

HEALTHCARE COMPLIANCE NEWSLETTER

Issue 13, Spring 2018

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This newsletter is prepared by the Office of Compliance and is intended to provide you with current information about healthcare compliance and HIPAA privacy issues. For

The Opioid Crisis: An Emerging False Claims Act Risk Trend

The government's focus on the US opioid crisis has been consistently expanding over the past year beyond manufacturers to reach prescribers and health care providers who submit claims to federal health care programs for opioid prescriptions. These efforts increasingly include investigations under the False Claims Act and administrative actions, in addition to the more traditional criminal approach to these issues. With the Trump administration's public health emergency orders, it is expected for the government's enforcement activities, including those instigated by relators and their counsel, to grow in this area.

For years now, DOJ and OIG, with other partner law enforcement agencies, have used the summer months to stage significant orchestrated "takedowns." This past July's takedown was the first to feature, as described by OIG, "a large-scale federal and state partnership to combat health care fraud and the opioid epidemic." This multi-agency, national enforcement operation is described by OIG as the largest in history, both in terms of the number of defendants charged and loss amount. More than 400 defendants in 41 federal districts were charged for their alleged participation in schemes involving more than \$1.3 billion in false billings to federal health care programs. Of those subjects charged, 115 are medical professionals, with many of the charges involving improper or excessive prescription of opioids. Exclusion notices were served to 295 individuals (57 doctors, 162 nurses and 36 pharmacists) for conduct related to opioid diversion and abuse. The exclusion notices bar participation in, or submitting claims to Medicare, Medicaid and all other federal health care programs.

Keck Medicine has commissioned two committees, the Drug Diversion Task Force and the Opioid Prescribing Sub-Committee, which are addressing topics related to drug diversion and opioid prescribing.

Read the article [here](#).

Medicare Compliance Review of Rush University Medical

violations of an applicable law, regulation, or university policy confidentially and without fear of retribution. The Help & Hotline can also be used to ask questions about applicable laws, regulations, and university policies that may impact your job duties.

*The USC Help & Hotline is staffed 24 hours a day, 365 days a year: (213) 740-2500 or file on the [web](#) and enter **UOSC** as the access code.*

and identify any returned overpayments as having been made in accordance with this recommendation; and strengthen controls to ensure full compliance with Medicare requirements. In written comments on the draft report, the Hospital generally disagreed with the OIG's findings and recommendations.

The OIG began conducting these comprehensive compliance audits in 2011 with the intent to audit all major hospitals. The OIG is choosing hospitals and claims based on data mining. None of the USC hospitals have been selected yet, but it is possible that one or more will be selected at some point.

Read the full release and get access to the full report [here](#).

Doctors Don't Need to Redocument Students' EHR Entries: CMS

Federal officials will let medical students' entries into electronic health records stand for parts of Medicare claims, eliminating a need for teaching physicians to re-document much of their work.

The Centers for Medicare & Medicaid Services (CMS) on February 2 made changes to rules for billing for evaluation and management services. Teaching physicians still must personally perform or re-perform physical exams and handle decision-making steps for an evaluation and management service, but they now can simply verify the students' documentation of them in the medical record.

CMS earlier required that teaching physicians both verify and re-document notes on the physical exam and medical decisions. This new CMS approach on documenting claims will help prepare medical students to effectively use electronic health records, according to the American College of Physicians (ACP). "Prior to the change, physicians were required to re-document most work performed by medical students - which is often very thorough and based on careful and supervised evaluation - rather than review, refer to, amend, and/or correct the student note," said Jack Ende, MD, ACP president, in a media statement.

The ACP said it worked with fellow medical groups, including the Alliance for Academic Internal Medicine, to push for this new policy. The changes regarding medical students' documentation have an effective date of January 1, 2018, but an implementation date of March 5, 2018.

CMS said this move is part of a broader effort to reduce bureaucratic burden on physicians, crediting it to its Documentation Requirement Simplification workgroup. In the same vein, CMS in October also launched a nationwide program to help providers of medical care avoid claims denials.

attendees ordered alcohol in an amount inconsistent with legitimate scientific discussion; (2) paid for meals at expensive restaurants where employees invited spouses of physicians to attend (and those spouses did attend) even though the spouses had no legitimate business purpose for attending the meal; (3) paid for numerous meals for physicians in which the cost per-attendee well exceeded Abiomed's own \$150 per person guideline (in one instance exceeding \$450 per-attendee); and (4) paid for meals for physicians in which their employees misrepresented the number of attendees, listed attendees with generic names (e.g., Mike Anesthesia), or listed fictitious names of individuals who did not attend the meal, which had the effect of making the true per-attendee cost appear lower.

"We expect today's settlement with Abiomed to serve as a warning to medical device manufacturers who try to improperly influence the treatment decisions of physicians," said United States Attorney Andrew E. Lelling. "Providing doctors with lavish meals, or meals that focus on entertainment rather than education or science, can impair a physician's independent medical judgment - something each and every patient is entitled to. My office will continue to investigate sales practices that interfere with that independent medical judgment and that heighten the risk of improper use of limited federal healthcare dollars."

Per USC's Relationships with Industry policy, USC Healthcare Professionals may accept meals, travel and lodging in connection with meetings for consulting services, so long as they are of "modest value" and incidental to the consulting or other services provided.

Read the full release [here](#).

Read USC's Relationships with Industry Policy [here](#).

Templates for Documenting Services - "The Impact of Cloning"

When Using Templates, DO:

1. Use templates specific to conditions or injuries to ensure it focuses on the area(s) of the patients' chief complaints
2. Make sure to use the free-text spaces/boxes to ensure there is proper elaboration on positive pertinent patient responses
3. Have providers dictate specific anatomical areas noting defects or areas of concern especially differences from the diseased side v. the non-diseased side for surgical procedures
4. Have providers either handwrite or dictate their History of Present Illness and their Assessment and Plan for Evaluation and Management Services to ensure notes show variation from patient to patient and from encounter to encounter. Patient histories are very rarely if ever static, so the notes should not be static
5. Close out and keep updated problem lists and medication lists.

4. Simply go into a previous encounter note even if it was generated by you and either carry that information forward or cut and paste it into your new progress note
5. Speak in generalities for surgical interventions, since payors are demanding specifics regarding the intervention approach, type (open vs. laparoscopic), anatomical planes, and anatomical differences between diseased and non-diseased sides.

Following the simple steps above and remaining vigilant on ensuring your clinical documentation is thorough and complete will ensure payors one less avenue to demand refunds for services you genuinely are entitled payment for.

To listen to the full tip, visit the National Alliance of Medical Auditing Specialists page on [SoundCloud](#).