

## Compliance Tip – Teaching Physician Participation and Documentation for E/M Services Varies

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In general, Teaching Physicians may bill and be reimbursed by Medicare Part B for services involving residents when:

- the Teaching Physician personally furnishes the services; or
- the Teaching Physician was physically present during the critical or key portion(s) of the service that a resident performs.

For purposes of payment, Evaluation and Management (E/M) services billed by the Teaching Physician require that the Teaching Physician personally document at least the following:

- that the Teaching Physician performed the service or was physically present during the critical or key portion(s) of the service when performed by the resident; and
- the participation of the Teaching Physician in the management of the patient.

For visits involving residents, the Teaching Physician documentation guidelines detail the documentation expectations of the Teaching Physician but also what the Teaching Physician must actually do.

Let's take a closer look at a few very common scenarios in clinical practice and see where the Teaching Physician's participation and documentation varies.

### Scenario 1

The resident performs the elements required for an E/M service in the presence of, or jointly with the Teaching Physician and the resident documents the service. In this case, the Teaching Physician must document that he or she was present during the performance of the critical or key portion(s) of the service and that he or she was directly involved in the management of the patient.

Samples of Acceptable Teaching Physician Attestation Statements for Scenario 1:

*Initial or Follow-up Visit:* "I was present with resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note."

*Follow-up Visit:* “I saw the patient with the resident and agree with the resident’s findings and plan.”

The terms “in the presence of” or “jointly with” mean the Teaching Physician was physically present in the room with the patient and the resident when the resident performed the required elements of the E/M service.

Notice that in both sample attestation statements for scenario 1, the Teaching Physician documents his or her presence during the critical or key portions of the E/M service and his or her participation in the management of the patient.

Remember, Medicare Part B does not pay for resident services. There must be a personal service that the Teaching Physician performs in order to seek payment under Medicare Part B. The Teaching Physician’s presence with the resident when the resident performed the critical or key portions of the service alleviates the Teaching Physician from having to perform these critical or key portions again.

It would be inappropriate for the Teaching Physician to document that he or she was present with the resident during the history and exam, or for the Teaching Physician to document that he or she saw the patient with the resident when the Teaching Physician was not physically in the room when the resident performed the critical or key portions of the service.

## Scenario 2

The resident performs some or all of the required elements of the service in the absence of the Teaching Physician and documents his or her service. The Teaching Physician independently performs the critical or key portion(s) of the service with or without the resident present and, as appropriate, discusses the case with the resident. In this instance, the Teaching Physician must document that he or she personally saw the patient, personally performed critical or key portions of the service, and participated in the management of the patient.

Samples of Acceptable Teaching Physician Attestation Statements for Scenario 2:

*Initial Visit:* “I saw and evaluated the patient. I reviewed the resident’s note and agree, except that picture is more consistent with pericarditis than myocardial ischemia. Will begin NSAIDs.”

*Initial or Follow-up Visit:* “I saw and evaluated the patient. Discussed with resident and agree with resident’s findings and plan as documented in the resident’s note.”

*Follow-up Visit:* “See resident’s note for details. I saw and evaluated the patient and agree with the resident’s finding and plans as written.”

*Follow-up Visit:* “I saw and evaluated the patient. Agree with resident’s note but lower extremities are weaker, now 3/5; MRI of L/S Spine today.”

Notice that in all sample attestation statements for scenario 2, the Teaching Physician documents that he or she personally performed the critical or key portions of the service and participated in the management of the patient. Because the Teaching Physician was not

physically present with the resident during the performance of some or all of the critical or key portions of the service, the Teaching Physician must personally perform those components even though the Teaching Physician need only provide a brief statement attesting to this fact.

It would be inappropriate for the Teaching Physician to use these attestation statements when the Teaching Physician did not personally perform the critical or key portions of the service.

### Scenario 3 - Late Night Admissions

When a resident admits a patient to a hospital late at night and the Teaching Physician does not see the patient until later, including the next calendar day, the service may be billed on the date the Teaching Physician performs the critical or key portions of the service, even if the next calendar day when:

- the Teaching Physician documents that he or she personally saw the patient and participated in the management of the patient.

The Teaching Physician may reference the resident's note from the previous day in lieu of re-documenting the history, exam and medical decision making provided that the patient's condition has not changed, and the Teaching Physician agrees with the resident's note.

- the Teaching Physician's note reflects any changes in the patient's condition and clinical course from the time the resident saw the patient and when the Teaching Physician saw the patient.

Samples of Acceptable Teaching Physician Attestation Statements for Scenario 3:

*Initial Visit:* "I saw and evaluated the patient. I reviewed the resident's note and agree, except that picture is more consistent with pericarditis than myocardial ischemia. Will begin NSAIDs."

*Initial or Follow-up Visit:* "I saw and evaluated the patient. Discussed with resident and agree with resident's findings and plan as documented in the resident's note."

*Follow-up Visit:* "See resident's note for details. I saw and evaluated the patient and agree with the resident's finding and plans as written."

*Follow-up Visit:* "I saw and evaluated the patient. Agree with resident's note but lower extremities are weaker, now 3/5; MRI of L/S Spine today."

Notice that in all sample attestation statements for scenario 3, the Teaching Physician documented that he or she personally performed the critical or key portions of the service and participated in the management of the patient. Because the Teaching Physician was not physically present with the resident during the performance of the critical or key portions of the service, the Teaching Physician must personally perform those components even though the Teaching Physician need only provide a brief statement attesting to this fact. Also, the Teaching Physician documented any changes in the patient's condition or clinical course since the resident saw the patient.

Teaching Physicians must use caution when appending attestation statements to resident notes on the following calendar day. It must be clear in the note when the resident saw the patient and when the Teaching Physician saw the patient.

If the Teaching Physician did not see the patient until the calendar day after the resident saw the patient, the date of service reflected on the billed charge must match the date the Teaching Physician actually saw the patient. If this is not clear in the note, a government auditor may deny the service upon medical review for “no documentation for date of service.”