Part B Insider (Multispecialty) Coding Alert

Compliance: These 5 Questions Solidify Your Compliance Savvy

From staffing to coding and beyond, determine whether your compliance plan is accurate.

Most Part B practices have been studying compliance issues for so many years that they feel like experts. But it can be easy to let your guard down and see some of your hard-earned compliance plans become outdated. Check out the following five Q&As to determine whether you're still up to speed on compliance rules and regulations.

Know Whether to Screen New Staff members

Question 1: We had a staff member who we caught taking some prescription samples for herself. We later learned that she had a prescription drug habit, so our practice partners are considering doing drug screening tests before we hire. Are we allowed to do this?

Answer: The debate over whether drug screening in the workplace is beneficial has been ongoing. While some experts believe workplace testing reduces drug use, others believe it's a civil rights violation. In a medical practice, you may feel even more pressure to make the right call.

If your practice is considering drug testing (or is second-guessing the effectiveness of current drug testing), be knowledgeable about the topic.

Here are a few points of interest you might want to bring to the table:

- **When will you screen?** Some employers perform drug testing as a pre-employment requirement, but others subject employees to random drug testing throughout their time with the practice. Your practice management staff and providers should have an idea of when they want to screen employees for drug use. It might also be a good idea to reserve drug screening for those employees whose work performance arouses suspicion of drug use.
- **Be ready to follow through**. Many employers, especially smaller ones, might not prepare for a scenario in which an employee tests positive for drug use. What if that employee is one of five people vital to your small office? Or what if she's your only nurse? Be ready to follow through with the consequences that a positive test might require.
- **Consider the moral question.** Many employers don't feel right judging what their employees do outside of the workplace especially if their performance on the job is up to par.

As an alternative, you may want to perform background checks on job candidates and leave it at that.

- **Is it worth the cost?** Again, this depends on your practice's size and economic stability. You can expect to spend between $35 and $50 per employee on drug screening. If you're part of a large group, this price might not affect your bottom line much but smaller practices can feel the pinch.

In any case, you should consult an employment attorney to get a firm description of the rules and regulations that apply to employee drug testing.

Update Your Compliance Plans

Question 2: Our practice bought a compliance plan from a consultant seven years ago and we have not had a problem since then. Other than updating the names on it when a new physician joins our practice, this plan should cover us if we ever get audited, right?

Answer: When you say you "bought" the compliance plan, it is assumed that you purchased a pre-written plan and

simply filled in your practice's information on the front page, which probably is not enough to protect you if an audit ever occurred. Compliance is a multistep process that does not stop after you file away your compliance plan.

A pre-written compliance plan may be a good place to start, but it provides a false sense of security for several reasons. First and foremost, a compliance plan needs to be directed at the various regulatory, payment, operational, and legal issues that are most implicated for the practice.

The model compliance plan proposed by CMS states that each practice or organization should look carefully at areas of exposure to make sure that it has adequate systems in place to monitor and correct sources for potential claims and penalties. Another reason to not simply buy something "off the shelf" is that it is less likely to be integrated into the operations of the practice. If it hasn't been integrated (by means of a thoughtful adoption process that leads to accountable assignments), then it's less likely to be effective. It will also make the training process more difficult, and this is an essential component for any effective compliance program.

An additional consideration to keep in mind is that any authority (whether regulatory or accreditation or other) will be skeptical regarding the credibility of this type of compliance program within the practice.

Know the Codeable Services

Question 3: Is there a code specific to writing a prescription?

Answer: No. CPT® includes writing prescriptions as part of an E/M service, and the service is essentially just part of the cost of seeing patients, much like office supplies. There is no specific code that payers will reimburse for writing a prescription, and if you try to report the unlisted E/M code (99499) for writing prescriptions, you could be putting yourself at a compliance risk since you didn't perform an actual E/M service.

Note: If you review the Table of Risk in the 95 or 97 E/M Documentation Guidelines, you'll see "Prescription drug management" designated as "Moderate" level of risk under "Management Options Selected." This is how prescription drug management can influence your E/M level.

Best practice is for the provider to include documentation that shows actual management of the prescription. For example, if the oncologist is renewing an anti-emetic, the plan of care may state that the patient has been tolerating the current dosage well, so the physician is renewing the prescription. Or the physician may state that she's choosing a specific drug because it is safer in combination with the patient's diabetes medication.

Tip: ICD-9-CM includes V68.1 (Issue of repeat prescriptions). But you should not report V68.1 with an E/M code if the only reason the patient comes in is to pick up a prescription. In other words, without an actual evaluation and management service, you should not bill an E/M code. (ICD-10-CM has a similar code: Z76.0, Encounter for issue of repeat prescription.)

Remember: Care using certain prescriptions for certain medical conditions may have reportable Physician Quality Reporting System (PQRS) codes. While reporting the codes is informational in nature, and does not draw direct reimbursement, a physician who participates in PQRS may receive annual incentive payments if qualifications are met. Specialty practices have several quality measures the physician can capture, particularly if the administrative staff has developed a well-organized reporting system.

Identify Conflicts of Interest

Question 4: My practice is involved in a variety of business ventures. I am working with the compliance officer to develop policies and procedures for disclosing possible conflicts of interest by individuals within this practice. Where should I begin?

Answer: Because so many physicians have a variety of business interests, this issue comes up often, and your practice should know where to turn when it comes to disclosure of these issues.

First, make sure there is a conflict-of-interest policy in effect and include it in your compliance manual, e.g., "It is this

company's policy that employees shall avoid both real and perceived conflicts of interest. Any questions concerning conflicts of interest must be immediately addressed with the appropriate supervisors or the designated compliance officer."

Second, set up a conflict-of-interest procedure that includes a financial disclosure statement, which lists all the employee's business-related financial information (e.g., stock ownership in pharmaceutical companies, partnerships, commercial real estate, etc.).

Develop a conflict-of-interest disclosure statement that is signed by each employee. The statement must say that the employees have read and understood the company's conflict- of-interest policy and will abide by it. The procedure should also include the requirements for an annual review and re-signing.

The importance of a conflict-of-interest policy cannot be understated. Senior management must promote strong personal integrity and set such an example, because a standpoint must be developed that it is every employee's responsibility and obligation to protect the organization they work for.

Know Your Contracts

Question 5: We have a patient on private insurance who wants us to directly bill her allowable charges for a procedure so that she can pay our office this amount instead of paying her deductible since she has a very high deductible. Is this legal?

Answer: If your provider has a contract with the insurance company, you must submit the claim to the payer and then collect from the patient only the amount indicated by the explanation of benefits (EOB).

Pitfall: If you do not submit the claim, there is nothing to prevent the patient from submitting the claim and being reimbursed, and the practice then being accused of noncompliance with the payer-physician contract.

Additionally, without submitting a claim with all of the charges, you cannot ever be sure of the "allowable amounts." Even with a payer's fee schedule available to the physician, each patient may have a different plan, with each plan paying different amounts and with different deductibles. Without a claim and resultant EOB, your practice will not know that particular patient's allowable fees.

Don't forget: If your practice does not participate with the plan, you should not be reducing the fees to "allowable amounts" since the practice's fee schedule is allowable in any non-participating situation.