/resource-center/legislative-action-center](http://www.callcopic.com/resource-center/legislative-action-center) for links to these bills and others we are following. If you have any questions, please contact COPIC’s Manager of Public Affairs, Logan Dunning at [ldunning@copic.com](mailto:ldunning@copic.com).

## NEBRASKA LEGISLATIVE BILL 783: LIABILITY CONCERNS FOR UNLICENSED PROVIDERS

LB 783, which became effective in November 2020, addressed a liability concern for health care facilities and physician practices that employed or delegated medical tasks to health care workers who weren't otherwise authorized by a state credential (license, certificate, or registration). Before the passage of LB 783, those workers could have been engaging in the unauthorized practice of medicine when performing medical tasks.

Under the Nurse Practice Act, registered nurses may delegate nursing interventions or tasks that may be performed by unlicensed persons and that do not conflict with the Nurse Practice Act. The nurse retains accountability for the application of the nursing process and outcomes of care in making a delegation decision.<sup>1</sup> A nurse may also assign the responsibility for performance of nursing functions in the provision and management of nursing care to other persons, including unlicensed persons authorized by registered nurse delegation.<sup>2</sup> LB 783 now allows this type of assignment of medical tasks by physicians.

The changes to the Medicine and Surgery Practice Act with LB 783 avoids having to create a state certification or a registry for every type of health professional or nonprofessional assistant if they are otherwise appropriately trained to provide certain medical services when assigned those tasks by a physician. The bill added to the classes of individuals who are not construed to be engaged in the unauthorized practice of medicine those who are not licensed, certified, or registered under the Uniform Credentialing Act but are assigned tasks by a licensed physician, if such assignment of tasks is in a manner consistent with accepted medical standards and appropriate to the skill and training, on the job or otherwise, of persons to whom the tasks are assigned.

Under the new law, "assignment of tasks" means the routine care, activities, and procedures that:

- are part of the routine functions of such persons who are not so licensed, certified, or registered,
- reoccur frequently in the care of a patient or group of patients,
- do not require such persons who are not so licensed, certified, or registered to exercise independent clinical judgment,
- do not require the performance of any complex task,
- have results which are predictable and have minimal potential risk, and
- utilize a standard and unchanging procedure.<sup>3</sup>

This bill now allows those individuals who are appropriately trained to perform tasks assigned to them by a physician. This would include unlicensed surgical technologists, orthopedic technicians, medical assistants, and trained emergency medical care providers working as "techs" in a hospital or physician practice setting. Under current law, emergency medical care providers are credentialed under the Emergency Medical Services Practice Act to provide emergency medical care services in the out-of-hospital setting, other than as part of a transport, under the supervision of a licensed health care practitioner.<sup>4</sup>

Because the law contemplates these tasks as routine functions

that don't require the exercise of medical judgment, the training for these providers can be through a recognized educational training program, or by a physician, nurse, or other health care professional as long as the task or skill is within that provider's scope of practice. This change to the Medicine and Surgery Practice Act can potentially increase access to care by allowing more trained health care workers to provide services assigned by a physician within accepted medical standards. These services could go beyond those that could be delegated within a nurse's scope of practice.

The law should not adversely affect patient safety so long as the employers of these health care workers and the physicians who assign tasks to them ensure they are appropriately trained, and the services provided are limited within the parameters of the law. Employers should ensure that there is appropriate documentation of the training and education of the health care worker, including on-the-job training, and that the level of training or certification is adequate for the services provided.

<sup>1</sup> N.R.S. § 38-2212(2)(h); N.R.S. § 38-2216(6); 172 N.A.C. § 99-004.

<sup>2</sup> N.R.S. § 38-2212(2)(h); 172 N.A.C. § 99-006.

<sup>3</sup> N.R.S. § 38-2025(21).

<sup>4</sup> N.R.S. § 38-1217; N.R.S. § 38-1224; 172 N.A.C. § 11-001.