



On the Line: New Cases and Perspectives from the Risk Management Hotline

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Background: The Hotline Origin Story



Busy providers sometimes are in very time-sensitive situations and need experienced PSRM physicians.

Office and Hospital Support staff and care team members may be tasked with questions, concerns, situations by providers or facility or other issues in complex systems and need experienced PSRM guidance.

We asked, “What would I, as a busy provider, find useful?
Answer: COPIC’s hotline.

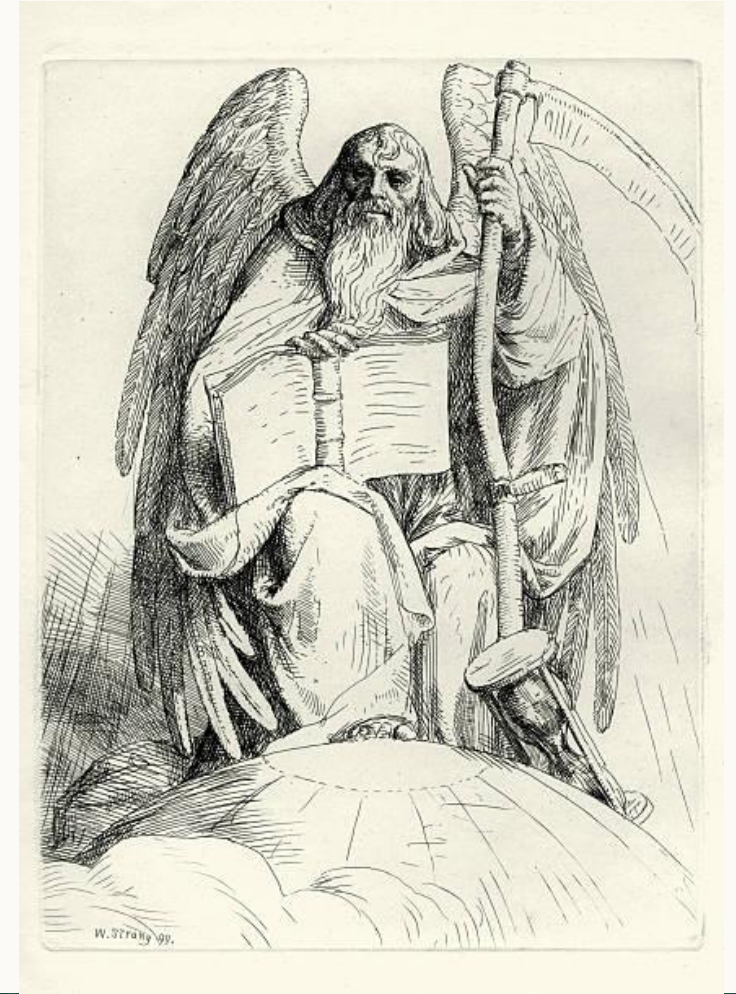
Perspectives of a Physician New to Covering Copic's Hotline

- What am I seeing coming into this with fresh eyes?



Perspectives of a Physician from 10 Years Covering Copic's Hotline

- What recurrent patterns am I seeing, and is anything really new?



- **Disclosure**

- We administered the wrong dose of insulin to a patient on the floor.
- The STAT team responded to their change in mentation and transferred to the ICU.
- They were already going to be transferred to the ICU later that morning, and they did fine.
- Should we even tell them?
- What should we tell them if so?



Error Disclosure Steps

Key Step	Target Behaviors	Mnemonic
Team Discusses the Error	<ol style="list-style-type: none"> 1. Acknowledge the error 2. Conduct blame-free communication during team conversation 3. Demonstrate team-oriented communication 4. Negotiate differences of opinion collaboratively 	<p>S - Share the details of the event</p> <p>O - (be) Open and acknowledge responsibility</p> <p>R - respond to questions, feedback, ideas</p> <p>R - recommend an action plan</p> <p>Y - you, take care of yourself (care for the caregiver)</p>
Team Plans the Disclosure	<ol style="list-style-type: none"> 1. Advocate for full disclosure 2. Plan roles for disclosure 3. Anticipate patient's questions and reactions 4. Plan responses to patient 	
Team Discloses Error to a Patient	<ol style="list-style-type: none"> 1. Conduct explicit disclosure of the error to the patient 2. Respond forthrightly to patient questions about the event 3. Apologize upfront and early in the conversation 4. Conduct blame-free disclosure, acknowledges personal role 5. Offer plans to prevent future errors 6. Plan follow up with patient 	

Examples of Disclosure Type

Disclosure type	Elements of disclosure						Disclosure example in response to the focus group scenario*
	Admit error	Discuss event	Link to proximate effect	Proximate effect	Link to harm	Harm	
Full disclosure	+	+	+	+	[+]	[+]	Because of an error on my part, you got your diabetic medications when you shouldn't have. I apologize for that. It caused you to have very low blood sugar, which caused you to have a seizure at which time you fell out of bed and broke your hip.
Partial disclosure							
Connect-the-dots	-	+	-	+	[-]	[+]	You had a seizure, you fell out of bed, and you broke your hip. It seems that your insulin dose lowered your blood sugar and you weren't getting food.
Mislead	-	+	Obfuscate	+	[Obfuscate]	[+]	You had a seizure. We think it was because of your low blood sugar and your diabetic condition.
Defer	-	+	Defer	+	[Defer]	[+]	We are not sure what caused your seizure at this time. It could be any number of things. We will have to look into it (yet, there is no intention to actually get back to the patient).
Non-disclosure	-	-	-	-	[-]	[-]	I am so sorry you had a seizure. Let's get you to surgery to repair your hip.

Family Feud

- I'm taking care of a child with parents who don't see eye-to-eye.
- They keep using the EMR messaging portal to argue, wanting to change the care plan for the child.
- I'm at the point where I'm considering terminating the patient from our practice



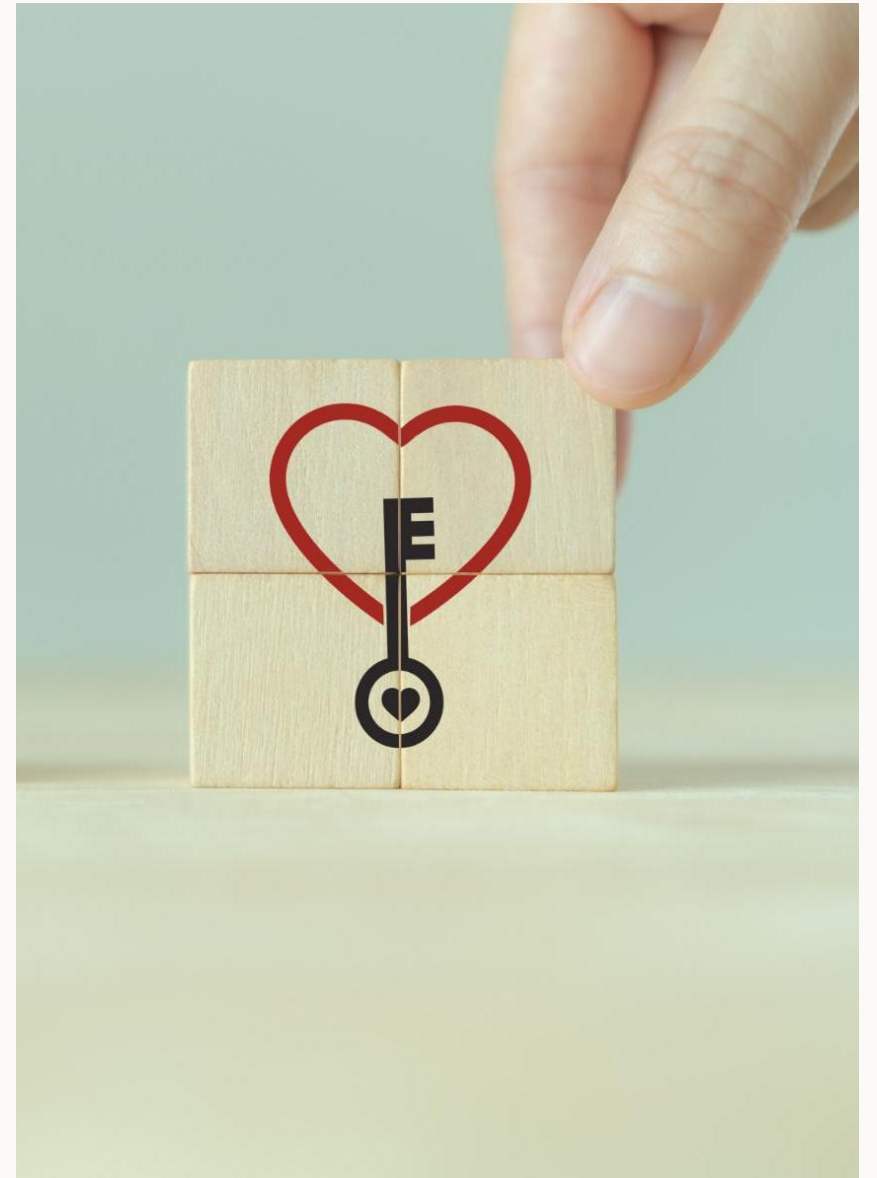
Family Feud

- Priority is always the child & what is in their best interest.
- Get the most up-to-date legal documents
- Set boundaries with all parties



Family Feud

- Encourage parents to consider the child's needs & how medical decisions will impact them in the short & long term.
- Consider delaying non-urgent treatment



Family Feud

- If termination from the practice becomes necessary, follow your standard procedures



- **Patient Post-Termination Seen On-Call.....**

- I saw a patient in the hospital while on-call.
- We had terminated him from the practice last year.
- He needs follow up in my specialty area.
- Can we refuse to see him in follow up in the clinic?
- Do we have to take him back into the practice?



Key Points

1. If they see a patient in the hospital as part of their on-call contract, then they have re-assumed a physician patient relationship, with all of its attendant duties.
2. They should arrange for another group to see the patient after discharge, if possible. But, they need to be aware of, and follow, the terms of their hospital contract and any applicable managed care contracts, to the extent those contracts also govern follow up care (as set forth in Copic's bulletin). They should also document the termination and transfer of care, as set forth in our bulletin.
3. If they are unable to transfer care upon discharge, then they should follow the timing in our guidelines, and be prepared to provide follow up care for at least 30 days until the patient can be transferred into a new provider's practice.
4. It's almost always less stressful to just see the patient and move forward...

We Have Resources



COPIC Tip

COMMUNICATION WITH PATIENTS



TERMINATING A PHYSICIAN-PATIENT RELATIONSHIP

Because the physician-patient relationship is voluntary for both parties, either side can terminate the relationship at any time. However, be aware that the issue that led to termination could trigger the initiation of a medical liability action. Issues to consider before termination include:

- **Abandonment:** Unless certain conditions are addressed, allegations of abandonment may be made if a physician terminates care during the treatment of a medical condition. The patient must be in stable condition. You must give adequate notice, provide emergency medical care for a specified period, and assist with the continuity of care by expeditiously providing the patient's new physician with copies of medical records when requested. It is recommended that the emergency care period be 30 days. However, it may be necessary for this to be longer in certain clinical situations due to ongoing medical care issues and the availability of other medical resources.
- **Discrimination:** You should be aware that termination may not be based upon gender, race, religion, disability, ethnic origin, national origin, or age. Disability status can be complex and contentious. Further, local laws might protect against discrimination based on issues such as sexual orientation.

CONTINUED ON PAGE 2

COPIC TIP: COMMUNICATIONS WITH PATIENTS

- **Contract issues:** Be cautious when terminating patients who are members of managed care plans. Your contracts with health plans might specify the manner of termination with a member patient. This is especially true if the method of payment is capitation. Plans might need notification of the reason for termination to prevent allegations of dismissing a patient because he or she is "too expensive to treat." The patient might also have different time constraints for the health plan to complete reassignment to a new physician. Medicaid has a specific process for termination of Medicaid patients, and health care professionals need to consult their provider participation agreement for details.

WRITING A TERMINATION LETTER

All terminations should be documented in writing so that the patient understands the need to find another health care provider. A termination letter should:

- Be succinct.
- Spell out that emergency care will be provided for a period of 30 days.
- State that a new provider should be sought and suggest that the medical society and/or the patient's health insurance might assist them in finding a new physician or health care provider.
- Make sure your office staff knows of your plans. The patient should be reappointed to see you only if there is an emergency medical condition.
- Assure the patient that all medical records will be provided at his or her request with a valid authorization.
- Avoid editorializing or restating your side of a dispute in the termination letter. A simple "It has been determined that I can no longer function as your physician" is adequate. The documentation in the medical record can be more detailed, but should remain factual and avoid pejorative or emotional statements regarding the termination.
- Send the letter via certified U.S. mail. For specific clinical situations (i.e., the need to follow-up on a critical lab/image or to complete a procedure or consultation) the letter can include the reasons for the necessary actions and the risks of not complying with them.

We Have Resources!



This is a video player thumbnail. On the left is a green square icon with a white cross and a microphone, with the text 'WITHIN NORMAL LIMITS' and the 'copic' logo below it. To the right of the icon, the text reads '08/22/2024 · S4, E7 · 23 MIN' followed by the title 'Key Considerations Before Terminating a Patient' and the subtitle 'Within Normal Limits: Navigating Medical Risks'. At the bottom right is a purple button with a white play icon and the word 'Play'.

Our guest is Anna Barr, a patient safety and risk manager with Copic, who joins us to talk about terminating the provider-patient relationship. The discussion

This letter should be typed on the healthcare provider's letterhead. One copy should be sent via certified and one by regular mail. A copy of the letter and the returned receipt should be kept in an administrative file separate from patient's chart.

[DATE]

Dear _____,

I [we] have decided not to continue as your _____ [TYPE OF] provider. Your local Medical Society [contact information] or insurance carrier may be able to assist you in finding another practitioner. I [we] will remain available to you for necessary care for 30 days following the date of this letter.

- To ensure continuity, please try to transfer to a new care provider as quickly as possible within this 30-day period. I [we] will provide a copy of your medical records to your new practitioner upon receipt of a written request from you, your personal representative or your new provider.
- [IF APPLICABLE] If you have access to your records through our office's electronic portal, I [we] will keep your account open for 30 days. Please follow the instructions for printing or downloading the material stored on the portal. After your portal account is closed, you will need to request copies of your records through our normal process. Please contact us if you need instructions.
- If you have access to our practice by email or other electronic messaging services (including secure messaging through our patient portal), this service will remain active for 30 days. After that, you will need to contact us by postal mail, telephone, fax, or through our general email account [IF THE PRACTICE PROVIDES ONE].
- I [we] will accept and save any copies of test results, clinical reports and other correspondence we receive for you. I [we] will notify you of information received according to my [our] usual policies.

Sincerely,

_____ [TITLE]

By certified mail, return receipt requested, and regular mail
Mailed on _____



EMTALA



- We just got a call from a different local hospital that a patient left our ER & went there instead
- The patient was checked in to our ER but left due to long wait times
- Are we at risk under EMTALA?

EMTALA



- Applies to locations treating emergency conditions
- 3 Major Parts
 - Medical Screening Exam
 - Emergency Medical Condition
 - Stabilization or Transfer

EMTALA



- Every hospital employee AND member of the medical staff has obligations under EMTALA

More EMTALA Resources

- Copiscope articles
- EMTALA Webinar-on-demand
- Transfer FAQ sheet
- Against Medical Advice consent form



Subpoena

- An attorney's office called and said they were sending someone over with a subpoena.
- Can we ignore it and hope it just goes away?
- What do we do?
- Do we have to let them in?
- Do we have to accept it?

fun fact #9042

Ostriches don't bury their heads in sand and think they have hidden from danger. They dig holes to bury their eggs. The myth came about from people seeing ostriches putting their heads in the holes to turn the eggs to ensure they are evenly heated.





Within Normal Limits: Navigating Medical Risks

Responding to Subpoenas—Best Practices and What to Avoid

🕒 2025-10-09

We welcome Dean McConnell, deputy general counsel at Copic, as this episode's guest who shares his thoughts on handling subpoenas, especially those involving medical records. McConnell starts by describing key details about subpoenas, the requirements of serving subpoenas, and how medical providers can confirm the validity of a subpoena. He explains the importance of carefully reviewing the scope of medical records requests and only producing the requested information while respecting confidentiality and privileges due to HIPAA, physician-patient privilege, and attorney-client privilege. In addition, Dean walks through a list of pitfalls to avoid with subpoenas, along with practical suggestions and when to seek legal counsel.



Call Us



CHECKLIST FOR RESPONDING TO CIVIL SUBPOENAS

RESPONDING TO CIVIL SUBPOENAS FOR HEALTH CARE PROVIDERS

PUBLISHED: NOVEMBER 2023

RESPONSE CHECKLIST

- Document Receipt of Subpoena
- Notification and Document Gathering
- Stop Routine Document Destruction and Issue Litigation Hold
- Investigate for Records
- Confirm Proper Subpoena Logistics
- Evaluate for Privilege
- Determine Status of HIPAA Authorization
- Examine Subpoena Type
- Determine Valid Authorization
- Determine Involvement of Substance Use Disorder or Mental Health Records
- Decide Course of Response
- Consider Cost Burden
- Evaluate Insurance Policies' Notice Requirements

STATE-SPECIFIC GUIDELINES

ARIZONA (Arizona Rules of Civil Procedure, Rule 45)

Subpoena Requirements	Separate subpoena for records allowed. Must state the method for recording the testimony. Records produced must be promptly made available to all other parties. Must be served by person who is not a party and is at least 18 years old. Copy of records subpoena must be served on each party at least two days before it is served on the person subpoenaed.
Witness Fee	If subpoena requires attendance, witness fee for one day's attendance and mileage allowed by law must be served with subpoena. State does not have to pay.
Who Must Be Served	Requires delivering to the named person.
Time of Service	No time specified for testimony.
Objections	May serve a written objection to records production. Must file motion to quash to object to appearance. Must appear unless excused by court or serving party. Written objection or motion to quash must be served within time specified for compliance or within 14 days after the subpoena is served, whichever is earlier.
Place of Service	Anywhere within the state.
Place of Testimony	For trial testimony, anywhere within the state. For deposition or hearing, where the person resides or transacts business in person, in county where the person is served, or within 40 miles from the place of service; or place fixed by a court order.
Asserting Privilege	If withhold documents for privilege, must give privilege log describing nature of document and state privilege applicable. Party requesting a privilege log must pay the subpoenaed person's reasonable expenses.

COLORADO (Colorado Rules of Civil Procedure, Rule 45)

Subpoena Requirements	Separate subpoena for records allowed. Must state the method for recording the testimony. Must be served by person who is not a party and is at least 18 years old. Subpoena cannot be used to avoid the limits on discovery. Subpoena cannot be used on named parties. After service, copy must be immediately served on other parties. Must make records available to all other parties in a timely fashion for inspection and copying. Copy of subpoena rule must be attached.
Witness Fee	If attendance required, must tender payment for one day's mileage within reasonable time after service (but before appearance).
Who Must Be Served	Requires delivering a copy to the named person, unless court orders otherwise. May agree to waive personal service.
Time of Service	For trial testimony, no later than 48 hours before the time for appearance. For deposition testimony, no later than seven days before compliance date. For records, no later than 14 days before production.
Objections	May serve a written objection to records production. Must appear unless excused by court or serving party. Written objection or motion to quash must be served within time specified for compliance or within 14 days after the subpoena is served, whichever is earlier.
Place of Service	Anywhere within the state.
Place of Testimony	For deposition, CO residents can only be subpoenaed in county where they work or reside. For non-residents, within 40 miles of place where served in Colorado or in county where they work or reside. For trial testimony, where trial is, but may move to quash or modify if a burden.
Asserting Privilege	Subpoena must be accompanied by an authorization signed by the privilege holder or a court order authorizing production. If no authorization or court order, shall not appear to testify and shall not disclose any of the privileged records to the party who issued the subpoena. If withhold documents for privilege, must describe nature of document and state privilege applicable.

Checklist for Responding to Civil Subpoenas • November 2023 P10/1

IOWA (Iowa Administrative Code, I.C.A. Rule 1.1701)

Subpoena Requirements	Separate subpoena for records allowed. Must be served by person who is not a party and is at least 18 years old. Must copy each party if request records. Copy of subpoena rule must be attached. Must state method of recording deposition. Records subpoena must be served on other parties before service on witness. Copies of records must be shared with other parties.
Witness Fee	If requested, must tender one day's attendance and traveling fees. Court may order that the subpoenaed non-party be reasonably compensated.
Who Must Be Served	Requires delivering a copy to the named person.
Time of Service	Reasonable time to comply, but no set minimum.
Objections	Must be served before the earlier of the time specified for compliance or 14 days after service.
Place of Service	Anywhere within the state, or where court orders.
Place of Testimony	Within 50 miles of where the person subpoenaed resides, works or transacts business
Asserting Privilege	If withhold documents for privilege, must give privilege log describing nature of document and state privilege



Informed Consent

Informed consent is both a *process* and a *legal obligation*

- Patients have a fundamental right to make decisions about their care
- Rooted in legal & ethical principles
- Required by CMS & state laws
- Failure to obtain could lead to a negligence claim



Informed Consent

- 4 elements patient or their proxy must understand
 1. Nature of the condition
 2. Proposed treatment (medication, procedure, etc.)
 3. Substantial risks of proposed treatment
 4. Alternatives, including not treating the issue, & their substantial risks



Informed Consent

Reasonable Physician

- Professional Standard – what would most physicians disclose to a patient?
- A reasonable physician in the same specialty with the same or similar circumstances would have considered the information important for a patient to know before deciding on treatment

Reasonable Patient

- Patient Standard – what would a patient want to know before making a decision?
- A reasonable person in the patient's position would consider the information material to the decision to undergo the proposed treatment

Informed Consent

- Providers are responsible for obtaining informed consent, facilities are responsible for insuring documentation of informed consent
- Special Situations
 - Emergencies
 - Minors
 - EMTALA
 - Informed Refusal



Informed Consent

High Risk for Liability

- Consent signed just prior to procedure
- Risks were minimized
- Alternatives were not thoroughly discussed
- Patient lacked capacity to consent (including sedating medications)
- Form incomplete or unsigned

Best Practices

- Use common language instead of medical terms
- Use teaching aids, drawings, etc. & document their use
- Allow time for discussion
- Ask open-ended questions & teach-back method to ensure understanding

Informed Consent

- Our medication safety team received a report that a patient had a serious but well-known adverse reaction to a medication they had been prescribed
- The patient says they were unaware this reaction was possible
- The provider says they discussed the reaction with the patient, but this isn't documented



- **Jousting (A form of disruptive physician behavior)**

- We just heard from a patient that a local surgeon told her we provided unbelievably bad care.
- The patient says she is getting an attorney.
- This surgeon has done this multiple times.
- What do we do?



Why Would One Behave in this Fashion

- Negatively impacts
 - Quality of care
 - Adverse events
 - Medical errors
 - Patient mortality
 - Patient experience
 - Risks of litigation



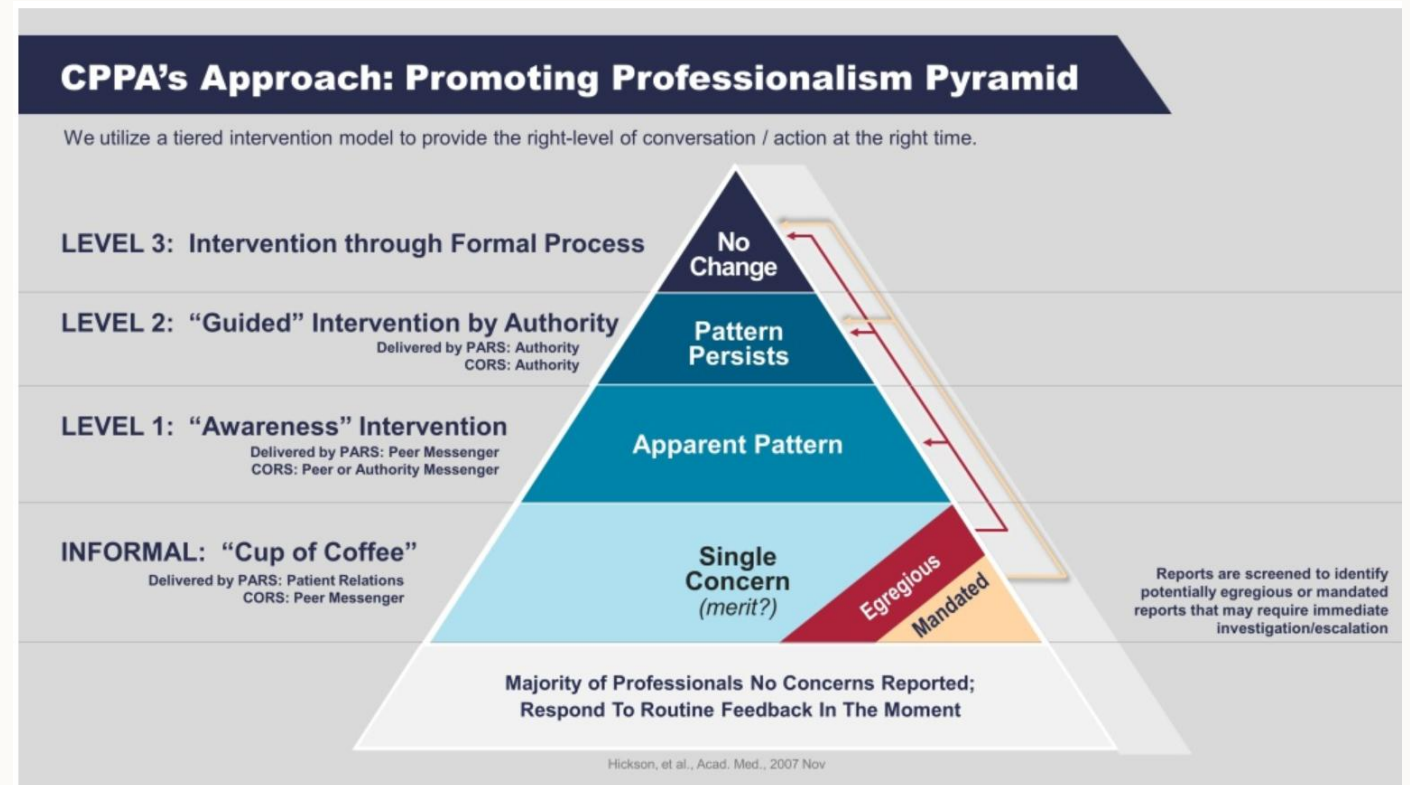
Models- Vanderbilt and Others

- Professional development courses demonstrate significant effectiveness.
 - 86% experience improvement
 - Mean of 51% reduction in worst behaviors

> [Jt Comm J Qual Patient Saf.](#) 2020 Feb;46(2):64-71. doi: 10.1016/j.jcjq.2019.11.004. Epub 2019 Dec 30.

A Professional Development Course Improves Unprofessional Physician Behavior

[William H Swiggart](#), [James L Bills](#), [J Kim Penberthy](#), [Charlene M Dewey](#), [Linda L M Worley](#)



Do Not Ignore or Allow to go Unaddressed

- Organizations must commit to ensuring psychological safety for all team members, as the hostile environment created by disruptive behavior makes it difficult for staff to advocate for patients.
- Leadership commitment is essential, as reluctance to address disruptive behavior—particularly in revenue-generating physicians—perpetuates the problem
- State Medical Boards, Other Credentialing Bodies

Thank You!

QUESTIONS?