

Physician Documentation and Coding:  
The Importance of Getting it Right – Avoiding Personal  
and Institutional Liability in the  
Current Climate of Government Enforcement

The Department of OB/GYN Physician Education  
The Brody School of Medicine  
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## I. The Importance of Thorough Documentation and Correct Coding:

- Remains top priority for government enforcement agencies (Office of Inspector General and Department of Justice)
- Recent CMS report noted loss of approximately \$11.9 billion between Oct. 2004 and Sept. 2005
- Physician documentation and coding/billing among top risk areas identified in the OIG Compliance Guidance for Physician Groups
- The False Claims Act penalties can be extraordinarily high, including exclusion from Medicare and Medicaid
- The Brody School of Medicine Code of Conduct requires strict adherence to proper billing standards; attestation is signed annually and is a condition of employment
- BSOM reputation and integrity

## II. False Claims Act:

- False Claims Act (FCA) prohibits anyone from “knowingly” submitting a false or fraudulent claim for payment
- “Knowingly” means (i) actual knowledge; (ii) acts in deliberate ignorance of the truth or falsity of the information; or (iii) acts in reckless disregard of the truth or falsity of the information.
- No proof of specific intent to defraud is required; liability is proven by evidence of deliberate ignorance or reckless disregard of truth of the claim
- Damages: Triple damages and penalties of \$5,500 to \$11,000 per false claim for submission or causing submission of false claim.
- May result in imposition by the government of a “corporate integrity agreement”

## III. Qui Tam Actions:

- The FCA allows a private person (a “qui tam relator”) to bring a civil action in the name of the United States.
- Qui tam relators share in any money recovered (including settlements).
  - If government joins in action, relator is entitled to 15% to 25% of proceeds depending on relator’s contribution to case.
  - If government does not join in action, court may award relator not less than 25% and not more than 30% of proceeds.

#### IV. Government Enforcement Actions:

- False claims/fraud can result from actions such as billing for services not rendered, upcoding and bundling, kickbacks, lack of medical necessity, false certification.
- Examples of settlements involving upcoding:
  - Univ. of Miami (2005) 3.9 million
  - Univ. of Colorado Hospital (2005) \$755,000
  - HCA (2000) \$403 million
  - Community Health Systems (Tennessee – 2000) \$31 million
  - Allina Health System (2002) \$16 million
  - Emergency Physicians Billing Services, Inc. (2000) \$15.5 million
  - UPMC (1998) \$17 million
  - Univ. of Washington (2004) \$35 million
  - Yale Univ. (1998) \$5.6 million
  - Columbia Univ. (2003) \$480,000
  - Loma Linda University (2004) \$2.2 million

#### V. Reporting Incidents of Noncompliance at BSOM:

- Encouraged to use supervisors, administrators as the first line of reporting of any known incidents of noncompliance.
- BSOM Compliance Hotline
  - Available 24 hours a day, 7 days a week
  - Can be anonymous
  - Toll free 1-866-515-4587
- No retaliation for good faith reporting of incidents of noncompliance.
- All good faith reports will be fully investigated.
- Confidentiality maintained to the fullest extent possible.

#### VI. The Office of Compliance at BSOM:

- Here as a resource to you
- Joan A. Kavuru, J.D., Director  
744-5200; [kavuruj@ecu.edu](mailto:kavuruj@ecu.edu)
- Charlotte Price, RHIA, CCS-P, CPC, Billing Compliance Manager  
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