

Part B Insider (Multispecialty) Coding Alert

PRESCRIPTIONS: Beware Of Compliance Hurdles In Brave New E-Scrip World

The Medicare Modernization Act calls for the **Centers for Medicare & Medicaid Services** to encourage the development of electronic prescriptions. But even if the federal government appears to be smiling on paperless scrips, beware rushing into a legal tangle.

The MMA is vague on the subject of e-prescriptions, but instructs CMS "to give some kind of benefit or incentive towards using the electronic pharmacy" tools, says attorney **Wayne Miller** with the **Compliance Law Group** in Woodland Hills, CA. It gives CMS a mandate without spelling out how to carry it out, and CMS hasn't explained how it plans to follow through yet.

Unfortunately, prescriptions are still state law driven, says Miller. "Even though there's now federal laws setting the concept that there could be electronic prescriptions, each state has their own licensing requirements." And some physicians in recent years have faced criminal charges for issuing prescriptions via the Web to patients whom they had never seen. If your physician hasn't seen a particular patient in years, she ought to see the patient once again in person before emailing a scrip.

"Because of the rogue Internet pharmacy sites that popped up in the past several years, you've seen some laws dealing with that situation that would apply to people properly using electronic prescribing," warns Miller. The physician must examine the patient and have a prior relationship before prescribing, or face criminal penalties. Most of these state laws will allow an exception for a temporary situation, like one refill to tide a patient over when the regular physician is out of town.

"Seems there are a number of issues," says **Robert Markette** with **Gilliland & Caudill** in Indianapolis, IN. "If you're a pharmacy licensed in Indiana, can you respond to a prescription in Illinois? How's it set up?" Also, how does the patient contact the physician and the pharmacy to set up this prescription, he questions.