

Health Information Compliance Alert

Reader Questions: Consider This Advice Before Giving Free Samples to Patients

Question: Our practice physicians have frequently supplied free samples to our patients. The samples are usually pharmaceuticals, tubing, or bandages. An outside billing firm told us that this is a non-compliant practice, and it could get us in trouble. Are physicians in the practice allowed to give out free samples to patients?

AAPC Forum Participant

Answer: The physicians in your practice can give out free samples to their patients. According to the HHS Office for Civil Rights (OCR), "In face-to-face encounters, the HIPAA Privacy Rule allows covered entities to give or discuss products or services, even when not health-related, to patients without prior authorization. This exception prevents unnecessary intrusion into the doctor-patient relationship."



This allows providers to supply patients with free pharmaceutical samples, "regardless of value," and hospitals can provide new mothers with supplies for their newborns. Additionally, the face-to-face exception lets providers leave general circulation materials in the office, so patients can pick them up during visits.

Therefore, as long as you have no conflicting state laws in your area, your practice should be able to hand out medications or other items at no charge to your patients during face-to-face encounters.

You should ensure that you always provide adequate instructions and avoid giving out materials that have expired. Some experts advise even keeping a log including data such as the lot number. Sometimes the EHR e-prescribing module allows for recording a prescription given as a sample, rather than being sent to a pharmacy. Regardless, if the office received these samples at no cost, no charge may be made to the patient.