



SAINT LOUIS
UNIVERSITY

Compliance News

Compliance Department Newsletter
Winter 2006



First-year residents



“Normally, I’d discuss your condition with these first-year residents, but because of confidentiality restrictions, all I can really tell them is that you’re a shoo-in for an invasive procedure.”

COMPLIANCE FAQ

Question: What actions are SLU employees to take if a government investigator asks for an interview or presents a search warrant?

Answer: The *Celebrity Spotlight* section features a response from Martin Clay, Esq., SLU Associate General Counsel.

RESOURCES

- Compliance Department
977-5545
- Compliance HELPLINE
(877) 525-KNOW
- SLU Compliance website
www.slu.edu/services/compliance
- 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.

IT'S ALL ACADEMIC

Medicare Billing Rules for Supervising Surgeons in Teaching Settings

The following information from the Medicare Carrier Manual (Section 15016), concerns billing for teaching physicians in a surgical setting. The complete text may be accessed through the CMS website (<http://cms.hhs.gov/>). Medicare billing rules may appear complex, but understanding how the rules apply to the Teaching Physician's individual practice is the first step to compliance and receiving accurate reimbursement for surgical services.

Procedures: *In order to bill for surgical, high-risk, or other complex procedures, the TP must be present during all critical and key portions of the procedure and be immediately available to furnish services during the entire procedure.*

The teaching surgeon is responsible for the preoperative, operative, and post-operative care of the beneficiary. The TP's presence is not required during the opening and closing of the surgical field unless these activities are considered to be critical or key portions of the procedure. During non-critical or non-key portions of the surgery, if the teaching surgeon is not physically present, he or she must be immediately available to return to the procedure, i.e., he or she cannot be performing another procedure. If circumstances prevent a TP from being immediately available, then he/she must arrange for another qualified surgeon to be immediately available to assist with the procedure, if needed.

(1) Single Surgery

When a teaching surgeon is present for the entire surgery, his or her presence may be demonstrated by notes in the medical records made by the TP, resident, or operating room nurse.

The SLU Compliance Department recommends the TP use handwritten or personal dictation to document presence and not rely on resident or surgical support staff to provide the information.

(2) Two Overlapping Surgeries

*In order to bill Medicare for **two overlapping surgeries**, the teaching surgeon must be present during the critical or key portions of both operations. Therefore, the critical or key portions may not take place at the same time. When all of the key portions of the initial procedure have been completed, the teaching surgeon may begin to become involved in a second procedure. The teaching surgeon must personally document in the medical record that he/she was physically present during the critical or key portion(s) of both procedures. When a TP is not present during non-critical or non-key portion(s) of the procedure and is participating in another surgical procedure, he or she must arrange for another qualified surgeon to immediately assist the resident in the other case should the need arise.*

(3) Three Overlapping Surgeries

In the case of three concurrent surgical procedures, the role of the teaching surgeon in each of the cases is classified as a supervisory service and is not payable under the physician fee schedule.

(4) Minor Procedures

*For **minor procedures** that take only a few minutes (5 minutes or less) to complete, e.g., simple suture, and involve relatively little decision making, the teaching surgeon must be present for the entire procedure in order to bill for the procedure.*

(5) Endoscopy Procedures

To bill Medicare for endoscopic procedures (excluding endoscopic surgery that follows the surgery policy), the TP must be present during the entire viewing. The entire viewing starts at the time of insertion of the endoscope and ends at the time of removal of the endoscope. Viewing of the entire procedure through a monitor in another room does not meet the TP presence requirement.

To facilitate the application of CMS rules for billing surgeries and endoscopies, the Compliance Department prepared the following reference guide.

**Teaching Physician Presence and
Documentation Guide for Surgical and
Endoscopic Procedures**

Single Surgical Procedures	Overlapping Surgical Procedures	Minor Procedures (5 minutes or less)	Endoscopic Procedures
TP presence during <u>entire procedure.</u>	TP presence during <u>all critical or key portions.</u>	TP presence throughout <u>the entire procedure.</u>	TP presence during the <u>entire procedure, including insertion and removal of scope.</u>
TP determines the key or critical portions and does not need to be present during opening or closing if not key or critical.	TP cannot be involved in a second overlapping procedure until all key portions of first procedure are completed and another physician is immediately available to respond for the first procedure.		
TP, resident or nurse may document TP presence if TP present throughout entire procedure. *SLU Compliance Dept. recommends TP personal note.	TP must: <i>personally document presence</i> during the key portions of each surgery (critical or key portions cannot occur at the same time) and <i>identify who was immediately available</i> at other times.	TP, resident or nurse may document TP presence if TP present throughout entire procedure. *SLU Compliance Dept. recommends TP personal note.	TP, resident or nurse may document TP presence if TP present throughout entire procedure. * SLU Compliance Dept. recommends TP personal note.
If TP present during <i>only</i> key or critical parts, TP documents his/her own presence and immediate availability.	An individual who is performing as <i>immediately available</i> cannot be involved in any other billable activity and cannot be a resident. * Three overlapping procedures are considered supervisory and non-billable.		

Celebrity Spotlight
Martin Clay, Esq.

In this issue Marty Clay writes about the procedure SLU faculty and staff members should follow if a government representative requests an interview or presents a search warrant.

Governmental Requests for Interviews and Response to Search Warrants.

Searches by government investigators have become a more frequent occurrence for companies in recent years. Government investigators may arrive unannounced at the work places or the homes of present or former Saint Louis University employees. Although the University has no reason to believe that such an investigation is imminent, this newsletter, establishes a mechanism for the orderly response to government investigations.

Request for an Interview

- If contacted by any governmental authority, immediately notify your supervisor and Office of the General Counsel at 977-5767 or 977-2506.
- There is no obligation to consent to an interview. Refusal to speak to an

investigator until you consult with Office of General Counsel does not mean you refuse to cooperate.

- You may require the interview be conducted during normal business hours or at another location.
- Ask to see the investigator's agency identification card. Always be polite and obtain the following information: name, agency affiliation, business telephone number and address of all investigators and reason for the visit.
- Ask for copy of subpoena or warrant if one exists.
- If contacted by phone, ask for call back number and wait until the University can verify the investigator's identity.
- You may stop the interview at any time with request for counsel's presence, yours or the University's.

Search Warrants

- If contacted by a governmental investigator with a search warrant, immediately contact the Office of General Counsel at 977-5767 or 977-2506.
- If counsel unavailable, contact the SLU Compliance Department, 977-5545.
- Verify government investigators' identification. Write down their names.

- Request copies of search warrants.
- Under no circumstances should employees alter, remove, or destroy any documents.
- University employees must provide the documents requested in the warrant, but need not provide any additional documents or oral information.
- Observe the search and take detailed notes regarding precise areas and files searched, which files were seized, the investigators involved and their comments.
- Ask for signed copy of the investigator's inventory after the search.
- Ask to backup computer equipment if seized.
- Ask to copy any seized documents.
- Do not agree to expand the search beyond the scope of the warrant.
- Search warrants seek documents, not answers to questions. So you may politely decline to answer any questions.
- All non-essential employees should be sent to a common location away from the site.
- Do not attempt to impede the investigator executing the warrant.
- Press inquiries should be referred to the Office of General Counsel.