

September 29, 2015

Bill Lindsey, Chair
Colorado Commission on Affordable Health Care
Denver, CO

Dear Mr. Lindsey and Commissioners:

SUBJECT: REQUEST FOR FEEDBACK

Thank you for the opportunity to participate and share COPIC's perspective as you tackle the many and varying issues around the costs of health care. As a mandated expense in that cost equation for providers and facilities, COPIC feels it necessary to raise awareness of medical professional liability and its impact on health care delivery. In addition, we feel it is critical to defend the reforms in place in order to keep costs stable for the health care community. It is from this unique perspective that I offer the following responses to the proposed questions.

1. What do you think are the fundamental cost drivers and why?

The costs to become a physician and operate a physician clinic or hospital have escalated over the years and will likely continue to climb. In particular, the median estimated cost for medical school in 2014 at a public school was \$226,447, and for private school was \$298,538 (<https://www.aamc.org/download/152968/data/debtfactcard.pdf>)

As Glen Stream, President of the American Academy of Family Practices, stated, *"It is not sustainable under the current payment system. There simply is just not enough money to go around to provide the services that we provide."* The upshot: *Doctors fear a squeeze as they try to ramp up changes in tandem with evolving reimbursement schemes. "You're asking a practice that may be only marginally viable as a business to invest in significant infrastructure."* (http://www.physiciansfoundation.org/uploads/default/Drivers_of_Health_Care_Costs_-_November_2012.pdf)

These costs include, but are not limited to:

- Administration – Individual health insurance claims processing, uncompensated care, compliance, technology systems – including maintenance and security, and liability insurance among others.
- Resources – Talent, medical devices and new treatment technologies, pharmaceuticals, etc.

2. What are the barriers to reducing cost?

Like many industries, health care is heavily regulated. The cost to comply with the federal and state laws as well as the cost to educate and train physicians will continue to be barriers. And significant demands of balancing cost, quality, and access to care have been placed on providers, which creates ongoing financial challenges.

3. Can you list up to three things that you are doing to address cost that are unique?

With the medical liability insurance that COPIC provides, we have taken a long-standing, multi-pronged approach to ensure that this cost remains stable and affordable, while also providing value for insureds and patients. We do this through:

- Patient Safety Education and Practice Quality Review:
Proactive efforts to improve the quality of the care by offering professional education and reviewing practice processes to identify areas for improvement and share best practices. These efforts help to reduce avoidable errors and potential liability claims, resulting in stable liability premiums.
- Early Resolution Program:
The nationally recognized 3Rs (Recognize, Respond and Resolve) Program managed by COPIC allows participating physicians to work with patients on minor adverse events to address the patient's needs, maintain the patient – physician relationship, and avoid costly litigation.
- Maintaining the Health Care Availability Act of Colorado (HCAA):
COPIC vigorously defends the tort reform and cap limits in Colorado, which have ensured stable medical liability premiums for health care providers. Maintaining the HCAA is one way the state legislature can protect the health care system from additional costs.

4. Is there any supporting data that demonstrates a reduction in cost?

- Efforts to improve patient safety result in 1.3 million fewer patient harms, 50,000 lives saved and \$12 billion in health spending avoided, *Health and Human Services*, Dec. 2, 2014
<http://www.hhs.gov/news/press/2014pres/12/20141202a.html>
- How to Make Surgery Safer, *Wall Street Journal*, Feb. 16, 2015
<http://on.wsj.com/1DkggkP>
- Noneconomic Damage Caps Reduced Medical Malpractice Payments, With Varied Effects, *Health Affairs*, Oct. 22, 2014
<http://healthaffairs.org/blog/2014/10/22/health-affairs-web-first-noneconomic-damage-caps-reduced-medical-malpractice-payments-with-varied-effects/>

- The average physician spends almost 11% of an assumed 40-year career with an unresolved, open medical liability claim; the greater fluctuation in medical liability premiums caused by lengthy time to resolution may impose even more financial risk on physicians, *Health Affairs*, Jan. 2013
<http://content.healthaffairs.org/content/32/1/111.abstract>

5. Where do you see waste in the system?

When an adverse event happens in the course of care, patients first and foremost want to know what happened. The current liability system regularly impedes this and is often inefficient with significant money spent on attorney's fees rather than compensating patients who suffered from negligent care. These fees also represent money that could otherwise be invested in patient safety initiatives with long-term benefits.

From COPIC's perspective, the much discussed application of defensive medicine does occur out of a physician's fear of being sued. Education is occurring on this topic, however, it is fear that is hard to educate against with statistics that demonstrate that, on average, 83% of physicians will face a medical liability claim by age 65, according to the *New England Journal of Medicine*. In fact, Gallup reports that one in four healthcare dollars spent in healthcare can be attributed to defensive medicine – about \$650 billion annually, *Forbes*, Aug. 27, 2013.

(*New England Journal of Medicine*, <http://www.nejm.org/doi/full/10.1056/NEJMsa1012370>)

(*Forbes*, <http://www.forbes.com/sites#/sites/realspin/2013/08/27/defensive-medicine-a-cure-worse-than-the-disease/>)

6. What are the principle barriers to transparency?

COPIC will forego a response as there are others more informed on cost transparency to address this question.

7. What would you change to make things better related to cost?

COPIC believes that reforming the liability system to allow for learning and investments into root cause analysis, patient safety and quality improvements would be a more effective way to impact the health care delivery system and, in turn, patient outcomes.

Thank you for the opportunity to share the COPIC perspective on this important issue.

Best regards,



Ted Clarke, MD
Chairman and CEO
COPIC