

DEPARTMENT OF OB/GYN
CREIGHTON UNIVERSITY
COMPLIANCE PLAN

November 1, 2000 - Approved June 18, 2001

I. INTRODUCTION

The department of OB/GYN at Creighton University has developed this compliance plan in accordance with Health Care Financing Administration Guidelines. The purpose of this manual is to provide each faculty and resident physician of Creighton University Department of Obstetrics and Gynecology with information regarding appropriate documentation requirements in the medical records that support the billing of all professional fees as well as other pertinent compliance standards.

This plan will cover all services performed by the department including inpatient care (Saint Joseph Hospital, Bergan Mercy Medical Center, and Midlands Community Hospital) as well as care provided at the outpatient clinics (Creighton Women's Clinic, Charles Drew Health Center, Indian Chicano Health Center, Heartland, CMA, Florence, West Maple, West Dodge, 110 & Q, and Bergan).

Internal audits by the Department of OB/GYN will be conducted to ensure compliance. These are done quarterly and are done prior to charge posting. They involve the Department of OB/GYN compliance liaison officer, Dr. Caron Gray, and the billing supervisor, Tami Riha. Results of each audit are reviewed with billing staff and physicians when applicable. Copies are given to the Chairman of the Department, Alfred Fleming, MD, and Mille Johnson. The process for the department billing is attached (Attachment A). However, we expect these policies to apply to all medical insurers as well as Medicare and Medicaid.

Department faculty includes nine staff physicians and twelve resident physicians. The faculty includes two full-time perinatologists, one reproductive endocrinologist, one gynecologic oncologist, one nurse practitioner, and five obstetrician/gynecologists. The current department-staffing matrix is attached (Attachment B). The billing manager (who is a representative of Creighton Medical Associate Physician Services) and the billing supervisor directly oversees the billing department, which consists of two people. All faculty members, resident physicians, and billing department personnel must read the requirements outlined in the following pages and sign an acknowledgment form.

II. COMPLIANCE STANDARDS

Numerous federal and state laws and regulations define and establish obligations for the health care industry with which Creighton University employees and agents must comply. Any employee and/or agent who violate these laws and/or regulations not only risk individual indictment, criminal prosecution

and penalties, but also subjects Creighton to the same risks and penalties. Any Creighton employee or agent who violates these laws may be subject to immediate termination of his or her association and/or employment with Creighton.

Creighton employees or agents shall not submit a claim for reimbursement from any insurer (public or private) unless the teaching physician provided, or supervised and controlled the provision of the key portions of the service. The teaching physician's presence during the key portion of any service or procedure shall be documented in the medical record. The current CMA policies and procedures for teaching physician requirements are attached (Attachment C). These include but are not limited to E/M Services - Primary Care Exception, E/M – Time-based Codes, and Teaching Physician Procedures. These can be found on the Creighton University Web Site. Certain exceptions to the physician presence rule provided for in the regulations will be recognized.

III. POLICY GUIDELINES

- A. A medical student is never considered to be a resident. Any contribution of a medical student to the performance of a billable service or procedure must be performed in the physical presence of a physician or jointly with a resident in a service set forth below for teaching physician billing. A medical student can document the patient chief complaint, the review of system and the PFSH. The resident and teaching physician must rewrite all other documentation in the medical chart.
- B. Teaching physicians shall not seek reimbursement from any insurer unless the billed services are:
 - 1. Personally furnished by the teaching physician.
 - 2. Furnished jointly by the teaching physician and the resident.
 - 3. Furnished by the resident in the presence of the teaching physician except under limited exceptions.
- C. Evaluation and Management (E/M) Services
 - 1. The appropriate level of E/M Services should be based on the "1997 Documentation Guidelines for the Evaluation and Management Services" developed by the American Medical Association and HCFA. The classification of E/M services are divided into broad categories such as office visits, hospital visits, and consultations. Most of the categories are further subdivided into new patient or established patients. A new patient is one who has not received any professional services from the physician or another physician of the same specialty who belongs to the same group practice, within the past three years. Attached is a copy of the Creighton University Department Policies and Procedures regarding Consultations (Attachment D). This can also be found under the Creighton University Web Site. All other guidelines are strictly limited to what is provided in the current CPT book. This will also include guidelines and requirements necessary for the use of modifiers. The subcategories are then classified into levels of E/M services that are identified by specific codes. To determine the appropriate level to bill, the physician needs to consider the extent to which the history is reviewed, the depth of the physical

examination, and the difficulty of the decision making involved. If the level of service is not supported by documentation in the medical record, the claims filed may be considered fraudulent and may result in penalties. The following pages describe in detail the requirements for each key component at each level of service (Attachment E).

D. Guidelines for E/M Services

1. **General Rule:** The teaching physician must be physically present during the key portion of the service that determines the level of service billed. The key elements of the history, physical examination, and medical decision making are those elements that, in the judgment of the teaching physician, best summarizes:
 - a. The relevant history, physical examination, and prior diagnostic tests.
 - b. Clinical impression or diagnosis.
 - c. Plan of care.
 - d. If counseling or coordination of care dominates (>50%) the encounter, than time is considered the key portion.

2. **Documentation:** The teaching physician must personally document in the medical records, either in writing or via dictated note, his or her participation in the service at the time the service was provided. The documentation may include references to the resident's note and must include:
 - a. Notation that the teaching physician was present during the resident's history and examination, or that the teaching physician personally examined the patient and discussed the history, physical examination, and the medical decision making with the resident prior to the end of the patient encounter.
 - b. If the teaching physician is repeating key elements of the resident's documentation, the summary may be brief to tie comments into the resident's entry to confirm key elements.

3. **EXCEPTION:** OB/GYN is an approved primary care exception for lower and mid-level services; for example 99201, 99202, 99203 for new patients and 99211,99212,99213 for established patients.
 - a. To qualify for this exception, all of the following criteria must be met:
 - 1) Services are furnished in the outpatient department of a hospital or ambulatory care center.
 - 2) The resident furnishing such services must have completed more than six months of an approved residency program.
 - 3) The teaching physician shall not supervise more than four residents at any given time and must be immediately available.
 - 4) The patients must be an identifiable group who consider the center to be the continuing source of their health care and the residents must generally follow the same group of patients throughout the course of their residency program.
 - 5) The teaching physician must:
 - a) Have no other responsibilities at the time that he/she is supervising the residents.
 - b) Assume management responsibility.
 - c) Ensure that the services furnished are appropriate.

- d) Review with each resident during or immediately after each visit the beneficiary's medical history, physical examination, diagnosis, and record of tests and therapies.
- e) Personally document the extent of his or her own participation in the review and direction of the services furnished to each beneficiary.

E. Procedures

1. Attendance: The teaching physician must be present during all critical and key portions of the procedure including endoscopic operations and be immediately available to furnish services during the entire procedure. The teaching physician does not have to be present during the opening and closing of the procedure unless the physician determines that part to be critical to the procedure.
2. Documentation: Notes in the medical records made by the physician, resident, or operating room nurse must document the presence of the teaching physician.
3. Endoscopy: The teaching physician must be present during the entire viewing which includes the insertion and removal of the device.
4. Radiology and Other Diagnostic Tests: If the resident prepares and signs the interpretation, the teaching physician must indicate that he or she has personally reviewed and agrees with it or edits the findings. If the teaching physician's signature is the only signature on the interpretation, you may assume that he or she is indicating that he or she personally performed the interpretation.
5. Time-Based Codes: For procedure-based codes determined on the basis of time, the teaching physician must be present for the period of time for which the claim is made. Examples of such codes are individual medical psychotherapy; critical care services; E/M codes where counseling dominates (>50%) the encounter.
6. Assistant at Surgery Services Furnished in a Teaching Hospital: There is no payment for services of assistant physicians at surgery in a teaching hospital with a training program where there is a qualified resident available to perform the service, except in life threatening situations or if each physician is engaged in a level of activity different from assisting the primary surgeon.
7. Maternity: The teaching physician must be present for the delivery. The exception to this rule and requirements needed are attached (Attachment F). In order to bill for the global procedures, the teaching physician must be present for the minimum indicated number of visits when such a number is specified in the description of the code.

F. Handling of Coding, Billing, Presence, and Documentation Questions

1. Please direct any questions regarding the medical record documentation and any billing policies to Caron Gray, MD, at 280-4433, Dianne Berman at 280-5822 or Tami Riha at 280-4660.
2. Creighton University also has a Helpline for any coding or billing questions at 280-5846.

IV. DEPARTMENT TRAINING AND EDUCATION PROGRAMS

- A. All employees of the Department of OB/GYN at Creighton University will receive this plan and other information necessary to ensure compliance with these standards. New employees providing

health care services or billing shall receive a copy of this plan within two weeks of beginning employment with Creighton. Within four weeks after receiving this plan, each employee must sign and return the acknowledgment form at the end of this plan. Each employee shall be required to annually review these compliance standards and sign and return a new acknowledgment form. Any employee who has questions regarding this plan or his/her obligations should contact the Compliance Officer immediately at 280-2107.

B. Employee Training

1. All employees and residents providing health care services, items or billing shall attend training sessions, which will be coordinated by the billing manager and compliance liaison committee member. All new employees and residents providing health care services, items or billing will be required to complete a training program, that is approved by the compliance officer within three months following their employment.

As necessary, separate training sessions will be conducted at each location where employees and residents provide services. As new concerns arise, the compliance officer may require additional training sessions for some or all employees and residents. Each employee and resident providing health services, items or billing shall attend an overall training session every two years.

Promotion of adherence to the Plan shall be an element of each employer's performance standards.

2. Teaching Physician Training

- a. Each participant viewing the 46-minute videotape on HCFA's interpretation of the IL-372 issues.
- b. Each participant reading applicable carrier manual instructions.
- c. Each participant reading a written synopsis of new rules prepared by AAMC.
- d. Receipt of small, OB/GYN specific, laminated reference sheets by teaching physicians and residents to carry in clinical areas.

3. Billing and Coding Issues

- a. The Compliance Liaison Committee Member, Billing Manager, and/or Billing Supervisor shall, under the direction of the compliance officer, provide specific billing/coding training to employees as necessary.
- b. All persons in supervisory positions are responsible for ensuring that each employee under them has attended the training sessions applicable to that person's job duties at Creighton University.

4. Updating: The compliance officer shall be responsible for ensuring that training is updated on a regular interval, to include new developments in law.

V. MONITORING AND AUDITING SYSTEMS

A. Audits

1. The compliance officer shall supervise all auditing systems. Audit procedures will be implemented which are designated primarily to determine accuracy and validity of coding and billing submitted to Medicare/Medicaid, other federal health programs and other payers, and detect misconduct as quickly as possible.

2. The compliance liaison committee member and the billing supervisor will perform random samplings of records in the department of OB/GYN, to include records from each teaching physician.
3. In addition, special attention will be given to reviewing the reasons given for claim denials, to review frequent billings of certain procedure codes, and to analyze other facts, which may suggest inappropriate conduct.
4. On a quarterly basis, the compliance liaison committee member and the billing supervisor will prepare a report to the compliance committee documenting any areas of concern, any intentional or accidental misconduct within the department, training on compliance issues, any disciplinary action taken against an employee in the department, or any other matter dealing with compliance issues within the department.
5. Any suspected incidents of noncompliance shall be first reported to the compliance liaison committee member, billing manager and/or the billing supervisor for review, which will then be discussed with the Chairman of the department.
6. If flagrant non-compliant conduct is suspected after a departmental review, the review will then be addressed to the Compliance Officer and the Creighton University General Counsel.
7. The billing manager shall keep the department informed of any new publications for billing specific to the department.

VI. PATIENT RECORDS

- A. Please see the attached Policies and Procedures for Maintenance and Retention of Patient Medical Records for all guidelines and requirements (Attachment G). These policies are available under the Creighton University Web Site.

VII. INFORMED CONSENT OF MINORS

- A. The purpose of this is to provide a summary of Nebraska Law regarding informed consent for medical treatment, provide guidelines for obtaining such consent, and guidelines for reporting pregnancy and/or abuse of a minor.
 1. General Rule: The general rule in Nebraska is that a provider must have the informed consent of the patient before giving treatment (see exceptions for minors).
 - a. Adults (those 19 years or older) generally have the legal capacity to give consent for their own treatment and for treatment of minors for whom they are the parent or legal guardian.
 - b. Minors (those under the age of 19) generally do not have the legal capacity to consent to their own treatment; however, the Nebraska Legislature has set out specific exceptions.
 2. Exceptions for minors
 - a. Any person of sound mind who is or has been married, regardless of subsequent divorce, annulment, or death of their spouse.
 - b. Active duty members of the Armed Forces.
 - c. Any parent, whether an adult or minor, for the minor child in his or her legal custody.
 - d. Any person seeking care for venereal disease.
 - e. Any person seeking care for drug or alcohol abuse.

- f. If an abortion is medically necessary, but not emergent for a minor, and the minor does give consent to inform the parents or legal guardian, the minor must seek a hearing in the proper court to determine if she is mature and capable of giving consent. If the court determines that she is not capable of giving consent, then the court will determine whether the performance of an abortion without parental notification is in her best interests.
 - g. Unlike many other states, the Nebraska legislature has not created an exception for minors to receive birth control related treatment, unless there is consent from a parent or legal guardian.
 3. EMERGENCIES: The normal requirements for obtaining informed consent for both minors and adults, may be waived in certain emergency situations where there is imminent threat to life, health, or limb of the patient, or where delay in treatment would reasonably result in permanent disfigurement or impairment.
- B. Guidelines for obtaining informed consent for a minor.
1. When at all possible, written informed consent should be obtained prior to treating any minor except in the cases listed above, letters 2a through 2g and 3, from the minor's parent, legal guardian or the state in the case that the minor is a ward of the state.
 2. Reasonable effort should be made to determine if minor is emancipated by taking a history from the patient.
 3. In the case of a pregnant minor, obtain written consent from the parent or legal guardian at the first visit covering all routine prenatal care including labs, ultrasounds, pelvic exams, fetal monitoring. Additional consent will be needed for labor and delivery and any other procedures needed outside of routine prenatal care.
 4. If a pregnant minor arrives for care without parent or legal guardian, a reasonable judgment will be made by nurse or physician if medical treatment is urgently needed or can be delayed until consent is obtained.
- C. Guidelines for reporting abuse or neglect of a minor and /or pregnancy of a minor.
1. Dictated by Neb. Rev. Statutes 28-902, 20-710 to 28-727. Every person engaged in the practice of medicine (physician, medical institution, nurse, technician, etc.) is required to report every case in which that person believes a patient has received a wound or injury of violence in connection with the commission of a criminal offense. Also, if said person has reasonable cause to believe that a child (minor) has been subjected to abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in abuse or neglect, he or she shall report such incident to proper law enforcement agency or the Department of Health and Human Services of Nebraska.
 2. For example, if a pregnant patient is a minor and the father of the baby is known to be the age of majority (19 or older), this is statutory rape and considered a criminal offense. If both patient and father of baby are minors, this can still be reported; however will likely not receive any attention since a criminal offense has not been committed.
 3. Report can be made orally by telephone with the caller giving his or her name and address. We need to have the following information if at all possible: name, age, address of patient and legal guardian; name, age, address of father of the baby; and a brief description of injury, i.e. pregnancy.

4. The report can be called to one of two numbers: toll-free hotline for the Nebraska Department of Health and Human Services—1-800-652-1999 or the police at 444-5636.
 5. It is important to document in the patient’s chart the date and time you called, the name of the person you talked to, and all that was discussed. Any person making this type of report “shall be immune from any liability, civil or criminal”.
 6. Failure to report as required is a Class III misdemeanor.
 7. Guidelines given by the Douglas County child victim/sexual assault unit is to report cases where the patient is 15 years old or younger and the father of the baby is 19 years of age or older.
- D. Please see the attached Guidelines set forth by the American College of Obstetrics and Gynecologists in regards to Confidentiality in Adolescent Health Care for additional information (Attachment H).
- E. Please see the attached Guidelines set forth by the MMIC for possible risk solutions for additional information (Attachment I)