

Stat Law

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Medical Practice Social Media Guidelines Issued: The Federation of State Medical Boards (FSMB) has released new “Model Policy Guidelines for the Appropriate Use of Social Media and Social Networking in Medical Practice.” The guidelines, available at <http://www.fsmb.org/pdf/pub-social-media-guidelines.pdf>, advise physicians on multiple aspects of social media and internet activity. The FSMB guidelines also encourage state medical boards to use their authority to discipline physicians for inappropriate communication with patients, online use of the internet for unprofessional behavior, online misrepresentation of credentials, online violations of patient confidentiality, failure to reveal conflicts of interest online, online derogatory remarks regarding a patient, online depiction of intoxication, and discriminatory language or practices online. Practices should have policies that guide physicians and staff and protect patients.

NY OMIG Work Plan Released: The NY Office of the Medicaid Inspector General (OMIG) has published its work plan for fiscal year 2012-2013. The work plan reflects services under scrutiny by OMIG which, for the coming fiscal year are: billing for office place-of-service when the services were delivered in a clinic or outpatient hospital setting; medical necessity of enteral feeding claims; medical necessity of high volume home health services; and obstetrical/gynecology duplicate delivery billings or billing for global delivery fees when delivery-only codes were appropriate for the services rendered.

CMS Rules Intended to Reduce Regulatory Burden: The Centers for Medicare & Medicaid Services (CMS) has issued two new rules intended to reduce the regulatory burden on health care providers and cut health care costs, but which also affect hospital and medical staff issues. The Medicare Regulatory Reform Rule, http://www.ofr.gov/OFRUpload/OFRData/2012-11543_PL.pdf, among other things, will eliminate the enrollment bar for physicians when based on failure to respond timely to revalidation or other requests for information and remove some obsolete requirements for ASCs. The final rule revising Medicare Conditions of Participation for Hospitals, http://www.ofr.gov/OFRUpload/OFRData/2012-11548_PL.pdf, allows an optional program for patient/caregiver self-administration of certain medications; encourages the use of pre-printed and electronic standing orders and protocols; allows one governing body to oversee multiple hospitals in a single health system with a member(s) of the medical staff serving on the board; requires that the medical staff review all eligible candidates, as defined by the governing body, for eventual medical staff appointment; and allows a podiatrist to serve as head of the medical staff, when permitted by state law.

Physician-Administered Drugs Under Scrutiny: Two hospitals in Westchester County will refund the State over \$2.3 million for overbilling the New York Medicaid program for physician-administered drugs. Hospitals and physicians are required to only bill the Medicaid program for the price that was paid for the drugs. Investigations by the NY Attorney General’s Medicaid Fraud Control Unit led to allegations that the hospitals billed Medicaid in excess of the cost of the drugs, pocketing over \$1 million in profit. The hospitals settled by agreeing to pay the State double what they had overbilled plus interest. These investigations were part of the Attorney General’s project to address the “wide-spread failure” of hospitals and physicians to properly submit “J code” claims for injectable drugs which, to date, has resulted in the recovery of over \$19.9 million from more than 145 New York hospitals and physicians, including two criminal prosecutions.

NLRB Poster Delayed Indefinitely: A National Labor Relations Board rule requiring employers to post a union rights notice is delayed indefinitely, due to conflicting court decisions regarding the rule. The requirement would apply to medical offices with a gross annual volume of business of \$250,000 or more. Watch *Statlaw* for further developments.

For more information on any of the above items, contact us at 1-800-445-0954.

UPDATE 2012

Late breaking news on
medical-legal developments
affecting physicians and
health care providers.

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