

Radiology Administrator's

Compliance & Reimbursement Insider

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Imaging Weekly

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Imaging centers under pressure to enter leasing agreements may be treading on thin ice

Many physicians are squeezing imaging centers to enter into questionable leasing agreements that may violate federal or state anti-kickback laws, say healthcare attorneys. As these agreements become more common, regulators, including the Office of Inspector General (OIG)—are taking notice.

Enforcement in this area is likely on the upswing, says attorney **William Sarraile**. “We’re starting to see qui tam actions related to some of these [leases],” he says, adding that increased attention on this issue from Congress and the media has put state attorneys general on the alert.

A May 2 *Wall Street Journal* article described a number of imaging center/physician lease agreements, some of which appear to be little more than means of allowing physicians to make money by referring imaging services. For example, one type of leasing agreement described in the article called for an imaging center to charge physicians a low, flat fee per scan. Under this deal, the referring physician turns around and seeks a higher reimbursement rate from a private payer or the federal government. The referring physician doesn’t provide any real contribution to the delivery of the technical component service, other than his or her referral. In addition, the facility may be “leased” to the physician when his or her patients are in the office—not for a set block of time or weekly or monthly. Physicians stand to make hundreds of thousands of dollars per year in profits from such arrangements, according to the *Journal*. In return, the imaging center receives the increased patient volume it needs.

This kind of agreement represents the most drastic risk for organizations, but there are other types of agreements that are perceived as safer, such as “block” lease agreements. Under block lease deals, physicians lease a set number of hours per week at fair market value (FMV) from a center and are responsible for that time and the direction of the center during the leased period. However, healthcare attorneys caution that it is difficult to completely eliminate risk from these agreements.

“There are ways to have part-time relationships that are compliant, and there are ways to have part-time relationships that are fundamentally illegal and [that] create risks under anti-kickback [statutes] and the False Claims Act,” says Sarraile. And federal regulations aren’t the only ones about which sites should be worried. Imaging centers can also run afoul of private commercial insurers.

The motivation behind the agreements

Regardless of the potential for legal problems, there is a lot of pressure on imaging centers to enter into them, says attorney **Tom Greeson**. Physicians have been looking for new sources of income in

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IMAGING CENTERS (continued from p. 1)

the face of dwindling margins and unfavorable fee schedules, says Sarraille.

Imaging centers also feel pressure because they often have a lot of competition, which gives them the incentive to court referring physicians by offering lucrative deals, says attorney **Anne M. Haule**. Those facilities that opt against offering leasing agreements often lose significant business to the sites that do agree to them, says Haule. So although attorneys recommend proceeding cautiously, many sites may not follow this advice. But the following tips can help reduce your risk:

- 1. Consult your lawyer.** These agreements are so tricky that trying to navigate them on your own can lead to trouble, says Greeson. "You need someone who can assist you in structuring arrangements in a manner that complies with [federal and state laws]," he says.
- 2. Choose the lowest-risk leases.** If you feel that you must offer lease agreements to stay viable, choose a less risky type of agreement, says Haule. Some healthcare attorneys say block-lease agreements, in which physicians lease a set block of time from an imaging center monthly, carry less risk. Although attorneys have different opinions on the legality of these arrangements, Haule says she doesn't believe they are immune from scrutiny and counsels her clients to avoid them all together. However, some attorneys believe that anyone charged with violating the law by entering into a block-lease agreement could successfully fight the charges. However, Haule points out that even if you win a legal fight on this issue, you may still have to spend thousands of dollars in the process.
- 3. Pay FMV for the lease.** If you enter into a lease agreement, ensure that it is at FMV. Have an outside expert conduct the valuation, says Haule.
- 4. Comply with the Stark law limitations.** Be careful to meet the Stark Law limitations that may apply, says Sarraille. To meet the in-office ancillary services exception and some of the other exceptions that are likely to apply, consider the following criteria:
 - The center is located in the same building where the cardiologist is located and provides the full range of his or her services if the arrangement is part-time
 - The leasing entity is the only entity that occupies and uses the leased space during lease hours
 - The payment under the lease reflects FMV

For some attorneys, a significant issue to consider in leasing arrangements is whether the referring physician is the actual provider of the service. If a physician who doesn't know how to interpret data or images and knows nothing about supervising the technical staff enters into a lease agreement, it will raise red flags if that physician holds himself or herself out as being the provider of the service, says Sarraille.
- 5. Don't refer government payer patients.** If you send your government patients to the same center where you have the lease agreement, you could be violating the law even if the patients aren't part of the actual lease agreement, says Haule. Send these patients to a separate facility. Although this won't protect you from other violations, it can protect you from federal anti-kickback and False Claims Act violations.
- 6. Request an advisory opinion.** If your arrangement raises questions, ask the OIG to review it for legality, says Greeson. ■

Billing and reimbursement challenges for kyphoplasty

By Jackie Miller, RHIA, CPC

Kyphoplasty is a percutaneous procedure used to treat vertebral compression fractures. It is often confused with percutaneous vertebroplasty; however, the technique and the coding are different.

Kyphoplasty is accomplished by inserting an inflatable balloon into the vertebral body through a small (1 cm–2 cm) incision. The physician inflates the balloon, creating an empty space (also known as a void) and partially restoring the height of the vertebra. The physician then removes the balloon and injects bone cement (typically methyl methacrylate) under low pressure to fill the space in the vertebral body and maintain the height of the vertebra. This procedure may be performed either unilaterally or bilaterally at one or more vertebral levels.

By comparison, percutaneous vertebroplasty is also used to treat osteoporotic compression fractures, but it does not involve use of a balloon to create a void in the vertebral body.

Physician billing

Physicians, imaging centers, and IDTFs should charge for kyphoplasty using CPT code 22899 (unlisted procedure, spine). This code is reported once per vertebral level regardless of whether the injection is unilateral or bilateral. It is carrier-priced, meaning that individual Medicare carriers determine the appropriate payment amount.

Some Medicare carriers (e.g., Trailblazer) state that code 22899 includes the use of imaging guidance, and yet other carriers allow physicians to report a separate code for the guidance. Others (e.g., First Coast, Regence, and WPS) allow physicians to report code 76499 (Unlisted diagnostic radiologic procedure) for the guidance service, while others (e.g., Cigna Medicare) allow physicians to use the percutaneous vertebroplasty guidance codes (76012–76013) for kyphoplasty. However, the vertebroplasty codes should not be used unless your carrier specifically instructs you to do so.

Most carriers require providers to include the procedure title/level that was treated (e.g., T12, L1, etc.) as a comment on the electronic claim, or in Block 19 of the paper 1500 form. If this information is not included on the claim, it may be rejected.

Hospital billing

Hospitals billing under the Outpatient Prospective Payment System should report the following Healthcare Common Procedure Coding System codes for kyphoplasty:

- C9718 Kyphoplasty, one vertebral body, unilateral or bilateral injection
 - C9719 Kyphoplasty, one vertebral body, unilateral or bilateral injection, each additional vertebral body
- Physicians or other nonhospital providers should not use these codes.

Both C9718 and C9719 are assigned to APC 0051 with a national average payment amount of \$2,043.

According to CMS *Transmittal 423* (Change Request 3632), “Hospitals should bill for kyphoplasty as complete procedures, coding only one unit of the appropriate C code for each vertebral body treated. In addition to the kyphoplasty C codes, hospitals may bill for the radiological supervision and interpretation service provided during the kyphoplasty.”

Most Medicare fiscal intermediaries have not issued instructions for reporting the radiological supervision and interpretation. In the absence of payer instructions, providers should report the unlisted code (76499) for guidance modalities used during kyphoplasty.

Medical necessity

Kyphoplasty is covered by most third-party payers for painful osteoporotic compression fractures when the patient’s pain cannot be controlled by conservative treatment. Payer policies vary; however, the following ICD-9-CM diagnosis codes are covered for kyphoplasty by many third-party payers:

PET-CT codes	
170.2	Malignant neoplasm of vertebral column
198.5	Secondary malignant neoplasm of bone and bone marrow
203.0X	Multiple myeloma
733.13	Pathologic fracture of vertebra
805.2	Closed fracture of thoracic spine without spinal cord injury
805.4	Closed fracture of lumbar spine without spinal cord injury

Bone biopsy

There are currently no correct coding initiative edits for bone biopsy (20225) performed in conjunction with kyphoplasty (22899 or C9718).

(continued on p. 4)

Surviving the precertification process: Getting approved

When it comes to high-end imaging procedures such as PET, PET/CT, and magnetic resonance imaging (MRI), managed care companies aren't willing to provide reimbursement without proof that the scans are medically necessary. Most companies require facilities to go through precertification before they can even submit a bill.

Managed care companies often use outside companies to perform precertifications, says **Ed Townley**, and if they do, it can make the precertification process even more burdensome. Outside companies are often hired to hold the line against imaging claims volume and given incentives to do so.

You can navigate the precertification process successfully by setting up efficient systems to ensure proper documentation and working to educate carriers, referring physicians, and your own staff, says Townley, by following these steps:

- **Know your insurers.** When you begin the precertification process, it is critical to gain awareness of the companies that are less willing to provide reimbursement for PET, PET/CT, and MRI procedures. This might vary by state. For example, Townley's organization struggles with BlueCross Blue-Shield of Texas, which uses an outside precertification firm, Advanced Imaging Management. BlueCross hired the company to save money by screening out claims perceived to be unnecessary, and Advanced Imaging takes that charge seriously, carefully scrutinizing claims, says Townley. This can make it

difficult to have a claim approved if the proper and complete documentation isn't provided.

- **Join networks.** Another step that will also smooth the way toward reimbursement is to sign up with as many managed care plans as you can in your area, says Townley. The more networks you are in, the fewer reimbursement problems you will encounter.

- **Set up solid systems.** Your systems should also be structured to facilitate precertification. For example, Townley's facility designated one person to handle precertifications. The facility initially tried to assign this duty to receptionists, but it was too time-consuming. Obtaining precertifications often requires staff to spend hours on the phone—often on hold—waiting for a response.

The position requires someone who is adept at navigating professional relationships. "The tricky part is being accommodating to the referring physician and aggressive with the precertification companies," says Townley.

In addition to designating a specific person to handle precertifications, Townley's facility uses a radiologist and a coder to review medical records and documentation during the process.

- **Education is key.** If an insurance representative is going to approve a particular procedure for a patient, he or she must first understand why it will benefit the patient. When it comes to new technology, the person screening the claim might not always understand how

the device works or why it is different from existing technologies. For this reason, Townley says it is critical to provide information to educate insurers.

The following simple steps can help you provide necessary education and ensure proper reimbursement:

- Invite insurance representatives to your facility to look at the equipment and show them how it works.
- Devise basic information sheets about the technology to submit with claims (see sample form on p. 5).
- Write up checklists detailing necessary documentation. Townley devised checklists for scans for which it is typically more difficult to obtain reimbursement.
- Get creative. Townley says his organization is investigating the possibility of offering continuing education credits to insurance case managers, which will help keep them informed about new technologies and possibly smooth the reimbursement process.

- **Overcoming a denial.** If you are denied during the precertification process, recheck the clinical information. Try to obtain additional information to support the claim.

Let referring physicians know that you may need additional documentation so they aren't surprised when they receive your call. ■

Insider source

Ed Townley, manager of patient financial services, at Moncrief Cancer Center, Fort Worth, TX.

KYPHOPLASTY (continued from p. 3)

Some Medicare contractors (e.g., Administar) have stated that bone biopsy is not billable if performed at the same level as the kyphoplasty. Other Medicare contractors (e.g., HGSA) will allow separate payment for the bone biopsy if the documenta-

tion supports medical necessity. Cigna Medicare states that bone biopsy is payable only if the record indicates "separate effort and indication beyond the kyphoplasty procedure."

If you bill for kyphoplasty

Thoroughly review your Medicare contractor's coverage policy and asso-

ciated articles. Also check regularly for changes to the policy, as coding and reimbursement for kyphoplasty continue to evolve. ■

Insider source

Jackie Miller, RHIA, CPC, senior consultant, Coding Strategies Inc., 5041 Dallas Hwy., Ste. 606, Powder Springs, GA 30127; 770/ 445-5566; jackie.miller@codingstrategies.com.

MODEL MEMO

When working to educate insurance carriers about the services you offer, it can be helpful to devise a short form that describes the services you provide and what they are used for. It can be submitted with pre-certification claims so the person processing the claim has this information before he or she reviews the case itself. The form below is used by Moncrief Cancer Center in Fort Worth, TX. Use it to design your own form.

PET/CT SERVICES

We primarily use the PET/CT for oncology applications. These are for diagnosis, staging, or restaging of a tumor.

The PET/CT works by measuring the uptake of glucose tagged with a radioactive isotope emitter, F18 (fluorine). As this short-lived radioactive substance decays, it releases particles (positrons) that are measured with a ring scanner. This radioactive sugar concentrates in areas with normal high metabolism, such as the heart and brain, or where the radioactive material pools, such as the bladder. It also concentrates in areas such as tumors, which have an abnormally high metabolism and use lots of glucose.

Attenuation and localization of these hot spots is achieved by performing a diagnostic-quality CT scan on the same machine at the same time with the patient in the same position as the PET scan. These two images are then fused into one image set that allows the physician to see the hot spots along with the landmarks of the skeletal structures. This allows for precise location of the primary tumor and detection of secondary metastases that may not be visible using the CT by itself or with other modalities, such as magnetic resonance imaging and ultrasound. Use for

- diagnosis shows a high metabolic activity that may be a tumor
- staging helps the physician determine whether the tumor is localized or if it has spread to adjacent lymph nodes or other sites
- restaging is to determine whether other therapies (e.g., surgery, radiation, or chemotherapy) have been effective and to detect metastases that may not have been evident on an earlier scan or tests

At Moncrief, we provide the CT attenuation at no additional cost above the fee for the PET scan, adding monetary and diagnostic value to the scan. In addition, the digital data derived from this scan may be used for treatment planning, saving additional procedures (and fees) at a later date.

PET/CT may also be used for nononcologic applications, such as to determine the source of intractable seizures or to detect inflammatory processes such as avascular necrosis of the femoral head.

Moncrief uses the GE Discovery LS scanner.

We use the following CPT codes:

- 78814 Limited Area (e.g., head/neck, chest)
- 78815 Base of skull to mid-thigh
- 78816 Whole-body scan

Requests are reviewed by our reading radiologist prior to the scan to determine medical necessity and whether the scan will provide the expected information to the referring physician.

Scan results are available on DVD to the referring physician upon request.

Source: Adapted from Edward Townley, at Moncrief Cancer Center in Fort Worth, TX. Reprinted with permission.

Managing: Five tips to reduce employee turnover

High turnover—defined as 50% or more of your employees leaving and being replaced within three years—is one of the most expensive problems facilities face, says master's-certified business coach **Terri Levine** of North Wales, PA, chief executive officer of *CodingInstructor.com*. The cost to find, train, and employ someone is significant—especially if you repeatedly incur these expenses.

Most facilities don't realize how high their turnover is or how much it costs them. "When I go into a hospital and start pulling up statistics, they're flabbergasted," Levine says.

The good news is that you can improve employee retention with five simple steps:

1. Offer a competitive salary and benefits package.

Although compensation isn't necessarily the most significant condition in keeping employees around, it's the most obvious. Referring to the adage "cash counts," Levine recommends offering salaries that are competitive with neighboring facilities.

To obtain information about how much other facilities pay, call a few and conduct a survey. As long as you agree to keep names confidential

when you reveal the results, other facilities likely will share their averages for various positions.

Don't overlook benefits. Some employees will take jobs with lower salaries in exchange for better benefits, Levine says. Health benefits are of particular concern. Try to keep employees' health plans—and their contributions—stable from year to year. Also look into other perks staff will appreciate, such as tuition reimbursement for career development or computer classes.

Another key consideration: When it comes to requests for time off, be reasonable, says Levine. Although most organizations have systems to handle employee vacations, unplanned time off can be a touchy subject. On one hand, you want to allow employees to attend to personal matters during work hours when necessary. On the other hand, you have a business to run.

Develop policies that benefit the worker as much as possible in cases of unexpected time off such as illnesses, emergencies, and family responsibilities, Levine says.

2. Set clear expectations.

Clarify employees' job tasks and your expectations, says consultant **John-Henry Pfifferling, PhD**, an

applied medical anthropologist and director of the Center for Professional Well-Being in Durham, NC.


When those expectations are unnecessarily ambiguous, employees tend to resign more quickly than you would expect, Pfifferling says. Confusion often leads to conflict over whether employees do their jobs well. And without knowing how to satisfy their employers, employees become frustrated and eventually throw in the towel.

Provide precise job descriptions and openly share your facility's vision, goals, and objectives. Talk to staff about the big picture, including topics such as community leadership, to motivate them to give their best.

Remember, they must understand the individual objectives—the steps they must take to reach goals—to perform in a mutually satisfying way, Pfifferling says. Regular meetings with staff to address these goals can help staff feel they contribute to your success and ensure consistency, he adds.

3. Deal with conflict.

Longstanding, unresolved grievances eventually cause workers to seek employment elsewhere. Don't deny that conflict exists in your organization; instead, deal with matters

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promptly, Pfifferling says. Draft a conflict-resolution policy that outlines how you will handle disputes.

"Much unnecessary turnover is due to a toxic or intimidating work environment," he adds. Don't allow disruptive behavior to set a bad tone. Address in a written professionalism policy those behaviors you will not tolerate (e.g., gossip or favoritism), and define consequences.

To ensure fairness, appoint an objective source (either internal or external) as an informal judge or mediator, Pfifferling says.

4. Demonstrate trustworthiness, support.

Lack of trust in employers is the number-one complaint among employees with whom Levine conducts exit interviews. Former staff may say their employers didn't really care about them or even made fun of them behind their backs, she says. Even if

you address unacceptable behavior in a written policy, you can't "unhurt" a person's feelings.

Along with trust comes support, which employees need to sense, Levine says. "When people come to work, they just don't leave their baggage at the door." They may talk about family, relationship, or financial problems, reaching out to coworkers as an extended family.

Workers should be able to rely on employers to keep information confidential and provide moral support. If you offer an employee assistance program as a benefit, make sure staff know the program exists and how they can access help.

5. Foster professional growth.

Happy employees have a sense of autonomy and empowerment, Levine says. "They don't want to be micromanaged or second-guessed. They want to be able to give suggestions [that are]

listened to and taken seriously."

Even though you won't carry out every idea, consider all of them and encourage employees to provide continued feedback.

Employees also need the right level of challenge, Levine says. Bored or overwhelmed employees are more likely to leave. If you witness either extreme—employees flipping through magazines and chatting or stressing and complaining that they don't have time to go to the restroom—make an adjustment.

To entice employees to excel, design career ladders for each position. Even in a small organization, you can increase a person's responsibility (although not necessarily his or her workload) or create a new job title. This incentive gives employees something to aspire to, Levine says.

Tip: See this month's training tool on p. 8 to view Levine's employee morale assessment. ■

NEWS BRIEFS

Abnormal CT results can help smokers quit

A new study has found that abnormal CT scans may prompt smokers to quit the habit, according to *Oncology Business Week*.

The more abnormal screenings a smoker received, the more likely he or she was to quit and remain smoke-free. Researchers James R. Jett, MD, and Stephen J. Swensen, MD, at the Mayo Clinic in Rochester, MN, tracked 926 smokers and 594 former smokers who underwent a series of annual CT scans for lung cancer.

In the third year, 42% of the smokers who had three abnormal scans had quit and were still not smoking, compared to 28% who had two abnormal scans, 24% who had one abnormal scan, and 20% who had no abnormal scans, *Oncology Business Week* reported.

"Multiple lung CT scans may enhance primary and secondary prevention efforts by potentially providing increased interaction with healthcare providers, increased cognitions about one's own cancer risk, and reinforcement for smoking abstinence with lung CT scan screening," the authors of the study told *Oncology Business Week*.

FDA approves SC under 'States as Certifiers'

The FDA has approved South Carolina under its States as Certifiers program, according to the agency's Web site.

The FDA has the power under the Mammography Quality Standards Act of 1992 (MQSA)—the regulation that governs mammography—to delegate MQSA certification programs to qualified states that go through an approval process.

As a result of this certification, South Carolina is now required to

issue, renew, suspend, and revoke mammography certificates within the state. It must also inspect mammography facilities and take compliance actions related to those inspections.

CT, MRI useful in forensics

A report from Switzerland published in *Forensic Science International* shows that CT and magnetic resonance imaging (MRI) may be useful tools in postmortem analyses, according to *Lab Business Week*.

"The rapid further development of CT and MRI induced the idea to use these techniques for post-mortem documentation of forensic findings," the report states, according to *Lab Business Week*. One advantage is the ability to obtain images without having to consider the effects of ionizing radiation. ■

Sample employee morale questionnaire

This questionnaire is designed to gauge the condition of your employees' morale and how they feel about the organization. It will highlight the areas where morale is lowest and enable the organization to take steps to rectify any problems. The questions are in the form of statements allowing for a selection of responses.

Employees: Answer the questions using a grading scale of 1–5.

1 = never 2 = rarely 3 = sometimes but not very often 4 = often but not always 5 = always

Questions:

Rate 1–5

1	I am happy to come to work every morning.
2	I can do my work without fear.
3	I feel secure in my employment
4	I feel supported, valued, and appreciated.
5	I have access to managers/supervisors when I need a decision made.
6	I know what is expected of me in this job.
7	I am given adequate training, authority, and resources to enable me to do my job.
8	I receive feedback on how I perform my job that is helpful and not just critical.
9	I am provided with a safe working environment—physically and mentally—that is free of harassment.
10	My work gives me a feeling of accomplishment and pride.
11	I am given sufficient responsibility in my job.
12	The duties of my position are clearly defined.
13	We are all treated equally and with respect—there is no discrimination.
14	I am able to maintain a reasonable balance between my family life and work life.
15	We have fair and equal opportunity to air grievances in a safe environment without fear of persecution.
16	I am happy with the pay levels here and believe I am paid well for my contribution.
17	I am happy with the employee review system.
18	I am involved in decisions affecting my position/work.
19	We all participate in problem-solving.
20	My manager supports me in my professional development.
21	My manager ensures we are recognized and appreciated for our efforts.
22	I feel there is fair opportunity for advancement in the company.
23	Workload is fairly allocated among employees.
24	I enjoy my job and believe I have a secure future here.
25	New employees are given a thorough orientation.
26	I am satisfied with the professionalism shown by my fellow peers and management. There is great team spirit.
27	Employee turnover is reasonable—not high.
28	Senior management is open and honest.
29	The company has a great internal communication system.
30	The company is managed well and we trust the leadership.
31	The company provides great employee benefits.
32	We enjoy good morale in this company.
33	The company consistently fosters good employee relations and morale.
34	I am committed to this company's success and take pride in their success.
35	I am optimistic about the future of the company.
36	Overall, I am very happy with my job and place in the company.
Any other comments?	

Tip: Fax completed questionnaires to Comprehensive Coaching U at 215/699-3153 for a free assessment. Include your e-mail address, fax number, and telephone number.

Source: Terri Levine at Comprehensive Coaching U. Visit www.comprehensivecoachingu.com, call Terri at 877/401-6165, or e-mail her at terri@coachinginstruction.com.