

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: 'Professional Courtesy' Could Cost Your Practice Tens Of Thousands

A bribe is still a bribe, attorneys warn

Warning: If your doctor shows -professional courtesy- to physicians who are tied to Medicare recipients, then the doctor could have a chance to show off those good manners--in prison.

-Professional courtesy- means that your office provides free or discounted care to other doctors, their family members or their staffs. **This practice is legal**, but there are many restrictions. And one of the main ones is that you can't provide free or low-cost care to anyone who's enrolled in Medicare or other federal programs, according to attorney **Alan Rumph** with **Smith Hawkins Hollingsworth & Reeves** in Macon, GA.

Details: The regulations implementing the Stark law, which governs doctors- financial relationships, have included a special exemption for professional courtesy for a few years now, says Rumph. One of the stipulations in this rule is that you can't offer courtesy to a provider or family member -who is a Federal health care program beneficiary, unless there has been a good faith showing of financial need.-

Other requirements: The Stark regulations also say that if you offer professional courtesy to one local doctor, you have to offer it to every doctor in your area, regardless of whether you do business with him or her. The free or low-cost services must be ones your practice performs frequently, and you should have a policy in writing.

But even if you follow all these rules to the letter, if your courtesy acts as a bribe for another doctor to send patients to you, then you're still breaking the law, says **Edward Richards**, director of the Law, Science, and Public Health program and **Harvey A. Peltier**, professor of law at **Louisiana State University** in Baton Rouge, LA.

Meanwhile, the **HHS Office of Inspector General** (OIG) has said that you can only provide free care, not a price break, to other doctors. You can't bill a doctor's insurance and avoid collecting copayments or deductibles. Also, if you waive just copayments then you could be defrauding the payor, Richards says.

High price tag: So the Stark regulations say you have to offer professional courtesy to everyone in your area if you give it to just one doctor. And the OIG says you have to go the whole hog and provide totally free care. These two requirements could make professional courtesy very, very expensive indeed, attorneys point out.

If your doctor is still hell-bent on giving away the store to other doctors and their families, then you should double check that your state's laws don't prohibit the practice, says Rumph.

Many doctors cite their Hippocratic oath as a reason to provide professional courtesy. Attorney **Alice Gosfield** got so tired of hearing this that she researched four different translations of the original classical Greek oath. In fact, the oath only says you can't charge your teachers, but it doesn't say anything about other doctors, says Gosfield, with **Gosfield & Associates in Philadelphia**.

The upside: If your doctor does not really want to provide professional courtesy, but feels pressured to, then you've got a perfect excuse, attorney **Robert Portman** with **Powers Pyles Sutter & Verville** in Washington.