

# Understanding Your Non-Physician Practitioners

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# Agenda

- Scope of Practice
- Medicare
  - Coverage
  - Direct Billing
  - Orders for Services
  - Incident To
  - Diagnostic Tests
  - Split-Shared
- Medicaid and Commercial Payers
- Discussion Scenarios



# Scope of Practice

- Practitioner specific
- Based on state law
- May include
  - Requirements for licensure (or absence of licensure)
  - Types of services
  - Collaborative practice or physician supervision
  - Scope of prescribing, dispensing, or administering
  - Service specific limitations or requirements
  - Practice location limitations





**Restricted Practice:** State practice and licensure law restricts the ability of a nurse practitioner to engage in at least one element of NP practice. State requires supervision, delegation, or team-management by an outside health discipline in order for the NP to provide patient care.

## Consequences – Licensure Discipline

- Usually triggered by quality of care concerns or patient complaint
- May involve discipline of the non-physician practitioner who exceeded his or her scope of practice
- In a collaborative practice/physician supervision state, it may also involve discipline of the supervising physician

# Medicare Coverage – Nurse Practitioner

- State license
- National Certification (or grandfathered in before 2003)
- Services are covered when the Nurse Practitioner:
  - Is legally authorized to perform them in the State in which they are performed;
  - Is not performing services that are otherwise excluded from coverage because of one of the statutory exclusions; and
  - Performs them while working in collaboration with a physician.
- In the absence of State law governing collaboration, collaboration is a process in which a NP has a relationship with one or more physicians to deliver health care services. Such collaboration is to be evidenced by NP documenting the NP's scope of practice and indicating the relationships that they have with physicians to deal with issues outside their scope of practice. NPs must document this collaborative process with physicians.

# Medicare Coverage – Physician Assistant

- State License
- Accredited Program or National Certification Exam
- Services covered when the PA:
  - Is authorized to perform the services in the state
  - Performs services that are not statutorily excluded
  - Performs services under the general supervision of a physician
  - Furnishes services that are billed by the PA's employer





# Medicare - Direct Payment

- Enrollment using the CMS 855I
- Physician Assistant must specify employer on the 855I for payment
- Nurse Practitioner can be paid directly or complete a 855R to reassign to another Medicare enrolled entity
- Reimbursed for services at 85% of the Medicare Physician Fee Schedule



# Orders for Services

- Physician Assistants and Nurse Practitioners are generally permitted to order or certify most Medicare services
- Some services require periodic involvement of the physician for certification
- For the order or certification to be valid, it must be within the scope of practice for the Nurse Practitioner or Physician Assistant
- The Nurse Practitioner or Physician Assistant must be enrolled in Medicare or Opt Out of Medicare for the order to be valid



## Case Example

- US v. Bradshaw, 9<sup>th</sup> Circuit Court of Appeals, 2011
  - Physician assistant defendant prescribed medically unnecessary motorized wheelchairs
  - Orders were transmitted using the UPIN of the “supervising” physician
  - Physician was never on site and was not involved in the orders
  - Delegation services agreement did not include ordering of wheelchairs
  - Convicted of healthcare fraud



# Medicare Incident To

- “Physician Services”
- Commonly furnished in a physician’s office
- Integral part of the physician’s personal in-office service
- Direct Supervision
  - May be by the same physician who established the care plan
  - May be by another physician in the same group practice



## Medicare Incident To - continued

- Integral Part

- Service must be part of the patient's normal course of treatment
- Physician must personally perform the initial service
- Physician must remain actively involved in the course of treatment

- Direct Supervision

- Present in the office suite
- Available to render assistance, if necessary

# Case Examples



- US v. Allen, 10<sup>th</sup> Circuit Court of Appeals, 2004
  - APRN owned clinic
  - Contracted in June to employ physician beginning in December
  - Enrolled physician in Medicare effective July
  - Billed APRN services as “incident to” under the physician from July to December
  - Convicted of Medicare fraud
- Premier Urology Associates
  - Self-disclosure to OIG
  - Entered into settlement agreement for \$266,882.13
  - Partially related to billing of PA services under a physician when incident to was not satisfied

# Medicare - Diagnostic Tests

- Diagnostic Tests are categorized into one of three supervision categories:
  - General
  - Direct
  - Personal
- The regulations specify PHYSICIAN supervision
- If authorized by state law, a Nurse Practitioner or Physician Assistant can personally perform diagnostic tests
- A Nurse Practitioner or Physician Assistant is not authorized to supervise a diagnostic test for Medicare purposes



## Medicare – Split/Shared

- Inpatient/Outpatient Hospital or Emergency Department
- Visit is split between the NPP and the physician
- Must be from the same group
- Each must have a face-to-face visit
- Either may bill for the service, but not both
- Can see patient at different times
- Each must document face-to-face and relevant portion of the visit





## Medicare – Split/Shared Documentation

- Documentation must substantiate the medical necessity of the shared/split visit; support the level of E/M code submitted, and the medical record should contain enough detail to allow a reviewer to:
  - identify both providers
  - link the physician notes to those of the NPP
  - include legible signatures from both providers
  - confirm that the physician and the NPP both saw the patient face-to-face
  - include legible/electronic signature
- Guidance from CGS Medicare

# Medicare – Split/Shared Documentation

- Examples of insufficient documentation:

- "I have personally seen and examined the patient independently, reviewed the PA's History, exam and MDM and agree with the assessment and plan as written" signed by the physician
- "Patient seen" signed by the physician
- "Seen and examined" signed by the physician
- "Seen and examined and agree with above (or agree with plan)" signed by the physician
- "As above" signed by the physician
- Documentation by the NPP stating "The patient was seen and examined by myself and Dr. X., who agrees with the plan" with a co-sign of the note by Dr. X

# Case Examples

- Trinity Health Settlement – 2010
  - Combined self-disclosure/whistleblower
  - Settlement of \$205,000
  - Billing of hospital services under physician when performed by NPP



# Medicaid and Commercial Payers

- Varies payer-to-payer
- Some follow Medicare rules
- Some always enroll non-physician practitioners and always pay directly with no recognition of incident to
- Some never enroll non-physician practitioners and always pay incident to
- Some have their own rules



## Scenarios for Discussion

- Dr. Smith sees a patient for a new diagnosis of diabetes and establishes a treatment plan and asks the patient to follow up in one month. Two weeks later the patient gets an upper respiratory infection and sees the nurse practitioner. Can the nurse practitioner bill incident to?



## Scenarios for Discussion

- Your office practice incorporates non-physician practitioners who frequently provide follow up care and bill incident to. The local hospital is buying the practice and will be converting the office to an outpatient department of the hospital. How might this change impact your billing practices?

## Scenarios for Discussion

- A nurse practitioner rounds on a hospital patient to provide care for an urgent issue at 2am. The nurse practitioner documents the services he provides. At 9am the attending physician rounds on the patient and documents his service. Can the physician use the documentation of the nurse practitioner in determining the level of service?

## Scenarios for Discussion

- A physician assistant provides an office visit to a patient as part of a plan of care established by Dr. Jones. Dr. Jones is on vacation the day of the service. Dr. Jones' partner, Dr. White is in the office performing an office-based surgery on another patient at the time of the visit. Can the physician assistant bill incident to?





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Thank You