

Update on Ancillary Services

California Orthopaedic Association

Annual Meeting

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california orthopaedic association
"keeping you active"



- Employment of physical therapists by medical corporations
- In-office radiology
- Ambulatory surgery centers

Employment of Physical Therapists – Is It Illegal?

- No court has ever said so– HOWEVER:
- September Legislative Counsel opinion said “yes”:
 - Physical therapists are “prohibited from providing physical therapy as an employee of a medical corporation.”
 - AND: “Physical therapists may be subject to discipline” by the PT Board for providing services as an employee.

PT Board Response

- In December, Board posted Legislative Counsel opinion on its website
- Drafted a letter asking employed PTs to “terminate employment”
- PT Board members began personally calling employed PTs



Medicine's Response

- Letter to PT Board challenging the “underground regulation”
- Met with Director of Consumer Affairs
- Introduced AB 783 (Hayashi) to clarify the law
 - Bill passed first committee 9-0 and Assembly Floor 51-0

In-Office Radiology



Current California Law (PORA)

- Prohibits physician from referring patient for diagnostic imaging if physician has a financial interest
- “Diagnostic imaging” includes X-ray, CT, MRI, mammography, US
- Exception: prohibition does not apply to any service performed within physician’s office or group practice

Current Federal Law (Stark II)

- Prohibits referral of Medicare/Medicaid patients to an entity for radiology services if physician has financial relationship with entity
- “Radiology services” include MRI, CT, diagnostic nuclear imaging, US
- Exceptions: prohibition does not apply to any physician service provided personally by or under the personal supervision of another physician in the same group practice, or provided under “in-office ancillary services” exception

What's New?

- Federal healthcare reform (PPACA), effective 1/1/11
- Creates new disclosure requirement:
 - Referring physician must inform patient in writing that patient may obtain an MRI, CT or PET from a person other than referring physician
- Referring physician must also provide patient with a list of providers in the area where patient resides

Proposed Federal Legislation

- H.R. 1476 (Speier) –
“Integrity in Medicare Advance Diagnostic Imaging Act of 2011”
- Would prohibit “advanced imaging services” (MRI, CT, PET) from being performed under the in-office ancillary services exception in Stark II.
 - X-ray, fluoroscopy and ultrasound permitted.



MedPAC Recommendations

- Cut Medicare reimbursement for physicians who refer patients to imaging equipment they own
- Require physicians who order “substantially” more advanced imaging than other physicians to get prior approval

Ambulatory Surgical Centers



Worker's Compensation Fee Schedule

- 2004 OMFS sets HOPD and ASC fees the same (120% of Medicare HOPD rate)
- 2008 Medicare changes to ASC payment system: Medicare now pays ASC at 59% of HOPD rate
- Current OMFS ASC payment rate is 206% higher than Medicare ASC payment rate
- Proposed regulations would lower ASC fee schedule rate from 120% of Medicare HOPD to 100% HOPD

ASC Advantages

- For Patients: convenient locations, shorter waiting times, easier scheduling than HOPDs
- For Surgeons: more control over work environment, customized surgical environments, specialized staff

DWC regulations would penalize ASCs for being more efficient and impair access to care