

## Part B Insider (Multispecialty) Coding Alert

### COMPLIANCE: Refund Any Payments You Received For Doc-Owned PET Scans Since January

**You have 3 options to keep your stake in nuclear medicine or PET scans**

**Heads up:** As of Jan. 1, 2007, you can't bill for nuclear medicine scans that your physician owns a share of and referred patients to.

According to a client bulletin by **Edward Kornreich** and **Roger Cohen** with New York-based **Proskauer Rose**, the only way out is to meet one of these safe harbors:

- 1) The in-office exception: The billing doctor or another doctor in the same group has to perform the test personally. And only that doctor, or his/her group, can bill for the test. The equipment must be located in the same building as your office or in a space that your practice uses exclusively for at least six months out of the year.
- 2) The rural exemption: If your office furnishes at least 75 percent of its services to patients who live in a rural area, you're home free.
- 3) The -bona-fide employment relationships- and -personal services arrangement- exceptions: Your practice can receive nuclear-medicine referrals from a physician who works for it, as long as the physician has a fair contract that pays a reasonable rate for identifiable services, and doesn't vary based on how many referrals the doctor sends you.

Some practices have been taking advantage of any or all of the above exceptions, says attorney **Clay Countryman** with **Kean Miller Hawthorne D-Armond McCowan & Jarman** in Baton Rouge, LA. But most have had to sell off their investments.

-Unlike PET, nuclear medicine is not as expensive for a medical group to have in house, so even a small cardiology group could have nuclear cameras solely within their practice,- says attorney **Edgar -Jed- Morrison** with **Jackson Walker** in San Antonio, TX. By contrast, PET -requires many referrals to sustain itself.- So most practices that had an interest in a PET scanner have sold it off, either to a large medical group that was one of the investment partners, or to a hospital or business investor.

**If you missed the deadline:** If your practice furnishes nuclear medicine services and didn't get into compliance by Jan. 1, you need to get your house in order now, say attorneys.

**What to do:** Make sure your doctors don't refer Medicare or Medicaid services to any provider they have an ownership interest in for nuclear medicine services. Otherwise, you can't bill Medicare or Medicaid for those services, says Countryman. You should refund any improper payments you may already have received.