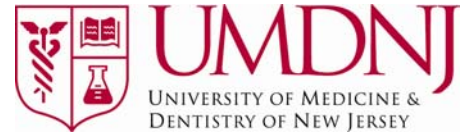


UMDNJ-Office of Ethics &amp; Compliance

# Compliance Counts!



## Message From Dan Walsh

Senior Vice President of Ethics and Compliance

### Initiatives for 2009:

- Supplemental Code of Ethics
- Online Courseware Moving to Angel
- Outside Activity Policy Revision
- Development of Metrics for Success
- Updated Compliance Education Training

Warren Buffet's famous aphorism "*It takes twenty years to build a reputation and five minutes to ruin it. If you think about that, you'll do things differently*", is a simple and direct truth to guide industry and organizations of all kinds, whether public or private. Reputation is like currency, that can appreciate and depreciate. It is the face we show to the world. As the new Senior Vice-President/Chief Ethics & Compliance Officer for UMDNJ, I now enjoy a dual reporting relationship to the President of the University and the Board of Trustees. Such dual accountability fosters greater collaboration with respect to compliance process matters. While I am still assessing the systems and structures we have in place in the Office of Ethics and Compliance and in the University, of immediate importance to me are the fundamentals of an excellent compliance program, i.e., a Code of Conduct that articulates the standards of behavior by which we all agree to abide; a culture of non-retaliation; auditing, training and a reliable, measureable means of reporting suspected misconduct, which is known and accessible to the entire University community. Within this Newsletter you will note that we have presented a reminder of the multiple means UMDNJ has established for reporting suspected misconduct.

As Dr. Owen said in his recent Town Hall presentations, the "litmus test for responsiveness" is that "*one phone call provides an answer, resolves the problem, or triggers another call.*" Within the Office of Ethics and Compliance, one phone call initiates the process that will answer your compliance and ethics questions. Together, our Ethics and Compliance team members work within an integrated system to serve our community by providing real-time guidance and regular training that will promote our mission and vision within the federal and state regulatory environment within which we conduct our business. I encourage the University community to utilize the Ethics Helpline for making reports of wrongful conduct or seeking guidance from the Office of Ethics and Compliance. The Helpline is available 24 hours a day and 7 days a week. The Ethics Helpline is a confidential and independent mechanism and callers are not obligated to identify themselves.

We will continue to have a "*no wrong door*" policy of reporting suspected misconduct. I will make communication within a safe environment the ethos of my tenure and will work tirelessly with a very talented team to safeguard your trust and our reputation. It is my pleasure and honor to join the leadership of this great institution.

*Enjoy the newsletter!*

**Dan Walsh**  
**Senior Vice President**  
**Chief Ethics & Compliance Officer**  
**Office of Ethics & Compliance**

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## Holiday FAQs



### ⇒ Gifts

#### ◆ What should I do when I receive a gift related to my job duties?

As soon as you receive such a gift, forward it to the Ethics Liaison Officer (ELO) at 1 World's Fair Drive, Somerset, Suite 3100 with a note/memo providing details of the sender as well as the recipient. This information is required to track the gift in our database as well as return or donate it. If a gift is returned, a letter is forwarded to its sender with a copy to you for your records. The ELO will determine if the gift was given to influence your official duties or if the item will create the impression of a conflict of interest. For example, you receive an Atlas of World History textbook as a holiday gift from a printing services vendor that you have worked with during the fiscal year to produce program brochures.

#### ◆ What should I do when I receive a gift that is a perishable item?

If you receive a packaged perishable item as a gift, contact the Ethics Liaison Officer (ELO), for further instructions. Items of perishable nature should be donated to a charitable organization. A list of organizations can be provided by the ELO. This only applies to perishable gifts received from the public or vendors. Perishable gifts exchanged or received among coworkers should not have to be reported to the ELO. We encourage all clinical departments to post a sign notifying patients that we are state employees, and there are certain rules that prohibit State Employees from receiving gifts. However, cards are welcomed and appreciated.

### ⇒ Gifts From a Co-Worker or Supervisor

#### ◆ Can I accept a gift from one of my co-workers or supervisor?

Yes, as long as the gift is not excessive or inappropriate for a business environment.



### ⇒ Gifts From The Public or Individual or Company That Does Business With UMDNJ

#### ◆ What are examples of gifts that can be considered items of trivial and nominal value that I may accept from an individual or company that does business with UMDNJ?

Greeting cards, plaques, certificates, pens, calendars, mugs can be considered trivial or of nominal value as long as the impression of a conflict of interest does not exist. For example, displaying a wall calendar in your office which promotes a vendor would create the impression of a conflict of interest.

### ⇒ Holiday Parties

#### ◆ Do I need to complete an Attendance at Events form for a departmental holiday party?

No, internal events do not require an Attendance at Events form.

#### ◆ Do I need to complete an Attendance at Events form if the holiday party is hosted by an individual or company that does business with UMDNJ?

Yes, you will need to complete an Attendance at Events form and forward to the Ethics Liaison Officer for approval once approval has been obtained from your supervisor.

#### ◆ Are there any restrictions on funds to pay for a holiday party on or off campus?

As of this writing, State funds still may not be used for a holiday party on or off campus.

#### ◆ Can I attend a holiday party/social event sponsored by an interested party? Do I need to pay my own way?

In the case of a holiday party/social event sponsored by an interested party, the State Ethics Commission rules indicate that UMDNJ members cannot attend as guests of the sponsor; the UMDNJ member must pay for their own attendance.

#### ◆ Can alcohol be served at a holiday party?

You may not serve alcohol on UMDNJ property. UMDNJ funds may not be used to purchase alcohol. There are no exceptions to these rules. However, alcohol may be served at an off-campus holiday party as long as the alcohol was not purchased with UMDNJ funds. For example, a department head may pay personally to serve alcohol at an off-campus holiday party for staff members in the department. A collection of funds from the employees in the department would also be acceptable to purchase alcohol to be served at an off-campus holiday party.

### ⇒ Charitable Donations

#### ◆ Are there any prohibitions or regulations for a toy, food or clothing drive?

Toy, food or clothing drives not including money donations are not specifically prohibited by State Ethics Rules. It is a departmental decision.

#### ◆ Can an individual make a charitable contribution?

Yes, if the contribution is made in an individual capacity. You may not make a charitable contribution to a private organization in your official capacity; you may not donate state funds; you may not use UMDNJ stationary or other assets to make a charitable contribution.

## Featured Article — Medicare Updates

### Question: Is it true that Medicare will not pay hospitals for complications that the patient acquires during a hospital stay?

Answer: Effective October 1, 2008, Medicare will not reimburse a hospital when the patient acquires one of the following conditions during a stay:

- serious preventable events such as objects left in during surgery, air embolisms and blood incompatibility,
- catheter-associated urinary tract infection,
- pressure ulcers,
- vascular catheter-associated infection,
- surgical site infection—mediastinitis after coronary artery bypass graft surgery,
- falls and traumas—fractures, dislocations, intracranial injuries, crushing injuries, and burns,
- surgical site infections following certain elective procedures such as orthopedic surgeries and weight reduction surgery,
- extreme blood sugar derangement, and
- deep vein thrombosis/pulmonary embolism.



Medicare will pay the hospital in these cases as if the diagnosis representing each of the above did not exist.

### Question: How does Medicare know when to apply this policy so as to avoid paying the hospital for these conditions?

Answer: CMS requires hospitals to clearly indicate the conditions with which the patient is afflicted at the time of admission, referred to as present on admission (POA). Conditions developed/present during an outpatient encounter, including in the emergency department or observation area, that leads to an admission are considered POA.

The hospital will determine the diagnosis code(s) that pertain to each patient based on the clinical documentation in the body of the medical record by a physician directly participating in the care of the patient. The hospital then assigns a POA indicator to each diagnosis code it assigns to support payment, selecting from a list that stipulates each of the following:

- A diagnosis was present at the time of admission;
- A diagnosis was not present;
- The documentation is insufficient to determine if it was present; and
- The physician was unable to determine if the condition was present.



Each POA indicator has a payment implication. For discharges occurring on or after October 1, 2008, hospitals will not receive additional payment for cases in which one of the selected conditions was not present on admission. That is, the case would be paid as though the secondary diagnosis were not present. An example of how the Hospital Acquired Condition (HAC) provision may affect an MS-DRG payment, beginning October 1, 2008, is presented below.

Service: MS-DRG Assignment (Examples below are for a single secondary diagnosis only)	Present on Admission (Status of Secondary Diagnosis)	Average Payment* (Based on 50th percentile for FY 2008)
<b>Principal Diagnosis</b> Intracranial hemorrhage or cerebral infarction (stroke) without CC/MCC - MS-DRG 066	--	\$5,347.98
<b>Principal Diagnosis</b> Intracranial hemorrhage or cerebral infarction (stroke) with CC - MS-DRG 065 <b>Example Secondary Diagnosis</b> Dislocation of patella-open due to a fall (code 836.4 (CC))	Y	\$6,177.43
<b>Principal Diagnosis</b> Intracranial hemorrhage or cerebral infarction (stroke) with CC - MS-DRG 066 <b>Example Secondary Diagnosis</b> Dislocation of patella-open due to a fall (code 836.4 (CC))	N	\$5,347.98
<b>Principal Diagnosis</b> Intracranial hemorrhage or cerebral infarction (stroke) with MCC - MS-DRG 064 <b>Example Secondary Diagnosis</b> Stage III pressure ulcer (code 707.23 (MCC))	Y	\$8,030.28
<b>Principal Diagnosis</b> Intracranial hemorrhage or cerebral infarction (stroke) with MCC - MS-DRG 066 <b>Example Secondary Diagnosis</b> Stage III pressure ulcer (code 707.23 (MCC))	N	\$5,347.98

\*Operating amounts for a hospital whose wage index is equal to the national average.

## Featured Article — Medicare Updates Cont.

**Question: What are the conditions that will have payment repercussions?**



Category of Conditions	CONDITIONS
<b>Conditions selected for implementation</b> These conditions will have payment implications beginning October 1, 2008.	<b>Serious Preventable Events</b> Object left in during surgery (998.4 CC) Air embolism (999.1 MCC) Blood incompatibility (999.6 CC)
	<b>Catheter-Associated Urinary Tract Infection</b> (996.64 CC & one of the following specific infection codes: 112.2, 590.10, 590.11, 590.2, 590.3, 590.80, 590.81, 590.9, 595.0, 595.3, 595.4, 595.81, 590.89, 595.9, 597.0, 597.80, 599.0)
	<b>Pressure Ulcers</b> (707.00 - 707.01 & 707.09 CCs; 707.02 - 707.07 MCCs)
	<b>Vascular Catheter-Associated Infection</b> (999.31 CC)
	<b>Surgical Site Infection - Mediastinitis after Coronary Artery Bypass Graft (CABG) Surgery (a specific surgical site infection)</b> (519.2 MCC & 36.10-.19)
	<b>Falls and Trauma – Fractures, Dislocations, Intracranial Injuries, Crushing Injuries, and Burns</b> (Codes will be considered in IPPS FY2009 Proposed Rule)

**Question: How does this affect me as a physician who cares for patients in the hospital setting?**

Answer: The hospital has a strong incentive to make sure physicians with admitting privileges know this policy and understand what is expected. Hospital staff and coding personnel may increase their interaction with the admitting/treating physician to ensure the facility has the documentation and other information needed to comply with this payment policy and avoid reduced payments.

Now that the POA indicator reporting can adversely affect payments, it is possible that hospitals will closely monitor documentation compliance of the physicians.

For more information about POA requirements, see the CMS Publication “Present on Admission (POA) Indicator Reporting by Acute Inpatient Prospective Payment System (IPPS) Hospitals.”

[http://www.cms.hhs.gov/HospitalAcqCond/Downloads/poa\\_fact\\_sheet.pdf](http://www.cms.hhs.gov/HospitalAcqCond/Downloads/poa_fact_sheet.pdf)

**Question: Does this just affect Medicare claims?**

Answer: No. This will affect both Medicare and New Jersey Medicaid claims. Other private insurers will or have already adopted the Hospital Acquired Conditions and the requirement to list what was “present on admission.” For example, on October 15, 2008, AmeriHealth send a bulletin to all participating providers notifying them that AmeriHealth will implement present on admission (POA) indicator billing requirements for acute-care hospitals effective January 1, 2009.

[http://www.amerhealth.com/pdfs/providers/communications/bulletins/facility/2008/11-08\\_ahnj.pdf](http://www.amerhealth.com/pdfs/providers/communications/bulletins/facility/2008/11-08_ahnj.pdf)

## Reporting of Compliance and Ethics Concerns

UMDNJ has established effective and confidential means for individuals to report allegations or concerns that include actual or suspected violations of law, violations of any UMDNJ policies or procedures, or any other type of wrongful conduct. Individuals will be permitted to make such reports anonymously if they so desire, and their anonymity will be protected as permitted by law. Failure to report policy violations or criminal conduct can be interpreted as condoning the action; therefore the importance of reporting is emphasized. Some UMDNJ resources include:

- Your immediate manager or supervisor contact by phone call, email, or meeting;
- Your Unit Compliance Officer contact by phone call, email, or meeting;
- The UMDNJ Office of Ethics & Compliance 973-972-8093;
- The Compliance Reporting website [www.umd-nj-ethics-helpline.com](http://www.umd-nj-ethics-helpline.com);
- The Ethics & Compliance Helpline at 1-800-215-9664 A confidential and independent mechanism for making reports of wrongful conduct or seeking ethics or compliance guidance from the Office of Ethics and Compliance (OEC). The Ethics helpline is available 24 hours a day/7 days a week.

1. Information communicated to the Office of Ethics and Compliance is confidential within limits of the law.
2. Employees are not required to identify themselves when reporting a concern.
3. We maintain a non-retaliation policy.
4. Failure to report non-compliance could potentially subject an employee to civil and criminal liability, sanctions, penalties or disciplinary actions in some situations.



## Coding Tip Of The Day

⇒ As we transition to Highmark Medicare Services, there is one major change in the way they score a detailed examination under the 1995 Guidelines.

### Highmark Medicare Services 4x4 Scoring Method for a Detailed Exam

What is the 4 x 4 method for determining if an examination is scored as an expanded problem focused or detailed?

Under the 1995 guidelines both the expanded problem focused examination and the detailed examination provide for the examination of up to 7 systems or 7 body areas. This has led to variability in reviews utilizing the 95 guidelines, and requiring an interpretation for proper and consistent implementation of the E/M guidelines. By providing a tool we call 4X4 (4 elements examined in 4 body areas or 4 organ systems satisfies a detailed examination; however, less than such can be a detailed exam based on the reviewers clinical judgment) our reviewers and the physicians in PA have a clinically derived tool to assist in implementing the E/M guidelines and decreasing one area of ambiguity. This tool is consistent with the way medicine is practiced, as confirmed in **Documentation Coding & Billing** by Laxmaiah Manchikanti, M.D, and **A Guide to Physical Examination** by Barbara Bates, M.D. And, it is a tool to reduce reviewer variability.

Highmark Medicare Services nurse reviewers follow the guidelines for auditing E/M services that are provided by CMS and the American Medical Association (AMA). This includes consideration of both the 1995 and 1997 guidelines, with the utilization of the guidelines that are most beneficial to the physician. We also instruct our nurse reviewers to use their clinical knowledge while reviewing the medical record documentation to determine the correct and appropriate level of care. Clinical inference overrides the 4 x 4 tool. It provides for an individual consideration, and makes the review of all services (including E/M examinations) fairer to the physician. Clinical inference is in keeping with CMS current instructions for reviewing all medical records. Again, our reviewers utilize either the 95 or the 97 guidelines when reviewing E/M services, and utilize the guidelines that benefit the provider.

With all of this said, our reviewers utilize one of the following when making a determination on whether an examination is expanded problem focused or detailed. The method chosen must be the one that is most beneficial to the physician.

- 1997 E&M examination guidelines,
- 1995 E&M examination guidelines utilizing the 4 x 4 tool, or
- 1995 E&M examination guidelines utilizing clinical inference.

\*\*Question #10 can be found on the Highmark Medicare Services website at:

[http://www.highmarkmedicare.com/faq/partb/pet/lpet-evaluation\\_management\\_services.html](http://www.highmarkmedicare.com/faq/partb/pet/lpet-evaluation_management_services.html)



## Signature Requirements

The Centers for Medicare and Medicaid Services, CMS, has recently updated the requirements related to signatures. There have been updates in relation to 3 areas: 1) Patient Medical Records, 2) Certification of Terminal Illness for Hospice and 3) Diagnostic Test Orders.

Updates pertaining to Patient Medical Records were addressed in CMS IOM 100-08 Chapter 3 Section 3.4.1.1B at [www.cms.hhs.gov/manuals/downloads/pim83c03.pdf](http://www.cms.hhs.gov/manuals/downloads/pim83c03.pdf). This regulation now states that all patient medical records must have a legible identifier for services rendered/ordered. The method of this identifier must be handwritten or electronic signature to sign an order or other medical record documentation for medical review purposes. A stamp signature is not a valid signature and cannot be used as such. It is important to note that where state law is more restrictive than CMS, the state law will supersede CMS.

There is one noted exception in this rule. The exception pertains to facsimile transmissions for certification of terminal illness for hospice. Facsimile transmissions of original written or electronic signatures are valid for Certification of Terminal Illness for Hospice and will be accepted by Medicare Contractors. This exception was further explained in CR5971. This Change Request can be found at [www.cms.hhs.gov/Transmittals/downloads/R248PI.pdf](http://www.cms.hhs.gov/Transmittals/downloads/R248PI.pdf). It is important to note that this CR allows a fax transmission of an original written or electronic signature. Therefore, providers must be aware that the patient's medical record must contain the original written or electronic signature and a copy of the fax that was sent to certify the terminal illness for hospice. These guidelines do not supersede the preclusion of Certificates of Medical Necessity (CMN's) and DME MAC information forms (DIF's).

Diagnostic Lab Tests were identified in CR6100, which can be found at [www.cms.hhs.gov/Transmittals/downloads/R94BP.pdf](http://www.cms.hhs.gov/Transmittals/downloads/R94BP.pdf). This Change Request identifies that when ordering diagnostic tests that are paid on the Medicare Physician Fee Schedule (MPFS), the Clinical Laboratory Fee Schedule or the Physician Pathology Services Fee Schedule, the physician need not sign the actual request. A Diagnostic test is defined as "all diagnostic x-ray tests, all diagnostic laboratory tests and other diagnostic tests" furnished to a Medicare patient. The definition of a testing facility is any "Medicare provider or supplier that furnishes diagnostic tests" and includes "physicians or a group of physicians (e.g. radiologist, pathologist), a laboratory, and an Independent Testing Facility (IDTF)". It is important to note here that hospital testing facilities are not included in this list. Specific requirements for hospital testing facilities are dependant on the Part A Contractor or A/B MAC requirements. While an actual signature is not required to be on the order, it is imperative that providers are aware that the intent of the order must be clearly documented in the patient's medical record. It is important that providers know that while the actual request need not be signed, the patient's medical record must reflect the intent of the physician to order said test. It is also important to know that this policy does not pertain to tests paid on any other fee schedule, such as the Outpatient Prospective Payment System (OPPS) or Inpatient Prospective Payment System (IPPS).

**As a note of interest, an order can be any one of the following:**

1. A written request, which can be hand delivered, mailed or faxed
2. An email request, sent by the ordering physician/practitioner or their office to the testing facility, or
3. A telephone request, in which both parties must document the call in the patient's medical record

If you have any questions, please contact the Office of Ethics and Compliance or Colleen A. Wade, CPC, CPC-H, CPC-I, CPC-E/M, PCS, FCS, Coding and Billing Auditor, UMDNJ – SOM at 856-566-6410 or at [wadeca@umdnj.edu](mailto:wadeca@umdnj.edu).

If you have any news that you would like included in the newsletter, please forward to:

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