

Part B Insider (Multispecialty) Coding Alert

Upcoding Leads to Boring Weekends - Prosecutors Treat Coding Violations Like Hard-Core Crimes

Enforcers of healthcare-fraud laws are using the latest trends in criminal sentencing to lay down the law on coding issues.

New York Attorney General **Eliot Spitzer** says that Bath, N.Y., physician Dr. Ashar Tahir, after pleading guilty to fraud charges July 23, agreed to a sentence of six months "shock probation," community service and five years probation. Shock probation means Tahir will be incarcerated during the weekends, and spend weekdays under electronic home monitoring.

According to prosecutors, Tahir submitted bogus reimbursement claims to Medicare, Medicaid and another payer in which he overstated the extent of the services he provided. As part of the plea agreement, Tahir will make more than \$650,000 in restitution.

If Tahir violates the terms of the agreement, he could face up to seven years in prison.

The Florida legislature opened a special session to pass a measure aimed at lowering malpractice insurance rates. Gov. Jeb Bush (R) on Aug. 8 announced that lawmakers had reached an agreement on a bill that limits a doctor's liability in malpractice lawsuits in most cases to \$500,000 in non-economic damages, such as pain and suffering, with an aggregate cap of \$1 million for all claimants, according to the governor's office.

The proposal includes an exception for the worst medical mistakes if a patient dies or is left in a permanent vegetative state. If a judge determines that a higher award is warranted, victims or their survivors could get up to \$1 million from doctors and another \$1.5 million from healthcare facilities in such cases.

Florida also passed a law requiring doctors to write legibly. If physicians submit illegible prescriptions to pharmacists, the pharmacists can report them to the state medical board for disciplinary action.

Medicare will only cover injectable drugs furnished "incident-to" a physician's services, but not if the patient usually self-administers the drugs, carrier CIGNA insisted in an Aug. 8 bulletin. Drugs that CIGNA won't cover on an incident-to basis include Alprostadil, Caverject Impulse Injection, MUSE Urethral Suppository, Calcitonin Salmon, Miacalcin, Etanercept, Enbrel, Insulin, Kutapressin, Somatrem, Somatropin, Sumatriptan, Imitrex, Copaxone, Histrelin Acetate, Somavert, Teriparatide (Forteo) and Adalimumab (Humira).

When a carrier denies a claim, it should notify the beneficiary and provider exactly which local medical review policy or national coverage determination it used for the denial, according to program memo AB-03-112.