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Copiscope

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Please save all issues of Copiscope for future reference

1	Requirements of the Michael Skolnik Medical Transparency Act
2	Lessons from the John Ritter Case
4	Clarification Regarding "Unnecessary Mastectomy" Article Tamper Resistant Prescription Pads Required for Medicaid Patients
6	Prescription Drug Monitoring Program Now Operational
7	Statewide Seminars



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Requirements of the Michael Skolnik Medical Transparency Act

Please note that this requirement for licensure was passed via legislation, and the Colorado Board of Medical Examiners is charged with implementation. COPIC has chosen to assist with educating our insureds. Because the Act was passed by the state legislature, comments/complaints about the act directed towards COPIC or the Board will be ineffective. Licensed practitioners with comments/complaints should direct those to their legislators. To find your legislator, visit callcopic.com and click on the Legislative Action Center link at the top left of your screen.

CBME Implementing Requirements of Michael Skolnik Medical Transparency Act

The Colorado Board of Medical Examiners (CBME or Board) will be implementing the requirements of HB07-1331, known as the Michael Skolnik Medical Transparency Act (Transparency Act or Act), which was passed by the Colorado General Assembly in 2007. The Act requires all physicians who apply for an initial license to practice medicine on or after January 1, 2008 to disclose specific information that will be publicly posted on the CBME web site and will be searchable by the public. These requirements also apply to physicians who make application on or after January 1, 2008 to reinstate or reactivate an existing license. Please note that physicians who held an active license prior to January 1, 2008 will be required to comply with the Transparency Act as part of the next license renewal in May 2009.

The Act requires that the following be disclosed to the public:

- Name
- Aliases
- Current address
- Telephone number
- Information regarding all medical licenses ever held
- Current Board certifications
- Practice specialty (ies)
- Affiliations with hospitals and health care facilities
- Current ownership interests in businesses
- Current employment contracts
- Public disciplinary actions against a medical license
- Agreements and stipulations to temporarily cease medical practice
- Involuntary hospital or health care facility privileging actions
- Involuntary surrender of a Drug Enforcement Administration (DEA) registration
- Criminal convictions or plea arrangements for felonies and crimes of moral turpitude

(continued on page 2)

- Judgments, settlements and arbitration awards for medical malpractice claims
- Refusal by an insurance carrier to issue medical liability insurance

The CBME has adopted rules and policies to clarify the requirements of the Transparency Act. Below are highlights from those rules and policies but you are strongly encouraged to read them in their entirety. The rules and policies can be found on the CBME website at <http://www.dora.state.co.us/medical/physicianprofile.htm> (click on "rules and policies" in the last paragraph).

Requirements:

1. The Transparency Act requires the physician to report several enumerated types of information to the Board, and requires the physician to provide several specified types of documents in connection with an application for initial licensure, licensure reactivation, licensure reinstatement or licensure renewal. It also requires the physician thereafter to update the Board regarding the enumerated types of information to the Board and to provide updated documents within thirty days of any given action.
2. If required documents relate to an action that occurred years ago and cannot reasonably be obtained in a timely fashion, a physician may request an extension of time from the Board's Program Director or the Program Director's designee to provide the documentation. If upon further documented effort that the required document(s) still cannot be obtained, the physician may request an exemption from the Board's Program Director or the Program Director's designee from the requirement to provide the documentation.
3. An extension of time to produce a required document or an exemption from the requirement to produce a document does not exempt the physician from reporting the action to the Board as required by the Transparency Act. The physician shall make a good faith effort to assure the accuracy of the information posted regarding the action. Where exact dates are not available to the physician, the physician shall provide a reasonable estimation.
4. For purposes of reporting a conviction of a crime pursuant to § 12-36-111.5(3)(f), C.R.S., a physician must report such a conviction within thirty days of the entry of judgment and sentence.
5. The pendency of an appeal of any criminal, civil, administrative or peer review action shall not exempt a physician from the reporting requirements of § 12-36-111.5, C.R.S. If a criminal, civil, administrative or peer review action is reversed on appeal, the Board shall update the physician's information pursuant to § 12-36-111.5(6), C.R.S.

Implementation

It is the Board's goal that physician applicants will be able to complete the profile electronically by June 30, 2008. In the interim, physician applicants will provide the physician profile in hard copy form and that hard copy information will be made available to the public upon request. Once the electronic, Internet-based system is functional, the hard copy profiles that have been received will be converted to an electronically available profile. The profile forms are available at http://www.dora.state.co.us/medical/forms/Physician_Profile_forms.pdf.

Questions regarding the profile should be directed to Tracey Martinez, Physician Profile Administrator, at (303) 894-5965 or by e-mail to tracey.martinez@dora.state.co.us. The profile form website contains instructions for each required reportable element.

Enforcement

The enforcement of the Transparency Act is complaint-driven. The CBME has not been charged with the duty to monitor the content of a physician's self-reported profile and does not have the resources to do so. The legislation states that providers must report updated information and provide copies of the required documentation to the Board within thirty days of the action. It also states that the Board can issue fines up to \$5,000 for noncompliance and may take disciplinary action. The Transparency Act prohibits the Board from renewing the license of a physician who fails to pay a fine imposed by the CBME for noncompliance with the requirements of the Transparency Act.

Learn More About the Transparency Act—One Hour Educational Seminar

COPIC's legal department has developed a one hour educational seminar about the Transparency Act. As the seminar will likely be in high demand prior to the May 2009 full implementation deadline, our priority will be to present this seminar to larger audiences (state and county medical society meetings, grand rounds, large professional society meetings, etc.). In addition, physician risk managers will incorporate information about the Transparency Act into their general risk management and specialty-specific seminars given throughout the state. They will also provide handouts about the Transparency Act at these sessions.

Physicians will receive one ERS point for attendance. For scheduling information, please call Sunny Hessler at (720) 858-6128 or (800) 421-1834 ext. 6128.

Lessons from the John Ritter Case

The John Ritter case illustrates some important and interesting points from a medicolegal perspective. Because the case was not a COPIC case, we aren't able to conduct a comprehensive review; however, the mainstream media coverage allows us to discuss some important aspects of the case without having to provide the normal protections we offer our insureds when we normally publish such case studies.

(continued on page 3)