

Part B Insider (Multispecialty) Coding Alert

Physician Notes: Non-Compete Agreements Non-Enforceable In TN

Contracts that require a physician to stop practicing in a given area after leaving a practice aren't enforceable in the state of Tennessee, the **Supreme Court of Tennessee** ruled in *Murfreesboro Medical Clinic v. David Udom* (02-5739CV).

The Tennessee legislature specifically carved out protections for non-compete agreements involving faculty practice groups and hospital-employed physicians, but the legislature didn't protect all non-compete deals. And given the health issues involved, the court found non-compete agreements are "inimical public policy and non-enforceable."

In other news:

1. Some 39 Senators wrote to **President Bush** asking him to extend the \$300 million chemotherapy demonstration project through 2006. The project, which pays oncologists \$130 per day to report on patients' nausea, pain and fatigue, is scheduled to end on Jan. 1.
2. Fort Lauderdale, FL osteopathic physician **Richard Hill** was sentenced 21 months' imprisonment and ordered to pay \$202,390 after he and co-defendants pled guilty to charges of structuring prescription drug transactions to avoid financial reporting requirements and obstructing the Internal Revenue Service.
3. CMS also announced it would cover a combination of aprepitant, a 5-HT3 antagonist and dexamethasone for chemotherapy-induced nausea and vomiting. Medicare will cover this three-drug combo only if the patient is receiving one of these chemotherapy agents: Carmustine; Cisplatin; Cyclophosphamide; Dacarbazine; Mechlorethamine; Streptozocin; Doxorubicin; Epirubicin; or Lomustine. Use J8501 to bill Medicare for aprepitant.
4. CMS accidentally added three discontinued CPT codes to the list of covered codes in the ambulatory surgery center setting, CMS said in the June 24 Federal Register. CMS removed deleted codes 50559, 50959 and 50978 from the ASC-covered list. And CMS added CPT code 55873 (cryosurgical ablation of the prostate) to the list, assigning it the highest payment category. But CMS said it couldn't create a new, higher payment category for the code as physicians requested.
5. CMS also corrected errors in its Medicare appeals rule, saying that providing extra evidence after an appeal is submitted may extend the time frame by up to 14 days, but the extension may not necessarily be the full 14 days. Also, requesting an in-person hearing with an administrative law judge doesn't automatically cancel the 90-day timeframe to respond, but if the ALJ grants the request, the 90-day timeframe is considered waived, according to the June 30 Federal Register.