Who’s Minding the Store?
UNDERSTANDING SUPERVISION REQUIREMENTS
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Why is This So Difficult?
- Who is being supervised?
- What is being supervised?
- Where is the service being performed that requires supervision?
- Who is the third-party payer?

Medicare Regulations
- Professional
- Outpatient Facility
  - Diagnostic
  - Therapeutic
  - NSEDTS
- ACGME – Teaching Physician Supervision of Residents
- State Medicaid
- State Practice Regulations

Agenda
Objectives

- Learn Medicare Part B’s levels of physician supervision for diagnostic tests and where to locate this information
- Grasp the difference between supervision of diagnostic tests and incident-to billing
- Correctly apply supervision requirements to nonphysician practitioners
- Understand the differences in supervision levels for outpatient facility services
- Recognize the difference between ACGME requirements for supervision of residents vs. billing requirements
- See how state practice regulations and Medicaid policies may differ from Medicare

Professional Billing – Medicare

- Applicable to the supervision of the technical component of diagnostic tests payable under the physician fee schedule
- Supervision must be provided by a “physician”
- Supervision cannot be provided by nonphysician practitioners
- Separate benefit category - incident-to guidelines not applicable
Application to Nonphysician Practitioners

Nonphysician practitioners who furnish services that would be physician services if furnished by a physician, and who are operating within the scope of their authority under State law and within the scope of their Medicare statutory benefit, may be treated the same as physicians treating beneficiaries for the purpose of this paragraph.

Medicare B – Diagnostic Test Exceptions

- Mammograms (regulated by FDA)
- Tests personally furnished by audiologists
- Psychological testing by a clinical psychologist or a qualified independent psychologist
- Tests personally performed by a physical therapist
- Tests performed by a nurse practitioner or clinical nurse specialist
- Pathology and lab procedures (80000 range in CPT®)

Medicare B – Diagnostic Services

- Levels of Physician Supervision
  - General
  - Direct
  - Personal
Medicare B – Physician Fee Schedule Look-up Tool

Here is a link to the on-line Medicare B Physician Fee Schedule Tool:

You may find the policy indicators in the Medicare Claims Processing Manual Internet-only Publication #100-04, Chapter 23, Section 100.5
General Supervision
- Furnished under physician's overall direction and control
- Physician's presence not required during performance of service
- Training of nonphysician personnel who perform diagnostic service physician's responsibility
- Maintenance of necessary equipment and supplies to perform diagnostic service physician's responsibility

General Supervision – Quandary
- ARNP sees and evaluates patient who is experiencing palpitations. ARNP orders EKG. Technician employed by physician group performs EKG tracing in clinic. ARNP in office when EKG performed. State scope of practice and protocol between ARNP and physician states OK for ARNP to perform EKGs under general supervision. No physician in clinic when EKG performed. ARNP reviews tracing and interprets the EKG.

- How do you bill the EKG?

Direct Supervision
- Physician supervising is in the office
- Physician is immediately available to furnish assistance and direction throughout service
Direct Supervision – Scenario

Dr. Busy’s ENT office suite contains 4 exam rooms one procedure room and a sound booth. Dr. Busy is in the procedure room in the midst of a sinus endoscopy with polypectomy on Mrs. Stuffy. Tina Timpanum, CCC-A administers a comprehensive audiometry threshold evaluation and speech recognition test (92557) on Mr. Seruman that was ordered by his PCP. Dr. Busy cannot leave Mrs. Stuffy in the compromised position that she is in to supervise the audiometry test.

- Can the audiometry test be billed?
- Under whose provider number?

Direct Supervision – Scenario

Dr. Flow is a urologist who employs Physician Assistant Peter Metere. At a previous encounter, Dr. Flow ordered a cystometrogram (51725) for patient Linda Leaky who suffers from urinary incontinence. A CMG has both a TC and a PC. Dr. Flow’s surgical coordinator scheduled the procedure for 10:00 am but forgot that Dr. Flow also has another procedure scheduled at the same time in the main OR of the hospital. PA Metere performs the CMG and does the interpretation. Dr. Flow left the office at 9:50 am to perform the scheduled surgical case. He returns to the office at 11:00 am. The CMG requires direct physician supervision. All parts of this service are within the PA’s state scope of practice.

- Can the cystometrogram test be billed?
- Under whose provider number?

Personal Supervision

Physician must be in attendance in the room during the performance of the service
Personal Supervision – Scenario

- Needle EMG study of urethral sphincter (CPT® 51785) performed by trained ARNP. Procedure within ARNP’s state scope of practice and OK to perform per protocol. Physician ordered the study. Clinic is physician-based (POS 11). Physician is in clinic and attending to patients who were scheduled with him.
- Personal physician supervision required
- Service billed under the physician’s provider number

Is this correct?

Medicare B – Incident to Billing

- Coverage of services and supplies incident to the professional services of a physician in private practice is limited to situations in which there is direct physician supervision of auxiliary personnel
- Direct supervision in the office setting means the physician must be present in the office suite and immediately available to provide assistance and direction throughout the time the auxiliary personnel is performing services
- Services rendered by NPPs may also be billed incident to a physician

Medicare Part B – Incident-to Billing

- Direct physician supervision of auxiliary personnel
- Also applies to direct supervision of auxiliary personnel by qualified nonphysician practitioners
- Not applicable in facility setting
- Incident-to billing rules not applicable to services which have their own statutory category under Medicare
Outpatient Facility Billing

- Diagnostic Services
- Therapeutic Services
  - Non-surgical Extended Duration Therapeutic Services (NSEDTS)

Outpatient Facility - Diagnostic

- Diagnostic service - an examination or procedure to which the patient is subjected, or which is performed on materials derived from a hospital outpatient, to obtain information to aid in the assessment of a medical condition or the identification of a disease.
Outpatient Facility – Diagnostic

- Who may provide supervision same as 42 CFR 410.32 (b) (1)
- Supervisory physician may be present in locations such as physician offices that are close to the hospital or provider based department of a hospital where the services are being furnished but are not located in actual hospital space, applicable to on-campus or off-campus
- Supervisory physician may be present in a location in or near an off-campus hospital building that houses multiple hospital provider based departments where the services are being furnished
- Supervisory physician must be immediately available

Outpatient Facility – Diagnostic Scenario

Dr. Flutter is a cardiologist who employs Pamela Palpate, PA to assist with her heavy patient load. Dr. Flutter’s office is located across the street from the hospital and is a hospital-based location (POS 22). Dr. Flutter has to go to the hospital to perform an urgent cardiac catheterization. Prior to leaving, she orders a cardiovascular treadmill stress test for Mr. Blockedge who was experiencing dizziness and shortness of breath. M.A. Ondaspot hooks up the patient and remains in the room with the patient. PA Palpate is reviewing lab reports in her office within the clinic when the stress test is performed. Dr. Flutter returns from the cath lab and provides the interpretation and report.

Procedure codes: 93015 – CV stress test global; 93016 – CV stress test supervision only; 93017 – tracing only; 93018 – interpretation and report only

Which procedures, if any can be billed on the facility side and under whose provider number? How about professional billing?

Outpatient Facility – Therapeutic

Medicare Part B pays for hospital services furnished incident to a physician or nonphysician practitioner service to outpatients:

- if furnished by/under arrangements made by participating hospital
- as an integral though incidental part of a physician’s or NPP’s services
- in the hospital or in a department of the hospital
- under direct supervision of a physician or NPP
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<tr>
<th>Outpatient Facility – Therapeutic</th>
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<tr>
<td>Direct supervision required unless general or personal specified</td>
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<td>Supervisory practitioner may furnish supervision from a physician office or other nonhospital space that is not officially part of the hospital where the services are being furnished as long as he or she remains immediately available</td>
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<tr>
<td>Allowed practitioner can furnish direct supervision from any location in or near an off-campus hospital building that houses multiple hospital provider-based departments where the services are being furnished as long as the supervisory practitioner is immediately available</td>
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<td>There are a few therapeutic services that mandate physician (MD or DO) direct supervision. A nonphysician practitioner may not supervise the following:</td>
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<tr>
<td>pulmonary rehab</td>
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<tr>
<td>cardiac rehab</td>
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<td>intensive cardiac rehab</td>
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<tr>
<td>Supervisory physician or nonphysician practitioner must have knowledge, skills, ability to perform service</td>
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<td>Responsibility more than capacity to respond to an emergency</td>
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<td>Must be able of take over or provider additional orders</td>
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Outpatient Facility – NSEDTS

- Non-surgical extended duration therapeutic service
- Hybrid level of supervision
- Services last a significant time
- Have substantial monitoring component
- Low risk of requiring supervisory practitioner’s immediate availability to furnish assistance and direction after the service is initiated
- Not primarily surgical in nature

Outpatient Facility – NSEDTS Scenario

- In an outpatient observation setting, Nurse Pointy administers one-hour IV infusions of an antibiotic every 8 hours for 24 hours. Dr. Ina Hurry is in the hospital-based infusion center doing patient work. She is in the center for the initial infusion but then goes home as the patient is stable.
- 96365 for the initial infusion
- 96366 X 2 for each subsequent infusion
  - Did Dr. Hurry satisfy the supervision requirements for NSEDTS?
  - What else needs to be documented?

Outpatient Facility – NSEDTS

http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/index.html
Accreditation Council for Graduate Medical Education

- Has its own supervision level definitions for residents
- New term - "indirect supervision"
- Residents afforded progressive responsibility commensurate to their training
- Level of teaching physician supervision based on resident's competence and experience
- Does not always coincide with billing requirements

Accreditation Council for Graduate Medical Education

- PGY-1 may perform the following under indirect supervision:
  - basic venous access procedures, including establishing IV access
  - placement and removal of nasogastric tubes and Foley catheters
  - arterial puncture for blood gases
  - removal of surgical drains
  - application of dressings and prefabricated splints
  - placement of splints for non-displaced fractures
  - removal of non-absorbable sutures or skin staples

[Program Requirement: VI.D.5.e.(1)]
Medicare Teaching Physician Rules

- Only those meeting the definition of a teaching physician may supervise a resident in an ACGME approved program.
- Unlike ACGME program requirements, a “more advanced resident or fellow” may not provide supervision of a less advanced resident and bill for the service (moonlighting rules aside).
- Teaching physician’s role more than just supervisory – must be present and participate in key portions of service and this differs based on type of service performed (e.g., E/M, minor surgery, major surgical procedure, complex procedure, diagnostic tests, etc.).

Minor Procedures

- For procedures that take only a few minutes (five minutes or less) to complete, e.g., simple suture, and involve relatively little decision making once the need for the operation is determined, the teaching surgeon must be present for the entire procedure in order to bill for the procedure.

Medicare Teaching Physician Rule Scenario

- Orthopaedic PGY-1 resident inserts a Foley catheter. Level of Teaching Physician supervision: indirect supervision with direct supervision immediately available.
  - Charge billed to Medicare Part B is 51702-GC
  - Is this charge compliant for professional billing?
State Medicaid Programs

- Supervision levels may vary based on fiscal intermediary
- Supervision levels may vary based on the service being provided

- Each state sets own rules usually tied to State laws
- Florida Medicaid Practitioner Services Coverage & Limitations Handbook
  - Physician supervision of AAs, ARNPs, PAs, Residents, RNFA and billing options
  - Exceptions to billing under physician supervision for certain services by ARNPs and PAs
    - child health check-up screenings
    - deliveries
    - psychiatric services

State Medicaid Programs

- Supervision levels may vary based on the service being provided
State Medicaid Programs – Scenario

ARNP performs a child health check-up screening on a 3 year old. Supervising physician is in the building when the service is rendered. Supervising physician reviews ARNP’s note and cosigns the medical record documentation. ARNP's protocol authorizes ARNP to perform without physician supervision and service within ARNP's state scope of practice. ARNP has not been enrolled in the child health check-up program.

How should this service be billed?

State Practice Regulations

- Each state sets own rules as far as scope of practice and supervision
- Medicare and Medicaid require compliance with State scope of practice regulations
- Medicare and Medicaid impose other specific requirements governing supervision required for billing purposes

State Practice Regulations

Level of supervision and number of practitioners who may be supervised at a given time may differ based on:
- who is being supervised (e.g., ARNP, electrologist, PA, x-ray machine operator)
- what is being supervised (e.g., laser hair removal, primary health care, specialty health care, nuclear medicine)
- where service is being provided (e.g., hospital vs. dermatology clinic, facilities licensed in conjunction with a college of medicine or GME program)
State Regulations – Scenario

PA inserts a chest tube in the emergency department of a hospital. Supervising physician present in the ED but not at bedside.

Is the PA compliant with state supervision requirements?

State Practice Regulations – Scenario

F.A.C. 64B8-30.012 Physician Assistant Performance.
The following duties are not permitted to be performed under indirect supervision:
1. Routine insertion of chest tubes and removal of pacer wires or left atrial monitoring lines.

F.A.C. 64B8-30.001 Definitions:
The term "direct supervision" refers to the physical presence of the supervising physician on the premises so that the supervising physician is immediately available to the physician assistant when needed.
The term "indirect supervision" refers to the easy availability of the supervising physician to the physician assistant, which includes the ability to communicate by telecommunications. The supervising physician must be within reasonable physical proximity.

Final Thoughts

Do not judge your neighbor until you walk two moons in his moccasins.
- Cheyenne Proverb
Questions

The information presented should not be construed as all inclusive. Websites and the regulations posted on them change frequently and should be checked periodically for the most up-to-date information.