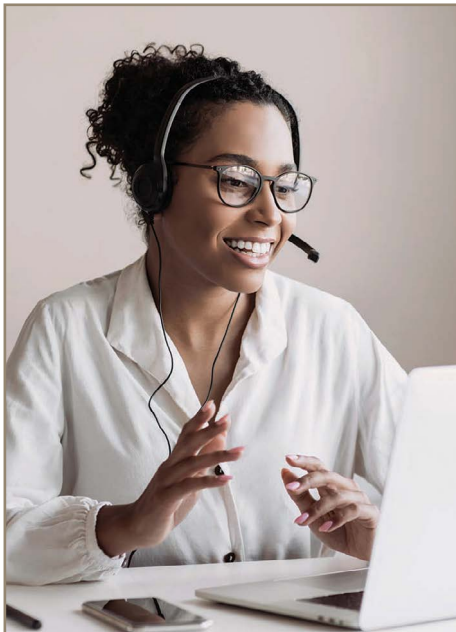




# AFTER-HOURS CARE AND COVERAGE REQUIREMENTS

## SCENARIO

*A group of physicians is planning to start a new practice together. In the process of talking through the factors they want to consider, one of the doctors asks, “what do we have to do to make sure that we are meeting our responsibilities for after-hours coverage of our patients?” In the subsequent discussion, it became clear that the physicians needed more information about the basic expectations for providing after-hours care and coverage of their patients. One of the doctors reached out to COPIC for suggestions on where to find more information.*

Help with guidance for after-hours coverage is a common request that COPIC hears from our insureds and this article touches on some basic, key points. Importantly, neither COPIC nor this article set standard of care, but the information here addresses some ways that a high-performing organization can consider after-hours care and coverage. This information is applicable across all states. However, it is not meant to specifically satisfy all the requirements of a given state’s regulatory statutes. What follows are several important considerations and frequently asked questions:

### What are some basic assumptions we can make around guidance for practice coverage?

Most practice guidance is directed toward patients that the provider has an active, ongoing relationship with and does not address the Emergency Medical Treatment and Active Labor Act (EMTALA) or other emergency department or hospital coverage requirements. Additionally, most states will have their own, unique regulatory statutes, and a personal health law attorney can review a practice’s procedures and policies for compliance. To find state-specific guidelines and federal expectations around practice coverage, some organizations that generally offer resources include your state’s medical society or medical board, national medical societies, and The Health Resources and Services Administration (HRSA.gov).

### Do the guidelines apply to everyone who works in a practice?

The guidance is generally meant to outline expectations for licensed clinical providers with respect to their own practice coverage, for patients whom a provider/patient relationship has been established, or for coverage of another provider or practice who they have a coverage agreement with.

Guidelines apply to both clinicians who provide care to patients on an ongoing basis, such as primary care providers, as well as clinicians who provide discrete medical services that have an identifiable beginning and end, such as specialty consultants or proceduralists.

For discrete services, any guidance would generally be expected to apply until follow-up care is no longer warranted and is no longer required under generally accepted standards of medical practice.

#### Example:

*A gastroenterologist performing routine screening colonoscopies would be expected to be available or have coverage available for a patient the evening of the procedure and for a finite period thereafter. However, he or she would not necessarily be expected to be available for that patient a month later.*

### **In forming a policy, what are some of the most basic operating procedures to help ensure patient safety?**

When a patient seeking after-hours coverage calls, they are connected to an individual with the qualification and training necessary to exercise professional judgment to address an after-hours call.

Coverage is timely and provided via telephone or other direct, real-time communication or face-to-face by an individual with the qualification and training necessary to exercise professional judgment in assessing a patient's need for care, including emergency medical care.

Coverage allows a practice to offer appropriate care via the coverage interaction, such as refills or medication prescribing, and the ability to refer patients for further consultation or to locations such as emergency rooms or urgent care facilities for further assessment or immediate care as needed.

The practice's coverage plan is outlined in written operating policies and procedures.

### **How should you communicate after-hours coverage information to patients?**

It is the licensees' responsibility to assure that the practice coverage policy is communicated to patients in a clear and understandable way. It is preferable that the policy be communicated to patients both verbally and in writing, such as in a patient brochure, at the time the provider/patient relationship is initially established.

The clinical leadership should ensure that providers and front desk staff are able to provide information to patients on how to access after-hours coverage. Subsequent changes to the practice coverage policy also need to be communicated to patients.

Patients, including those with limited English proficiency, should be informed of and able to access after-hours coverage, based on receiving after-hours coverage information and instructions in the language(s), literacy levels, and formats appropriate to the health center's patient population needs.

### **What are the potential consequences of failing to have adequate after-hours coverage plans or failing to follow the generally accepted guidelines?**

The guidelines exist for patient safety and to support the possibility of early recognition and management of a medical condition that might otherwise deteriorate or where timely intervention is best practice. Failure of a licensee to adhere to these guidelines may be considered substandard care or patient abandonment by medical boards, which may constitute unprofessional conduct.

### **Who should provide the after-hours coverage?**

Ideally, the licensee will have well codified coverage arrangements with providers within the same practice or specialty or within an institution or facility. It is expected that the licensee will have an explicit coverage arrangement to assure continued care for patients outside of normal office hours or when otherwise unavailable.

### **Do we need to document after-hours calls?**

The practice will also want to document after-hours calls, and calls where there is a high-risk clinical scenario or where critical information is exchanged. Calls should be documented contemporaneously and include an outline of the thought process.

### **Can we just have a recording that directs all patients to go to the emergency room if they have concerns after-hours?**

Generic communications to patients, by voicemail for example, to simply to go to an ED for after-hours care do not replace a licensee's obligation to provide coverage as stated previously. A recording telling patients who call with concerns to go to an ED would be outside of generally accepted practices.

### **How does EMTALA apply to after-hours situations?**

EMTALA applies to physicians who are on-call for the ED. Physicians who are on call for a respective ED who fail or refuse to respond to the ED within a reasonable time after notification are subject to fines of up to \$50,000 per violation and potentially other sanctions. For detailed information on EMTALA and how it applies where you practice, please review your hospital's medical staff bylaws, rules and regulations, or policies and procedures or consult a health law attorney.