LOGAN SPEAKS

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Doctor TO Doctor

Logan College and the Logan Alumni Association have partnered to launch Doctor to Doctor, a practice tips section featuring effective practice management methods from successful DCs. Doctor to Doctor is spearheaded by Dr. Ralph Barrale, dean of postgraduate education, and Dr. Patrick Browne, vice president of enrollment services. If you would like to submit a practice tip to Doctor to Doctor, please contact Dr. Barrale at 800-782-3344, or email your tip to tower@logan.edu.

ABOUT THE AUTHOR

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Q&A for the Bulletproof Practice: Important Questions You Must Ask About Your Practice

(Part 1)

The biggest issue you will address in building and managing a successful chiropractic practice today is compliance because it affects every part of your practice from reimbursements to marketing and patient care. Given the federal government's diligence in identifying and prosecuting chiropractors who violate compliance rules (exposing us to severe penalties), chiropractors must actively seek to create a "bulletproof practice"—one that is impervious to prosecution from the Office of the Inspector General (OIG).

The first question I am always asked is, "How do I create a bulletproof practice?" The answer is simple:

Follow the rules.

Following is the first of a two-part series of commonly asked questions and answers regarding compliance.

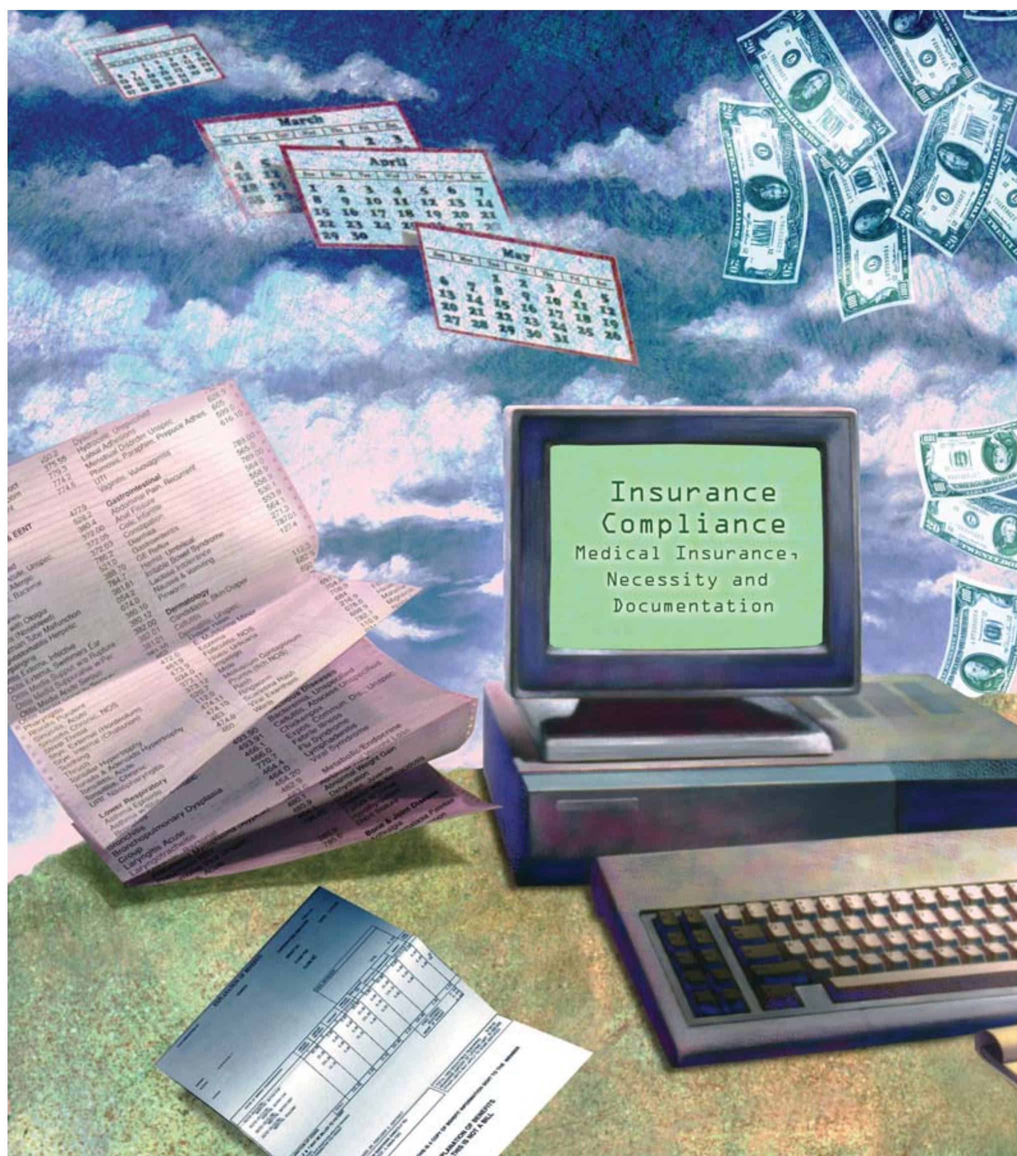
Q: Do the policies put forth by the OIG apply only to Medicare?

A: The answer to this question has caused much debate since the Health Insurance Portability and Accountability Act (HIPAA) came into effect in 1996. The HIPAA law created a standard for federal regulation of insurance that, in some cases, supersedes state regulations. Gary Claxton, Institution for Health Care Research and Policy, Georgetown University, April 2002 writes:

HIPAA provides, however, that if a state's law establishes standards for state licensed health insuring organizations that are at least as stringent as the HIPAA standard, the state is the primary enforcer of the standard, with DHHS [Department of Health and Human Services] having authority to enforce the standard if the state does not. Where a state's laws do not contain a standard at least as stringent as the HIPAA standard, enforcement falls to DHHS.

In other words, adherence to the OIG's policies regarding health care does not apply only to Medicare or Medicaid because most states have already adopted the entire HIPAA law or went beyond its standard to make the state's own rules more restrictive. This means that if a doctor takes the steps to become compliant to match federal standards, he or she likely meets or exceeds his or her state laws.

The first step to implement compliance is to create a corporate compliance plan that covers the rules set up by the OIG. Secondly, doctors must train their staff on these issues and continually update and mold their plans to make sure they grow with their clinics.



Q: Is it possible to market for new patients and still follow the rules set by the OIG?

A: The simple answer is "yes," but you must understand the federal law regarding your ability to give "free services" to Medicare or Medicaid patients:

Section 1128A(a)(5) of the Act (the "CMP") provides for the imposition of civil monetary penalties against any person who gives something of value to a Medicare or Medicaid program beneficiary that the benefactor knows or should know is likely to influence the beneficiary's selection of a particular provider, practitioner, or supplier of any item or service for which payment may be made, in whole or in part, by Medicare or Medicaid.

In recent opinions written by the OIG about free services and screenings, even services that are considered "excluded" (such as screenings) could be considered an inducement and therefore subject the doctor to civil monetary penalties.

As long as patients are not given any services to induce them to come into the office, patients could be offered the ability to do their own "personal in-office assessment" to see if the practice is the right place for them to get well. Patients appreciate honesty, and this type of marketing can go a long way to remove the "used car salesman" tag chiropractors have been unfairly given over the years.

Q: How does compliance with federal regulations affect the way I practice?

A: If we were to look at definitions from different sources, we see that the rules governing Medicare and a private insurer such as Aetna are almost identical.

Aetna's policy on chiropractic states:

- If no improvement is documented within 30 days despite modification of chiropractic treatment, continued chiropractic treatment is considered not medically necessary.
- Once the maximum therapeutic benefit has been achieved, continuing chiropractic care is considered not medically necessary.
- Chiropractic manipulation in asymptomatic persons or in persons without an identifiable clinical condition is considered not medically necessary.
- Chiropractic care in persons, whose conditions are neither regressing nor improving, is considered not medically necessary.
- Manipulation is deemed experimental and investigational when it is rendered for non-neuromusculoskeletal conditions because its effectiveness for these indications is unproven.

Medicare's national chiropractic policy states:

The patient must have a significant health problem in the form of a neuromusculoskeletal condition necessitating treatment, and the manipulative services rendered must have a direct therapeutic relationship to the patient's condition and provide reasonable expectation of recovery or improvement of "function."

It is interesting to note that the major medical insurance companies have jumped onto the Medicare bandwagon when it comes to the concept of medical necessity and who should pay for care. Again, we see how Medicare's rules may not be directly part of how major medical insurance companies run their businesses, but as with state laws versus HIPAA law, the major medical insurance companies have adopted not only the letter but the spirit of Medicare's rules. In short, staying compliant with federal regulations is the only sure way to protect your practice.