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CASE OF THE MONTH

Don't Fall for Shortcuts When It Comes to Copy and Paste

by Brad Dunkin, MHA

The advent of electronic medical records brought efficiency and a vast array of technical capabilities, including the popular "copy and paste" function, to the medical office. Copying and pasting is widely used by clinicians and is a convenient and time-saving way to export important and pertinent patient information from one section of the medical record to another. However, copying and pasting information has the potential to harm patients if not done prudently. One study of electronic medical records (EMR) indicated that pre-populating, copying, and pasting information represented the majority of medical record deficiencies.[1] From a professional liability standpoint, careless use of this popular function weakens potential defenses against medical malpractice claims, reflects poorly on the provider, and raises doubts as to the quality of the care provided.

The following scenario is based on a compilation of facts from various cases,[2,3,4] and illustrates how copying and pasting outdated and unverified patient information led to a poor outcome. Unfortunately, there are many similar instances in which this documentation "shortcut" has led to preventable patient harm.

Dr. J was attending to a 65-year-old male patient, Mr. A, who had come in for removal of an ingrown toenail. During the procedure, Mr. A reported to Dr. J that he was also experiencing balance issues. Unfortunately, Dr. J was in a rush and decided to quickly copy and paste examination notes from another similar patient's EMR into Mr. A's record to save time. As a result, he omitted documenting Mr. A's current balance issues.

A week later, Mr. A returned to the clinic for a routine post-procedure appointment. During the examination, Dr. J did not inquire about or address his balance issues because he relied on the previously copied and pasted notes which did not include this information. As Mr. A exited the exam room, he lost his balance and stumbled, causing him to fall and sustain a severe injury to his foot. The fall resulted in a fracture and required immediate surgical intervention to repair the damage. Mr. A was in significant pain and faced a long and arduous recovery.

Mr. A decided to file a lawsuit against Dr. J and the clinic, seeking compensation for medical expenses, pain and suffering, and any long-term effects caused by the fall. The lawsuit alleged that Dr. J failed to evaluate and treat his balance issues.

As the case progressed, the focus shifted to documentation practices. During Dr. J's deposition, it was revealed that he copied and pasted notes from another patient's record, omitting Mr. A's complaint

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of balance issues. Overall, these poor documentation practices created the impression that Dr. A was careless and unobservant with respect to his patient's well-being and safety.

To prevent similar incidents in the future, Dr. J implemented the following changes in his practice:

1. **Enhanced documentation review:** Dr. J pledged to meticulously review and verify all copied information in patient records, ensuring accuracy and relevance.
2. **Increased awareness:** The incident prompted Dr. J to educate himself and his staff on the potential risks of copy and paste errors. This included the implementation of training programs and periodic reminders about the importance of accurate documentation.

There are several risk issues associated with copying and pasting in the patient medical record, including:

- **Inaccurate or outdated information:** If the original information was entered incorrectly or has since been updated, the copied information will not reflect the most current patient data.
- **Cloning of information:** Repeating the same content can create confusion and make it difficult to identify the most recent and relevant information.
- **Lack of context:** Without proper context, it may be difficult to accurately represent the patient's current condition or clinical reasoning behind the decision-making process. This can lead to misinterpretation or an incomplete understanding of the patient's medical history.
- **Legal and compliance issues:** Copying and pasting sensitive or protected health information may violate patient privacy laws and regulations if the information is shared or accessed by unauthorized individuals.
- **Generic documentation:** Documentation that is not customized or specific to an individual patient's condition may negatively impact the quality of care provided, hinder continuity of care, and prevent effective communication among healthcare providers.
- **Diagnostic errors:** If copied information includes incorrect or outdated clinical findings, it can lead to diagnostic errors.
- **Increased risk of medical errors:** When incorrect information is copied and pasted, it increases the likelihood of errors and inaccurate treatment plans, compromising patient safety.

To mitigate these risks, physicians should establish clear policies and guidelines for appropriate use of copying and pasting in the medical record. Healthcare providers should be educated on potential risks and encouraged to critically review and update information before incorporating it into the patient's record. Regular audits and monitoring can help identify trends and proactively address issues. Below are related documentation principles that should be considered when creating documentation guidelines:

- Enable users to readily identify which text was copied and pasted.
- Make the origin date of the copied material available for reference.
- Monitor how copy and paste is being used in the practice setting.
- Consistently verify information in your note, especially information that is pasted or carried forward to ensure accuracy and internal consistency in the patient's medical record.

Practicing sound copy and paste principles will promote safe and quality patient care, decrease risk, and prevent your documentation from becoming a distraction in the event of a professional liability claim. For additional

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guidance, consult the Toolkit for the Safe Use of Copy and Paste at: https://www.ecri.org/Resources/HIT/CP_Toolkit/Toolkit_CopyPaste_final.pdf.[5]

Brad Dunkin, MHA, is Assistant Vice President, Risk Management and Patient Safety. Questions or comments related to this article should be directed to BDunkin@CAPphysicians.com.

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Join Your Fellow Members for CAP's 6th Annual Public Affairs Symposium!

Register today for CAP's 6th Annual Public Affairs Symposium! You will have the chance to hear from CAP's team of political experts on state and federal policy issues, and gain insight into the November elections.

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- Potential federal fixes for the Physician Fee Schedule cuts
- 2024 presidential elections

This year's panelists include carefully selected experts who are directly involved in influencing policies at the state and federal levels on behalf of CAP, its members, and independent physicians everywhere.

They include: CAP's Federal Lobbyist, Robert Bradner, Holland & Knight; CAP's State Lobbyist, Shane LaVigne, Capitol Advocacy; CAP's Principal Political Consultant, Peter Mitchell, PM Consulting, Inc.; and CAP Government Affairs Analyst, Gabriela Villanueva, as moderator. We also look forward to welcoming special guest, Physician Association of California (PAC) President and CEO, Matt Robinson.

Arming Physicians With Knowledge: Strategies To Manage Patients With Concealed Firearms

by Bryan Dildy, MPA, CPHRM, CPPS

Your patient, Michael, walks into your clinic for a routine evaluation. You have treated Michael in the past and he has always been pleasant and compliant with his medical care. As you continue with your examination, Michael discloses he has a gun. Feeling uncomfortable and unaware of what to do, you nervously proceed with the examination. After you complete your assessment and Michael exits, you sit down in your office with the realization that you just examined an armed patient. Your mind spins about what to do next and how you can protect your patients, staff, visitors, and yourself.

The described scenario may be shocking and unimaginable, but such scenarios have occurred within medical facilities and among CAP member practices. Since the landmark Supreme Court case, *New York State Rifle & Pistol Association, Inc. v. Bruen* (Bruen), there has been a growing interest in the ability to carry concealed firearms.[1] In Bruen, the Supreme Court held that the Second and Fourteenth Amendments protect an individual's right to carry a handgun for self-defense outside the home.[2] The Supreme Court also held that New York State's requirement that an applicant demonstrate a "special need" (i.e, evidence of a particular threat, attack, or extraordinary danger to personal safety) before being issued a permit to carry a handgun, is a violation of one's constitutional rights.[3]

As a result of Bruen, some California counties have experienced increases in the number of applications to carry concealed firearms. For example, in 2023 and in response to Bruen, San Diego County's applications to carry concealed firearms doubled.[4] Though only certain counties have experienced application increases, all California counties have issued concealed firearm permits.[5] Therefore, it may be likely that you will encounter someone with a concealed firearm.

In response to the Bruen case, the California legislature spearheaded and passed Senate Bill 2 (SB 2) last year, which was prompted by the belief that state-mandated restrictions were necessary to limit the public settings in which a person could carry a concealed firearm.

SB 2 and the Expansion of Sensitive Place Designations

Generally, in California, it is illegal to carry a firearm in public.[6] However, California permits an individual to carry a concealed weapon if they possess a carry concealed weapon (CCW) permit.[7] To obtain a CCW permit, a person must complete the following: a background and criminal history check, a minimum 16-hour training course, and a live-fire shooting exercise demonstrating safe handling and shooting of a firearm.[8] There may also be a requirement for a police interview and psychological examination, which is county dependent.[9] Once granted a CCW, a person may carry a concealed firearm except in certain designated sensitive places.[10]

California currently recognizes school zones, state buildings, local public buildings, sterile areas of an airport (i.e, areas of the airport that are controlled by screening of person protocols), passenger terminals, and public transit facilities as sensitive places.[11]

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On January 1, 2024, SB 2 became effective and sought to further expand the sensitive place definition to encompass healthcare facilities, including medical offices and public or private hospitals.[12] However, on December 30, 2023, a federal judge in the U.S. District Court for the Central District of California issued a partial preliminary injunction, which prohibited the enforcement of certain SB 2 provisions that expanded the sensitive places scope, including healthcare facilities.[13,14]

Managing Safety and Setting Expectations

Until the legal dust settles, the constitutionality of designating medical facilities as sensitive places remains uncertain. Despite this uncertainty, it is best to address the issue of concealed firearms by proactively providing guidance to staff on the proper management of CCW cases **before** they happen. At a minimum, if you prefer that patients not carry concealed firearms within your facility, your procedure should consist of the following:

1. Set expectations from the beginning. Communicate early with your patients that to support a peaceful, comfortable, and safe environment for other patients and staff, it is preferred that they do not bring firearms into the facility/office regardless of whether they hold a CCW permit. Posting signs indicating this information is an option.

2. If a firearm is discovered or the patient discloses that they are legally carrying a concealed weapon, the patient should be informed that the examination cannot safely proceed because of the interference the firearm causes with the assessment process. It should also be explained that the facility is unable to safely secure the firearm during the examination and that the firearm must be secured off the premises before the examination can safely continue.

3. Instruct your staff not to offer holding or handling a patient's firearm at any time. Instead, direct the patient to secure the firearm off-site.

Consider including the above procedures as part of your facility's workplace violence prevention plan. For assistance in developing your plan, you can access CAP's medical practices workplace violence toolkit at **https://www.capphysicians.com/articles/workplace-violence-toolkit-medical-practices**. Free assistance regarding workplace violence prevention programs in healthcare is also available by contacting **Cal/OSHA Consultation Services** at **(800) 963–9424** or **InfoCons@dir.ca.gov**.

By taking the proactive steps described above, you will be better equipped to manage patients who may be carrying a concealed firearm, and help protect yourself, your staff, and your patients.

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[6]Cal. Penal Code Sections 25400, 25850

[7]Cal. Penal Code Sections 26150, 26155

[8]Cal. Penal Code Sections 26150, 26185, 26165

[9]Cal. Penal Code Section 26190

[10]District of Columbia v. Heller, 554 U.S. 570, 626-27 (2008) & Bruen, 597 U.S. at 30 recognized the concept of "sensitive places" and the ability to prohibit firearms within such places without violation of the Second Amendment.

[11]Cal. Penal Code Section 26230

[12]Id.

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California's 2024-2025 State Budget Outcomes

by Gabriela Villanueva

In June, after months of negotiations and days before the start of the new fiscal year, state legislators finally agreed on a $297.9 billion spending plan and closed a $45 billion budget deficit.[1]

Anticipating continued deficits over the next several years, the spending agreement maintains a multi-year fiscal structure to balance the budget in both 2024-2025 and 2025-2026 and includes cuts, deferments, and delays in new funding increases and new programs implementation.

Just two years ago, Governor Gavin Newsom boasted about a $97.5 billion surplus as a result of COVID-19-related federal funding and a temporary surge in tax revenues from a post-pandemic economic recovery.[2] At the time, the surplus and an overly optimistic outlook on the revenue surge led the governor and the legislature to vote on ambitious new funding commitments, including increases in healthcare spending.

This is the second year the governor has had to scale back or delay approved policies.

Two major healthcare areas impacted by the final budget agreement are:

- Implementation of SB 525, the bill on minimum wages for healthcare workers, has been delayed. The wage increase will now go into effect on October 15, 2024, but only if tax receipt revenue levels exceed three percent of projection in the first quarter of the fiscal year. Should the requirement not be reached, implementation will be pushed to January 1, 2025.[3]
- The delay of Medi-Cal provider rate increases previously negotiated by the re-implementation of the Managed Care Organization (MCO) tax to 2026. The May revision to the state budget had included the availability of $9.7 billion of MCO tax funds over multiple years to support the Medi-Cal program. In the final agreement, however, the governor redirected $6.7 billion—the single largest cut made to the budget—to offset the General Fund spending.[4] Complicating the issue is an approved November ballot initiative that would overrule any cuts made to the state budget and prevent Governor Newsom's decision to redirect funds. Should the ballot initiative pass in November, a provision was included in the budget statute that would make the rate increases inoperable.

The governor has declared a statewide fiscal emergency to access the rainy day fund reserves, drawing down $5.1 billion for the 2024-2025 fiscal year.[5]

Gabriela Villanueva is CAP's Government and External Affairs Analyst. Questions or comments related to this article should be directed to GVillanueva@CAPphysicians.com.

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Protecting Your Medical Office From Costly Disasters

How to Leverage Cutting-Edge Technology From Your Property/Casualty Insurance

SYMPHONY RISK

Did you know that water damage is the most common cause of property damage to businesses? Unexpected water leaks or broken pipes can quickly disrupt your office, costing you valuable time and money. Water damage not only impacts your medical equipment and office property, but it can also impact your business income if you are forced to close while your office is repaired.

If you own or lease property or office space for your practice, it's best to have a plan in place and be prepared.

A Business Owner's Policy (BOP) combines a wide range of liability and property/casualty insurance coverage into a single package, and is one of the best ways to protect your practice and mitigate your business losses.

A good BOP:

- Provides insurance against alleged claims of personal injury or damage unrelated to medical malpractice, including legal defense costs and settlements
- Repairs or replaces damaged buildings, equipment, or other business property
- Reimburses lost income or costs if the practice closes following a property loss
- Covers the cost of replacing or restoring damaged records or files due to a property loss
- Pays for medical costs of individuals other than employees who are injured at your practice

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If you are considering a change in your practice this year or in 2025, please notify CAP as soon as possible. Our Membership Services team can work with you to ensure that any necessary coverage transitions are implemented smoothly.

Changes include, but are not limited to:

- Retirement from practice at age 55+
- Part-time practice (e.g., 20 or fewer hours per week or 16 hours for anesthesiologists)
- Reduction or any change in the scope of your practice
- Employment with a government agency or non-private practice setting
- Employment with an HMO or other self-insured organization
- Joining a practice insured by another carrier
- Moving out of state
- Termination of CAP membership

The Mutual Protection Trust (MPT) Board of Trustees will levy an assessment in November 2024. To allow ample processing time, we strongly recommend that you provide any updates to CAP no later than October 31, 2024, to be evaluated for reductions or proration of the 2025 assessment.

Contact Membership Services by phone at **800-610-6642** or by email at **MS@CAPphysicians.com** to update your CAP membership information today!

The Latest From the Physician Association of California (PAC)

In November 2023, the Cooperative of American Physicians (CAP) announced its alignment with the Physician Association of California (PAC), a new organization representing small group practices and independent physicians.

As a benefit of CAP's relationship with this new association, all CAP members automatically receive a complimentary membership in PAC.

To keep apprised of PAC's latest activities, read their newsletter at:
www.CAPphysicians.com/PACNEWSLETTER

PAC Newsletter
June 2024

From the CEO, Matt Robinson

PAC's momentum continues to grow. Over the last several months, we've traveled throughout California, spreading the word about PAC and meeting with groups of physicians.

This month, we hosted the PAC Board of Directors meeting in Sacramento, where we also met with key members of the state legislature. Together, we communicated the challenges of running a small group or independent practice in California, and the benefits to our patients.

We are also pleased to welcome the physicians from Astrana Health to PAC. Astrana Health is a forward-thinking team of physician-led innovators committed to enhancing physician work satisfaction and repairing the healthcare system. They represent several thousand physicians throughout California. This partnership will expand PAC's reach to more than 15,000 members.

Looking forward, we are planning some exciting events for the fall and continuing our efforts to educate legislators and policymakers about your challenges so we can advocate on your behalf.

Continue reading at: **www.CAPphysicians.com/PACNEWSLETTER**

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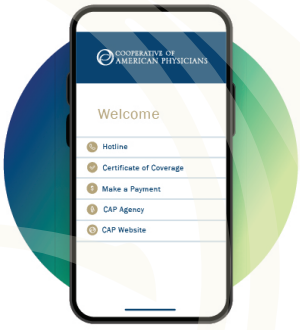

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We welcome your comments! Please submit to communications@CAPphysicians.com.

The information in this publication should not be considered legal or medical advice applicable to a specific situation. Legal guidance for individual matters should be obtained from a retained attorney.

JULY/AUGUST 2024