



Compliance News

Compliance Department Newsletter
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SAINT LOUIS
UNIVERSITY



TP Documentation Requirements Revised on November 22, 2002

The Centers for Medicare and Medicaid Services (CMS) issued a revision to the Medicare Carrier Manual, Section 15016, Supervising Physicians in Teaching Settings. The document may be accessed at www.cms.hhs.gov/manuals/transmittals/CR#2290. The changes are highlighted in red. The revision states that the teaching physician (TP) must personally document: a) they performed the service or were physically present during the key/critical portions of the service when performed by a resident; and, b) their participation in the management of the patient. The revision provides three scenarios and sample documentation to demonstrate the principles. In the first, the TP performs key elements without resident; in the second the resident performs elements in presence of, or jointly with the TP; and in the third, the resident performs some or all of elements in the absence of the TP. CMS confirms that when services are provided jointly documentation of the resident need not be repeated by the TP.

- Seen and agree
- Patient seen and evaluated
- Co-signature only
- Preprinted stickers, stamps or statements

In summary, while the revision clarifies some issues, the Teaching Physician regulation effective July 1, 1996 remains unchanged. As in the original ruling, documentation for the service must prove the **personal presence and participation** of the TP. Therefore, the UMG Legal and Compliance Committee, the Compliance Department and internal and external Counsel recommend that the best course of action for a number of reasons, including clinical care, professional liability, and compliance, is an accurate TP personal statement specifying particulars of the encounter with patient specific information according to the requirements that preceded the 11/22/02 transmittal.

HIPAA **FAQ of the Month**

Can the physician discuss a patient's care with family members without the patient's written authorization?

Answer: Yes. HIPAA does not prohibit the physician from discussing the patient's care with family members unless the patient has specifically requested a restriction of disclosure.

RESOURCES

- Compliance Department
268-5545
- Compliance HELPLINE
(877) 525-KNOW
- SLU HIPAA website
www.slu.edu/hipaa/
- Center for Medicare & Medicaid Services
<http://cms.hhs.gov/>
- Missouri Medicare Services
www.momedicare.com

Any comments or questions regarding the Compliance Newsletter should be directed to the Compliance Department at monahanl@slu.edu.

CMS provides examples of minimally acceptable TP documentation for each scenario. Minimally **ACCEPTABLE** TP statements are:

- *I performed a history and physical exam of the patient and discussed management with the resident. I have read the resident's note and agree with the documented findings and plan.* (Scenario 1)
- *I saw the patient with the resident and agree with the resident's findings and plan.* (Scenario 2)
- *I saw and evaluated the patient. I reviewed the resident's note and agree, except that picture is more consistent with pericarditis than myocardial ischemia. Will begin NSAID's.* (Scenario 3)

Examples of **UNACCEPTABLE** TP documentation remain:

- Agree with above
- Rounded, Reviewed, Agree
- Discussed with resident. Agree

Medicaid Fraud **Recoveries Fall Short**

According to a report issued by the Taxpayers Against Fraud (TAF), Medicare fraud recoveries are more than 20 times greater than Medicaid recoveries. This finding led TAF to exhort state agencies to redouble their efforts to combat Medicaid fraud.

TAF reported that Medicaid fraud collections totaled \$43 million in 2001, while Medicare collected more than \$1 billion. The study's author, Andy Schneider, J.D., principal of Medicaid Policy, LLC said, "With so many states under pressure to cut back their Medicaid Programs because of budget constraints, we can and should do more to take back every dollar possible from those who defraud Medicaid."

For more:
<http://www.taf.org/newsmay2003.html>

CELEBRITY SPOTLIGHT



Celebrity (noun):
*A famous person,
hero, luminary,
name, notable
personality.*

The purpose of this column is to shine the compliance spotlight on people or departments who make an outstanding contribution to the compliance initiative at SLU. Any department or member of the faculty or staff could be the focus of this column. So be alert. You may be the Compliance Celebrity of the quarter!

This issue spotlights Timothy J. Fete, MD, Professor of Pediatrics and Vice Chairman of Clinical Affairs. On February 6, 2003 Dr. Fete presented **CMS BILLING COMPLIANCE – 2003 Review** to his colleagues in the Department of Pediatrics. His preparation for the presentation included 16 hours spent attending compliance education and audit summary sessions offered to members of the divisions of Pediatrics by the Compliance Department.

Dr. Fete utilized information reviewed and discussed at the compliance education sessions to identify trends and issues in documentation and coding. This knowledge combined with his expertise in pediatric medicine promoted the development of a focused education program. The peer-to-peer presentation facilitated an excellent opportunity for information and discussion that was specifically applicable to the practice of pediatric medicine.

Dr. Fete commented that, "It is clear that the Compliance Department role is primarily education—they can help each division develop a plan that will allow for the highest appropriate level of reimbursement with the least additional effort. Since they review all divisions, they can make suggestions regarding best practices from one division that might work in another division or department to reduce workload and improve reimbursement. The individuals in the department do not approach this task in a punitive way at all!"

If you would like to nominate someone for the Celebrity Spotlight, send an email to the Compliance Department. Include the individual or group name and a short message about their compliance efforts.

Recent Fraud Alerts

The following information is from *hcPro's compliance info.com*:

- Aetna Inc. agreed to pay \$170 million on May 22 to settle a class-action lawsuit filed by 700,000 physicians, according to the Associated Press (AP). The doctors accused the insurance company of using its clout to reduce payments to physicians, which interfered with patient care. Aetna was one of nine defendants in the case, and is the first to settle. Lawyers for the eight other defendants, including Cigna, United Health Group, and Humana, said the companies are ready to defend the case in court. In a company statement, Aetna said the settlement would open up a new era of cooperation between physicians and the company, and that the changes in billing procedures would make the payment process more efficient.
- A California physician's guilty plea on felony mail fraud charges on May 19 will exclude him from participating in federal health care programs for 15 years, according to Carol Lam, U.S. Attorney from California. The physician will also settle a civil suit brought by the government alleging that he upcoded diagnostic nasal endoscopies, submitted false claims for allergy tests that were not medically necessary, and falsified medical records. He will pay a \$1 million penalty.

SLU COMPLIANCE QUIZ

Test your "Compliance Quotient" by answering the following:

1. *True or False:* The teaching physician regulation outlined by HCFA that was effective on July 1, 1996 remains unchanged.

2. *True or False:* If a fellow writes a comprehensive note following an initial visit and indicates that the assessment and plan were discussed and reviewed by the teaching physician, the only documentation required for the T.P. is a co-signature.

3. *Fill in the blanks:* Documentation of the T.P. must reflect personal _____ and _____ in the service provided.

4. *Fill in the blank:* The SLU Compliance Policy outlines a process for reporting actual or potential compliance problems via a toll free anonymous hotline, which may be called at _____.

Answers to Compliance Quiz:
1) True, 2) False, 3) Presence,
Participation, 4) (877) 525-KNOW.

HIPAA Privacy Rule Implementation

The Department of Health and Human Services issued the Privacy Rule to implement the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Privacy Rule, which became effective on April 14, 2003, addresses the use and disclosure of individuals' protected health information (PHI) as well as standards for individuals' rights to understand and control how their health information is used.

The Privacy Rule has resulted in the establishment of SLU policies and procedures addressing access to and disclosure of PHI. The purpose of the policies is to protect the privacy of patients seeking health care while allowing the flow of information necessary to provide services.

HIPAA also requires new business contract language. When the University uses a contractor to perform "business associate" services or activities, the Privacy Rule requires that we include certain protections for the PHI in a business associate agreement. In these agreements, we impose specified written safeguards on the PHI used or disclosed by business associates. The Compliance Department, the Office of the General Counsel and department managers are working together to meet this requirement.

Other new policies address the Notice of Privacy Practices (NPP). The NPP describes the ways in which SLU may use and disclose PHI. It states our duties to protect privacy and describes individuals' rights, including a complaint process if they believe their privacy rights have been violated. The University is required to give a copy of this notice to each patient at the first treatment encounter after April 14.

HIPAA education is mandatory for all employees. Sessions are held monthly. The next six are scheduled for:

- July 22 at 9:00am in the Med School Lecture Hall A
- Aug. 26 at 4:00pm in LRC B
- Sept. 23 at 9:00am in LRC B
- Oct. 28 at 4:00pm in LRC B
- Nov. 25 at 9:00am in LRC B
- Dec. 16 at 4:00pm in LRC B

If you have any questions about HIPAA please contact the Privacy Officer at hipaa@slu.edu