

2. Failure to Maintain Medical Law Compliance

A great many physicians are annihilated financially when Medicare and/or private insurance carriers request hundreds of thousands of dollars in refunds because the physician has used inappropriate billing practices or financial arrangements with third parties. In many cases, these problems are reported to the government by employees who can earn a 15% "whistle-blower fee."

Many physician clients simply do not realize that they use improper coding, do not maintain sufficient patient file back-up, or bill for items that are inappropriately unbundled or altogether un-billable.

Several years ago, the concept of a "medical practice compliance audit" was in vogue, and many professionals, in the opinion of the author, significantly over-charged physician groups for "practice audits." Such audits extended far beyond a reasonable review of billing, patient file documentation, and third-party financial arrangement review.

Reasonable and periodic practice maintenance and review by trusted medical consultant advisors eliminates the need for such a costly venture. In the author's experience, most medical practices benefit from hiring an independent consultant to come into the practice, perhaps annually, to spend a day randomly reviewing patient charts and the billing and collection processes associated therewith.

Quite often a good consultant can spot billing opportunities where the practice is undercharging or not knowing to charge for certain services. An independent consultant can also be a tactful go-between to let certain members of a medical practice know that their file documentation is not sufficient. Such corrections are best conveyed by a neutral third party.

Consultants should be hired by a lawyer on behalf of the medical practice so that any problems they may discover can stay confidential under the attorney-client privilege to the extent possible.

If and when the government criticizes a medical practice's coding, file documentation, or other billing procedures, it is very helpful to be able to show that the practice conscientiously hired and followed the advice of a reputable billing and coding consultant on a periodic basis.

Many physician groups are also unfamiliar with or intentionally disregard rules relating to arm's length leases, compensation arrangements, and the ability to refer tests within a group medical practice. The author has had law-abiding and well-meaning physician clients

arrested in their lobbies by the FBI as a result of being in business with the wrong people at the wrong time.

Doctors can rest assured that any "scoundrel" that they have legitimate or questionable business relationships with will turn them in to get amnesty if and when approached by law enforcement, even if the doctor did nothing wrong. When law enforcement comes knocking, the doctor should immediately have appropriate sub-specialty lawyers contact law enforcement on his or her behalf. Neither the doctor nor his or her staff should directly speak with any law enforcement officers at any time on any topic.