

**Policies and Procedures - School of Medicine**

<b>SECTION: COMPLIANCE</b>	<b>Approved: 05/12/99</b>	<b>Effective Date: 07/01/99</b>	<b>Revised: 1/13/05</b>
<b>CHAPTER: BILLING</b>	<b>Replaces Policy Dated: 05/08/03</b>		
	<b>Retired:</b>		
<b>POLICY: TEACHING PHYSICIAN REQUIREMENTS - SURGERIES</b>	<b>PAGE 1 OF 6</b>		

**I. PURPOSE**

This policy provides guidance on teaching physician presence and documentation requirements for surgical/operative procedures (including surgical endoscopies) when a teaching physician involves residents in the care of his/her patients.

**II. POLICY**

Procedures (including surgical endoscopies) where the teaching physician involves a resident shall not be billed unless the presence and/or participation of the teaching physician has been documented as required by law.

**III. SCOPE**

This policy applies to all Creighton University physicians who involve residents in the care of their patients. This policy applies to all payers unless a specific written waiver is obtained from the Compliance Office .

**IV. DEFINITIONS**

- A. Resident. A resident is someone who participates in an approved GME program. For purposes of this policy, a fellow in an approved GME program qualifies as a resident, even if they are not included in the Hospital's resident count.
- B. Teaching Physician. A physician who involves residents in the care of his/her patients.
- C. Critical or Key Portion(s). Part(s) of the service that the teaching physician determines is/are critical or key. The teaching physician determines whether or not the opening and/or closing of the surgical field are considered to be key or critical portions of any procedure.
- D. Minor Procedure. A procedure that takes a few minutes (5 minutes or less) to complete and involves relatively little decision making once the need for the procedure is determined (e.g. simple suture).

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- E. Immediately Available. Immediately available means the teaching physician (or another qualified surgeon) remains in or near the procedure room and able to immediately return to the procedure.
- F. Assistant at Surgery. An assistant at surgery is a provider who actively assists the physician in charge of a case in performing a surgical procedure.

**V. PROCEDURE**

**A. Surgeries, including Endoscopic Surgeries**

1. Single Surgery

a. Presence Requirement

For billing purposes, the teaching physician must be **physically present** during all critical/key portions of the procedure and either be **immediately available** to furnish services during the entire procedure or arrange for another qualified surgeon to be **immediately available**.

b. Documentation Requirement.

The teaching physician's presence may be documented in the medical record by the teaching physician, resident, or operating room nurse. If the teaching physician is present during the key or critical portion(s) and immediately available at all other times, the documentation must reflect the teaching physician's presence during the key or critical portion(s) and who was immediately availability at all other times.

2. Two Overlapping Surgeries

a. Presence Requirements.

For billing purposes, the teaching physician must be present during the key or critical portions of both surgeries. Therefore the key or critical portions cannot take place at the same time. When the teaching physician is participating in the key or critical portion of a procedure, he/she must

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arrange for another qualified surgeon to be immediately available to assist the resident in the other case. When all key or critical portions of the first procedure have been completed, the teaching physician may begin to become involved in the second "overlapping" procedure.

b. Documentation Requirements.

**The teaching physician must personally document the key or critical portions of both procedures and indicate who was immediately available for both procedures.** The resident cannot document the teaching physician's presence in two "overlapping" surgeries.

3. Post Operative Visits.

The teaching physician determines the number of post-operative visits that are key or critical and require his/her presence or participation.

**B. Procedures Performed Through an Endoscope**

1. Presence Requirement

The teaching physician must be physically present in the room during the entire viewing, which starts at the time of insertion of the endoscope and ends at the time of removal of the endoscope.

2. Documentation Requirement

If the teaching physician is present during the entire viewing, the teaching physician can document his/her presence or the resident or operating room nurse may document his/her presence.

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**C. Assistant at Surgery Services Furnished in a Teaching Hospital (Medicare only)**

1. General Rule.

Medicare will not pay for the services of assistants at surgery furnished in a teaching hospital which has a training program related to the medical specialty required for the surgical procedure when there is a qualified resident available to perform the service.

2. When a Qualified Resident is NOT Available.

A qualified resident may not be available due to their involvement in other activities, the complexity of the surgery, the number of residents in the program, or other valid reasons (e.g., insufficient skills or background, inexperienced). When a qualified resident is not available and an assistant at surgery is used, the following information must be documented in the operative report:

- The need for an assistant for the particular procedure(s);
- The reason why a resident is not available and/or qualified for each procedure where an assistant is necessary; and
- The following certification:

I understand that §1842(b)(6)(D) of the Social Security Act generally prohibits Medicare Part B reasonable charge payment for the services of assistants at surgery in teaching hospitals when qualified residents are available to furnish such services. I certify that the services for which payment is claimed were medically necessary, and that no qualified resident was available to perform the services. I further understand that these services are subject to post-payment review by the Medicare carrier.

You must also use modifier “82” when an assistant at surgery is used in those instances where a qualified resident is not available.

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### 3. Other Exceptions.

A claim for services of an assistant at surgery may be submitted to Medicare when a qualified resident is available and not used, only under the following circumstances:

- a. Exceptional Circumstances: This may involve emergency or life-threatening situations such as multiple traumatic injuries which require immediate treatment.
- b. Multiple Physician Specialties Involved in Surgery: This would include complex medical procedures that may require a team of physicians (e.g. multistage transplant surgery, coronary bypass).

In both cases, you use a modifier "80".

### **D. Minor Procedures**

The teaching physician must be present for the entire procedure in order to bill for the procedure. The teaching physician's presence may be documented in the medical record by the teaching physician or resident.

### **E. Modifiers**

1. "GC". A "GC" modifier must be added to all Medicare services where residents were involved in providing care with a teaching physician. "Involved" means providing "hands on" care or services OR watching care or services being provided by a teaching physician for educational purposes.
2. "80" – Assistant Surgeon. Use for assistant at surgery services when the exceptions noted in paragraph C.3 above apply.
3. "82" - Assistant Surgeon (when qualified resident surgeon not available). Use for assistant at surgery services when a qualified resident is not available, See C.2 above.

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### **V. ADMINISTRATION AND INTERPRETATIONS**

Questions regarding this policy may be addressed to the Compliance Office, or your Administrator or Billing Supervisor.

### **VI. AMENDMENTS OR TERMINATION OF THIS POLICY**

This policy may be amended or terminated at any time.

### **VII. REFERENCES**

42 U.S.C. §1395u(b)(7)(A); 42 CFR §415.170-172;  
Medicare Carrier's Manual §15016 (revised 11/22/02)  
([http://www.cms.hhs.gov/manuals/pm\\_trans/R1780B3.pdf](http://www.cms.hhs.gov/manuals/pm_trans/R1780B3.pdf));  
February 9, 1998 letter from Dr. McCann to the AAMC  
(<http://www.aamc.org/advocacy/library/teachphys/corres/1998/020998.htm>);  
AAMC Memorandum #99-47; Medicare Carriers Manual (MCM), Part 3, Chapter V,  
§5038 ([http://www.cms.hhs.gov/manuals/14\\_car/3b5026.asp](http://www.cms.hhs.gov/manuals/14_car/3b5026.asp)).