

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: Alternatives To Signatures May Be Legal-But Are They Payable?

Research your state's laws before you look into stamps or e-signatures

Your doctor's getting a hand cramp from signing all those forms and charts, so why not go with an alternative, such as an electronic signature or a signature stamp?

Many states do allow physicians to use e-signatures or stamped signatures, and it's considered okay in certain settings, say attorneys.

But the rules governing signature alternatives are complicated. You need to do your homework before you throw away the Sharpie. Attorneys offer the following tips:

1) Pay attention to setting. For example, the **Centers for Medicare & Medicaid Services** specifically put out guidance saying stamped physician signatures are okay on home health medical-necessity documentation. But hospital conditions of participation require that all records in the hospital be signed by hand, says attorney **David Glaser** with **Fredrickson & Byron** in Minneapolis.

There's no requirement for a physician to sign records in the doctor's office, Glaser adds.

2) Watch out for state law. Your state may have specific laws for medical claims or records, or there may be a general state law governing the use of electronic signatures, notes **Daniel Shay**, an attorney with **Alice Gosfield & Associates** in Philadelphia. "An electronic signature will likely be given the same weight as a handwritten one."

For example, Pennsylvania's Trade and Commerce title states that electronic signatures are equivalent to a signature by hand, Shay says. To find out about state laws, ask your attorney or check with your state's Department of Commerce, Shay advises. You should also check with your Board of Medicine or Osteopathy to see if there are specific laws governing medical records or insurance claims.

Finally, if your physician works out of a hospital or ambulatory surgical center, then you should look at your state's specific laws and regulations governing health care facilities, Shay says. Usually, the state Department of Health handles those laws.

3) Pay attention to your Part B carriers. Some carriers will try to deny claims if the doctor hasn't signed them personally, says Glaser. The carriers may not have the authority to impose this requirement, and you can fight these denials. But it's easier to have the doctor sign the records than have to go through a long appeal process, Glaser warns.

\$2.8 Million Overpayment From Signature Problems

Watch out: Glaser is representing a physician who faces a \$2.8 million overpayment, mostly because the physician didn't sign the chemo administration sheets. The carrier believes the physician can't prove he was present because he didn't sign the sheets, but a signature wouldn't really prove the physician was there, Glaser argues. He's confident he'll be able to reverse the overpayment, but it's a headache for the physician.

You should scan your carrier's Web site to see if your carrier has a requirement for a physician's signature on records, Glaser advises. Look for carrier rules on the types of records that must be signed and how they can be signed.

4) Keep tabs on the device. Whether the physician uses a stamp or some kind of electronic device to sign records,

you should make sure the physician has exclusive control over it. In the case of a stamp, it should stay in the physician's possession. With electronic signatures, you should make sure only the physician has the access code.

"If [physicians] don't have control of the signature, then the signature is really meaningless," Glaser warns.