2017 4th Quarter
Volume 11, Issue 1


# Compliance Quarterly

## From the Compliance Office...

**Delayed Newsletter Distribution**

We would like to apologize for the delayed distribution of this 2017 4th Quarter *Compliance Quarterly*. The Compliance Office was asked to distribute a special Conflict of Interest training module to the UBMD physicians in mid-December, and we did not want to send the newsletter out immediately after that, right before the holidays.

The 2018 1st Quarter *Compliance Quarterly* will be distributed in late February.

## Compliance Training Update

**New Provider E/M & Documentation Training**

This is a one session training class. All are welcome to attend any of the sessions. It's also a good refresher for the not-so-new providers! ***Please contact Bev if you would like to attend a session so that I can be sure to have enough materials for all attendees.***

**Location & Time:** 77 Goodell St., Room 310F, 11:30AM

| | | |
|---|---|---|
| **2018 Dates:** | January 23 | February 2 |
| | March 6 & 20 | April 10 & 24 |
| | May 8 & 22 | June 12 & 26 |
| | July 10 & 24 | August 7 & 21 |
| | September 11 & 25 | October 9 & 23 |
| | November 6 & 20 | December 4 & 18 |

**Lunch-n-Learn**

Sessions are usually held once a month. Bring your lunch, and join us as we cover a variety of important topics related to coding and compliance! AAPC & AHIMA CEUs are often available for the sessions. All are welcome to attend. ***If you would like to be added to the session contact list, please contact Bev as noted to the right.***

**Location & Time:** 77 Goodell St., Room 205, 12:00-1:00PM

**2018 Dates:** 2/13, 3/13, 4/17, 5/15, 6/19, 8/15, 9/18, 10/16, 11/13 & 12/11 (no class in July)

Inside this issue

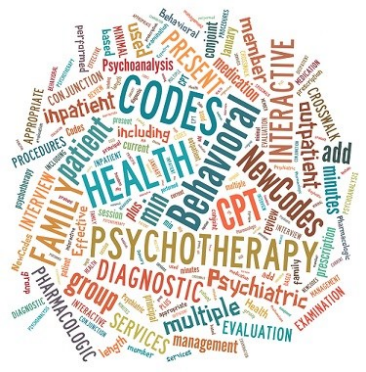


### Training Questions:

***If you have questions on any the training, please contact Bev Welshans by telephone (888-4702) or e-mail: welshans@buffalo.edu***

# 2018 CPT Changes

By: Beverly Welshans, CHC, CPMC, CPC, CPCI, COC, CCSP,
Director of Audit & Education




Every year the AMA reviews the current CPT Manual and undertakes a revision to ensure codes are available to report all services. Some new codes are added, some codes are deleted and some codes are revised. Depending on your practice area, you may or may not be impacted by some of these changes. Areas with a significant impact this year are endovascular surgery and radiology. It is imperative that providers and their staff familiarize themselves with changes pertinent to them.

***The Coding Corner***

Below is a summary of the changes by CPT 4® section for this year. This is **not** an all-inclusive list, rather a reference point to prompt further review of your applicable areas.

**Evaluation and Management (E&M) Codes**

- 3 new codes for psychiatric collaborative care management services (99492, 99493, 99494)
- 1 new code for general behavioral health integration care service (99484)
- 4 observation care services revised (99217,99218, 99219, 99220)
- 1 new cognitive assessment and care plan services (99483)
- 1 new behavioral health integration care management (99484)
- 3 new Psychiatric collaborative care management services (99492, 99493, 99494)
- Deleted: 2 anticoagulation management service codes
- 2 new codes for INR home and outpatient INR monitoring services

**Anesthesia Codes**

- 2 new upper gastrointestinal endoscopic procedure anesthesia codes and deletion of 1 code
- 3 new lower and upper/lower intestinal endoscopic procedure anesthesia codes
- 2 obturator neurectomy anesthesia codes deleted
- Deleted: 1 code for anesthesia for shoulder spica case application

**Surgery**

**Integumentary System**

- Code 17250 for chemical cauterization of granulation tissue (ie, proud flesh, sinus or fistula) is revised to remove reference to sinus or fistula and to direct that use of chemical cauterization to achieve wound hemostasis is not reported with code 17250. Cauterization to achieve hemostasis is included in the code for wound care, excision or repair.

**Musculoskeletal System**

- 1 new code bone marrow aspiration for bone grafting, for spinal surgery only, separate incision (20939)
- 2 deletions (29582, 29583)

**Nasal/Sinus Surgery**

- 5 new codes (31253, 31257, 31259, 31298, 31241)
- 3 revised codes (31254, 31255, 31256)

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**Surgery (cont.)**

**Bronchoscopy**

- 2 revised codes (31645, 31646)
- 1 deleted code (31320)

**Pulmonary Tumors**

- 1 revised code (32998)
- 1 new code (32994)

**Artificial Heart**

- 3 new codes (33927, 33928, 33929)

**Vascular Surgery**

- **The endovascular surgery section has 16 new codes, 5 revised codes and 13 deleted codes**. The new codes pertain to endovascular repair of abdominal aorta and/or Iliac arteries with an emphasis upon repair using endografts, extension prosthesis, and concepts of delayed placement of prosthesis for endovascular repair of vessels.
- New codes (34701- 34713)
- Revised codes (34812, 34820, 34833,34834, 36140)
- Deleted codes (34800-34806, 34825,34826,34900,36120)
- Open vascular surgery

**Remember:**

**"This is not an all-inclusive list, rather a reference point to prompt further review of your applicable areas."**

**Diagnostic Radiology**

- There are 4 new CPT codes (71045-71048) for chest X-rays:
  71045 Radiologic examination, chest; single view
  71046 2 views
  71047 3 views
  71048 4 or more views
- There are 9 deletions associated with chest X-rays being categorized by the number of views (single through four or more reviews), as opposed to type of view.
- 3 codes have been deleted in the abdominal X-ray section and three replacements introduced, 74018-74021, which are to be reported by the number of views taken versus type of view:
  74018 Radiologic examination, abdomen; 1 view
  74019 2 views
  74021 3 or more views

**Plastic Surgery**

- Two new codes, 15730 and 15733, have been introduced for muscle flaps in order to facilitate the capture and reporting of flap grafts involving the midface and head and neck.
- New codes 64912 and 64913 in the neurorrhaphy with nerve graft, vein graft, or conduit section will facilitate and allow reporting of nerve pedicle transfer with nerve allograft of each nerve and the add-on code, 64913, with nerve allograft, each additional strand.

**Dermatology**

- 1 revised Category I code and 2 new Category I codes for photodynamic therapy
- 2 new Category III codes for optical coherence tomography of skin
- 2 new Category III codes for ablative treatment of burn scars
- New CPT code 96573 to report photodynamic therapy by external application of light to destroy premalignant lesions of the skin and adjacent mucosa, with application and illumination/activation of photosensitizing drug(s) provided by a physician or other qualified healthcare professional, per day. The service represented in CPT code 96573 is distinct from CPT code 96574, as the latter procedure includes debridement of the premalignant hyperkeratotic lesion(s) (i.e., targeted curettage, abrasion) followed with photodynamic therapy by external application of light.

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**New Modifiers**

There are 2 new modifiers to identify Habilitative Services and Rehabilitative Services:

- Modifier 96 – Habilitative Services: When a habilitative or rehabilitative service or procedure is provided for habilitative purposes, the physician or other qualified healthcare professional may add modifier 96- to the service or procedure code to indicate that the service or procedure provided was habilitative. Such services help an individual learn skills and functioning for daily living that the individual has not yet developed, and then keep or improve those learned skills.
- Modifier 97- Rehabilitative Services: When a habilitative or rehabilitative service or procedure is provided for rehabilitative purposes, the physician or other qualified healthcare professional may add modifier 97- to the service or procedure code to indicate that the service or procedure provided was rehabilitative. Rehabilitative services help an individual keep, get back, or improve skills and functioning for daily living that have been lost or impaired because the individual was sick, hurt, or disabled.

## General Compliance: Integrity

Below is a short article that is a great reminder of how integrity affects our decisions. I think it's important for all of us in the healthcare field to be reminded of the importance of integrity. The article was written and shared by another compliance professional on the Health Care Compliance Association website.

Integrity is the quality of being honest. Vocabulary.com states "Having integrity means doing the right thing in a reliable way. It's a personality trait that we admire, since it means a person has a moral compass that doesn't waver. It literally means having 'wholeness' of character, just as an *integer* is a 'whole number' with no fractions."

The definition above described integrity as a whole number with no fractions. We need to be careful about our decisions and understand what leads us to make poor decisions and what helps us make good ones. Most people would agree that integrity is important to them, especially if the action–or inaction–of an individual resulted in harm to them or others they care about.

Segmenting our lives and behaviors eventually catches up with us. We are either honest in our decisions and actions or we are not. For example, if we know about an issue but were not a participant in the issue, our silence could make us as guilty as those who were engaged in the wrongdoing. Segmenting our lives and choices is often a result that comes from rationalizing.

Rationalization is a slippery slope that often results in making poor decisions. Rationalizing tends to be the temptation to waver from doing what is right. It often causes us to look for the easy way out of a situation and to convince ourselves or others that somehow the end justifies the means to excuse an action or inaction.

Emotions also play an intricate part in our decision-making process. We need to use caution when making decisions while experiencing fear, frustration, or fatigue. When we are experiencing strong emotions or we are fatigued, it's best to "push the pause button" to help us gain perspective and use our HEADs: Halt, Evaluate, Act, and Defuse.

Remaining knowledgeable about requirements is also helpful in our decision-making process. If we understand what the expectations are and the consequences to ourselves and others when standards are not maintained, then we will have greater resolve to uphold those standards, regardless of the potential consequence of becoming unpopular for doing the right thing.

Compliance and ethics professionals are a resource available to our workforce to help us make good decisions. There are situations that any one of us could encounter that require us to withstand pressures to do what is wrong, including keeping our silence. When faced with these situations, it's best for us to reach out to others to help us with the tough decisions. When we become fearful of potential retaliation or a hostile work environment, there is a tendency to want to clam up to remain safe, but this can result in tremendous consequences to the individual making that decision, to the organization's mission, and to the customer or consumer. Maintaining "the whole truth and nothing but the truth" is important and can impact others as well as ourselves. J.C. Ryle says it this way, "Never be guilty of sacrificing *any portion* of truth on the altar of peace."

# Incidental Use or Disclosure of PHI

By: Lawrence C. DiGiulio, Chief Compliance Officer

We all do our best to protect our patients' PHI. There are times when even using our best efforts, we are not perfect in protecting PHI. The Office of Civil Rights, the federal regulators charged with enforcing HIPAA said, "the HIPAA Privacy Rule does not require that all risk of incidental use or disclosure be eliminated to satisfy its standards. Rather, the Rule requires only that covered entities implement reasonable safeguards to limit incidental uses or disclosures."

HIPAA is not intended to prohibit providers from talking to each other and to their patients. Provisions of the Rules requiring us to implement reasonable safeguards that reflect our particular circumstances and exempting treatment disclosures from certain requirements are intended to ensure that providers' primary consideration is the appropriate treatment of their patients. HIPAA recognizes that oral communications often must occur freely and quickly in treatment settings. Thus, covered entities are free to engage in communications as required for quick, effective, and high quality health care. HIPAA also recognizes that overheard communications in these settings may be unavoidable and allows for these incidental disclosures.

***"HIPAA is not intended to prohibit providers from talking to each other and to their patients…"***

For example, the following practices are permissible under HIPAA, if reasonable precautions are taken to minimize the chance of incidental disclosures to others who may be nearby:

- Health care staff may orally coordinate services at nursing stations.
- Nurses or other health care professionals may discuss a patient's condition over the phone with the patient, a provider, or an authorized family member.
- A health care professional may discuss lab test results with a patient or other provider in a joint treatment area.
- A physician may discuss a patients' condition or treatment regimen in the patient's semi-private room. Health care professionals may discuss a patient's condition during training rounds in an academic or training situation.

In these circumstances, reasonable precautions could include using lowered voices or talking apart from others when sharing protected health information. However, in an emergency situation, in a loud emergency room, or where a patient is hearing impaired, such precautions may not be practicable. Covered entities are free to engage in communications as required for quick, effective, and high quality health care.

HIPAA permits health care providers to communicate with patients regarding their health care. This includes communicating with patients at their homes, whether through the mail or by phone or in some other manner. In addition, HIPAA does not prohibit covered entities from leaving messages for patients on their answering machines. However, to reasonably safeguard the individual's privacy, we should take care to limit the amount of information disclosed on the answering machine. For example, a covered entity should only leave its name and phone number and other information necessary to confirm an appointment, or ask the individual to call back.

We may use patient sign-in sheets or call out patient names in waiting rooms, so long as the information disclosed is appropriately limited. These incidental disclosures are permitted only when the covered entity has implemented reasonable safeguards and the minimum necessary standard, where appropriate.

We have implemented reasonable minimum necessary policies and procedures that limit how much protected health information is used, disclosed, and requested for certain purposes. These minimum necessary policies and procedures also limit **who** within the entity has access to protected health information, and under what conditions, based on job responsibilities and the nature of the business.

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The minimum necessary standard does not apply to disclosures, including oral disclosures, among health care providers for treatment purposes. For example, a physician is not required to apply the minimum necessary standard when discussing a patient's medical chart information with a specialist at another hospital. An incidental use or disclosure that occurs as a result of a failure to apply reasonable safeguards or the minimum necessary standard, where required, is not permitted under HIPAA.

For example:

The minimum necessary standard requires that a covered entity limit who within the entity has access to protected health information, based on who needs access to perform their job duties. If a practice's employee is allowed to have routine, unimpeded access to patients' medical records, where such access is not necessary for the practice's employee to do his job, the practice is not applying the minimum necessary standard. Therefore, any incidental use or disclosure that results from this practice, such as another worker overhearing the employee's conversation about a patient's condition, would be an unlawful use or disclosure under the Privacy Rule.

The Privacy Rule includes a specific exception from the accounting of disclosures standard for incidental disclosures permitted by the Rule.

Incidental disclosure allows us to take care of our patients in the best way possible as long as we follow our HIPAA training.

HIPAA was put in place to guide us in taking reasonable precautions to protect our patients' PHI, not to make our work more difficult.

## 2018 OIG Work Plan

By: Sue Marasi, CHC, CPCA, Compliance Administrator


Normally at this time of year, I share a summary with you of the Health and Human Services (HHS) Office of Inspector General's (OIG) Annual Work plan for the new year. However, there is no Annual Work Plan this year because, effective June 15, 2017, in an effort to enhance transparency of the OIG's continuous work planning efforts, the OIG began updating its Work Plan monthly on its website.

Below is a summary of the OIG's overall plan and active Work Plan items. Everyone should be aware that the OIG has an ongoing focus on:

⇒ Investigating Fraud, Waste & Abuse
- State False Claims Act Reviews
- HHS OIG Hotline complaints
- OIG Most Wanted Fugitives - currently seeking 170 fugitives on charges related to health care fraud & abuse
- Enforcement Actions
- Medicare Fraud Strike Force

⇒ Facilitating Compliance in the Healthcare Industry
- Compliance 101 and Provider Education
- Compliance Guidance
- Advisory Opinions
- Open Letters
- Corporate Integrity Agreements

⇒ Exclusion Program (excluding "bad actors" from participation in Federal Health Care Programs)
- Online searchable database
- LEIE downloadable databases
- Monthly Supplemental Archive (on OIG website)
- Applying for Reinstatement

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***"To have an effective compliance and ethics program, an organization shall...promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law..."***

*~ U.S. Federal Sentencing Guidelines §8B2.1(a)(2)*

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Some of the recent updates to the OIG Work Plan are:

- Review of Medicare payments for Bariatric surgeries;
- Review of Medicare payments for telehealth services;
- Security of Certified Electronic Health Record Technology under Meaningful Use;
- Comparison of provider-based and freestanding clinics;
- Selected inpatient and outpatient billing requirements;
- Duplicate Graduate Medical Education (GME) payments.

This list goes on and on. There are currently 240 entries of updates which cover the past year. This illustrates that the OIG is out there working, and they are serious. Everyone should be aware in their daily activities; be sure you and those around you continue to stay in compliance at all times.

The OIG has been, and will continue to be, focused on these items, as well as a wide range of others. They are watching. While we in the Compliance Office do our best to keep you up to date on important news and compliance activity, I would also encourage everyone to check the OIG website for important Work Plan updates each month.

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**UBMD COMPLIANCE HOTLINE: 716.888.4752**

Report suspect fraud/abuse, potential problems,

or HIPAA concerns.

Ask questions or request guidance | Provide relevant information.

Remain anonymous if you wish | Non-retaliation policy will be adhered to.

(This is a voice mail box monitored during working hours. If there is an immediate threat to person or property, do not leave message; contact direct supervisor immediately!

## *Compliance Quarterly Quiz*

**To submit your quiz answers, please click link below:**

**2018 Fourth Quarter Quiz**

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1. The new Modifier 97 may be added to the service or procedure code when a habilitative or rehabilitative service or procedure is provided for rehabilitative purposes.

   A. True
   B. False

2. If you know about an issue (a non-compliance issue, for example) but were not a participant in the issue, remaining silent could make you as guilty as those who were engaged in the wrongdoing.

   A. True
   B. False

3. The HIPAA Privacy Rule requires that all risk of incidental use or disclosure be eliminated to satisfy its standards.

   A. True
   B. False

4. Which of the following statements is false?

   A. We may use patient sign-in sheets or call out patient names in waiting rooms as long as the information disclosed is appropriately limited.
   B. If reasonable precautions are taken to minimize the chance of incidental disclosures to others near by, health care staff may orally coordinate services at nursing stations.
   C. HIPAA prohibits covered entities from leaving messages for patients on their answering machines.
   D. All the statements are false.

5. The OIG has an ongoing focus on which of the following?

   A. Investigating Fraud, Waste & Abuse.
   B. Facilitating compliance in the healthcare industry.
   C. The Exclusion Program—excluding "bad actors" from participation in Federal Health Care Programs.
   D. All of the above.