



AAPC

CPCO®

Certified Professional Compliance Officer

STUDY GUIDE

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# Introduction

The CPCO® Study Guide is organized to help you prepare for the exam, certifying you as a professional compliance officer. The Certified Professional Compliance Officer (CPCO®) credential is awarded by AAPC, the primary organization of more than 220,000 medical coders, billers, auditors, and compliance professionals. This study guide, developed in cooperation with AAPC staff and subject matter experts, can help you understand and practice the concepts, elements, and regulations of compliance.

Healthcare compliance continues to grow and mature as a profession. A compliance program addresses the ever-growing requirements of the various laws, regulations, rules, and guidelines with which medical practices must comply. Providers need a certified compliance professional to help drive the development, implementation, and maintenance of that program. The Patient Protection and Affordable Care Act of 2010, most commonly referred to as the Affordable Care Act (ACA), indicates compliance programs will become mandatory as a condition of enrollment in the federal healthcare programs, a requirement confirmed by Daniel R. Levinson of the Office of Inspector General (OIG) in his testimony to the House Committee on Energy and Commerce, Subcommittee on Health on September 22, 2010.

## CPCO® Confirms Credibility

As an individual holding AAPC's CPCO® credential, you must be able to demonstrate an understanding of the key requirements needed to effectively develop, implement, and monitor a healthcare compliance program for your practice, and to help others in their compliance efforts, based on governmental regulatory guidelines.

CPCOs® demonstrate knowledge of:

- The OIG Compliance Guidance for Individual and Small Group Physician Practices, Clinical Laboratories, and Third-Party Billing Companies
- Compliance program effectiveness
- Key healthcare fraud and abuse laws, including the False Claims Act, Stark laws, and anti-kickback statute, and the associated penalties
- How the ACA will affect medical practices
- Other laws and regulations, including HIPAA, Emergency Medical Treatment and Labor Act (EMTALA), Occupational Safety and Health Administration (OSHA), and Clinical Laboratory Improvement Amendment (CLIA)

- Handling investigations, including self-disclosure protocols
- Requirements under corporate integrity agreements (CIAs) and certificate of compliance agreements (CCAs)
- Current investigative activities, such as Recovery Audit Contractors (RACs), Unified Program Integrity Contractors (UPICs), and Medicaid Fraud Control Units (MFCUs)
- Various risk areas, including items such as gifts/gratuities, conflicts of interest, use of advance beneficiary notices (ABNs), teaching physician guidelines (PATH), and incident-to services

Visit the Provider Self-Disclosure Protocol webpage for more information at <https://oig.hhs.gov/compliance/self-disclosure-info/self-disclosure-protocol/>.

## EXAMPLES OF SETTLED CASES OF SELF-DISCLOSURE

**02-15-2024**

### **Physicians Medical Center Agreed to Pay \$123,000 for Allegedly Violating the Civil Monetary Penalties Law by Submitting Claims for Services Based on Altered Documentation**

After it self-disclosed conduct to OIG, Physicians Medical Center, LLC (PMC), Louisiana, agreed to pay \$123,988.37 for allegedly violating the Civil Monetary Penalties Law. OIG alleged that PMC submitted claims for spinal procedures under Diagnostic-Related Group Codes that were based upon medical record documentation that had been improperly altered.

**01-23-2023**

### **UnityPoint Health-Meriter Agreed to Pay \$42,000 for Allegedly Violating the Civil Monetary Penalties Law by Submitting Claims for Services Rendered by an Unlicensed Individual**

After it self-disclosed conduct to OIG, UnityPoint Health-Meriter (UnityPoint), Wisconsin, agreed to pay \$42,492.89 for allegedly violating the Civil Monetary Penalties Law. OIG alleged that UnityPoint submitted claims for services provided by an unlicensed nurse.

**12-12-2022**

### **West Coast Health and Rehabilitation and National Health Rehabilitation Agreed to Pay \$1.4 Million for Allegedly Violating the Civil Monetary Penalties Law by Paying Remuneration in the Form of Waived Copayments**

After they self-disclosed conduct to OIG, West Coast Health and Rehabilitation, PC (West Coast) and National Health Rehabilitation, LLC (NHR), New Jersey, agreed to pay \$1,426,259.38 for allegedly violating the Civil Monetary Penalties Law. OIG alleged that West Coast and NHR waived patient copayments that should have been paid by Medicare beneficiaries.

**Source:** <https://oig.hhs.gov/fraud/enforcement/cmp/psds.asp>

## Anti-Kickback Statute

Under the anti-kickback statute (AKS), it is a felony to knowingly and willfully offer, pay, solicit, or receive anything of value (remuneration) in return for a referral, or to induce generation of business reimbursable under a federal healthcare program.

The statute prohibits both the offer or payment of remuneration for patient referrals, and the offer or payment of anything of value in return for purchasing, leasing, ordering, arranging for, or recommending the purchase, lease, or ordering of any item or service that is reimbursable by a federal healthcare program. The OIG believes kickbacks in healthcare can lead to over-utilization of services, increased program costs, corruption of medical decision making, patient steering, and unfair competition. Persons found guilty of violating the anti-kickback statute may be subject to a fine of up to \$50,000 (subject to inflation) per kickback plus three times the amount of remuneration, imprisonment for up to five years, and exclusion from participation in federal healthcare programs for up to one year.

The types of remuneration include kickbacks, bribes, and rebates made directly or indirectly, overtly or covertly, or in cash or in kind. In addition, prohibited conduct includes remuneration also intended to induce the purchasing, leasing, ordering, or arranging of any good, facility, service, or item paid for by Medicare or state healthcare programs.

### COMPLIANCE TIP

There are numerous and complicated “safe harbors” associated with this law, located within 42 CFR.

Compliance officers should be aware of what types of arrangements may cause violations; however, the anti-kickback statute is very complex, and it is best to consult with an experienced health law attorney when determining how the statute may apply to an organization.

Examples of AKS violations:

- A hospital providing rental rates below fair market value to a physician who refers business to the hospital
- Routine waiver of copayments or deductibles for patients under Medicare Part B
- A drug or equipment supplier providing incentives to a provider who promotes their product
- A physician who is paid exorbitantly for speaking engagements by a company to whom the provider refers business

Providers are an attractive target for kickback schemes because they are a source of referrals. The provider decides what drugs the patients use, which specialists they see, and what healthcare services and supplies they receive. Providers should make sure any payments received for services is a fair market value and that all services provided are documented.

For more information, please visit: <https://oig.hhs.gov/compliance/physician-education/fraud-abuse-laws/>.

HIPAA is a comprehensive law that encompasses many areas of healthcare. In this chapter, we will address the Privacy and Security Rules found in the Administrative Simplification provisions of the legislation. These rules are designed to protect patient medical information. The original rules were enacted as part of HIPAA. Since then, HIPAA has been updated by the U.S. Department of Health & Human Services (HHS) regulations and other amendments, including the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, which covers mostly electronic transmissions. This section summarizes the major provisions of the Privacy and Security Rules, as well as provisions regarding reporting breaches of the rules.

The learning objectives for this chapter include:

- To increase your knowledge and understanding of what protected health information (PHI) is and to become aware of possible threats to patient privacy and security.
- To enhance awareness of your role in helping your medical organization follow HIPAA rules and regulations.
- To inform you about your reporting responsibilities when HIPAA violations occur and possible penalties for violations.

## HIPAA Administrative Simplification Statute and Rules

To improve the efficiency and effectiveness of the healthcare system, HIPAA, Public Law 104-191, included Administrative Simplification provisions that required HHS to adopt national standards for electronic healthcare transactions (ASC X12N or NCPDP) and code sets (CPT®, HCPCS Level II, ICD-10-CM/PCS, CDT®, NDC), unique health identifiers, and security. At the same time, Congress recognized that advances in electronic technology could erode the privacy of health information. Consequently, Congress incorporated into HIPAA provisions that mandated the adoption of federal privacy and security protections for individually identifiable health information.

HHS published a final Privacy Rule in December 2000, which was later modified in August 2002. This rule set national standards for the protection of individually identifiable health information by three types of covered entities: health plans, healthcare clearinghouses, and healthcare providers who conduct standard healthcare transactions electronically. Compliance with the Privacy Rule was required as of April 14, 2003 (April 14, 2004 for small health plans).

HHS published a final Security Rule in February 2003. This rule sets national standards for protecting the confidentiality, integrity, and availability of electronic protected health information (ePHI). Compliance with the Security Rule was required as of April 20, 2005 (April 20, 2006 for small health plans). (Source: <https://www.hhs.gov/hipaa/for-professionals/index.html>)

## HIPAA Omnibus Rule

HHS moved forward to strengthen the privacy and security protections for health information established under HIPAA. The following excerpt is from the HHS news release regarding the modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules; Final Rule (January 2013). The *Federal Register* for this final rule can be found at <https://www.govinfo.gov/content/pkg/FR-2013-01-25/pdf/2013-01073.pdf>.

This omnibus final rule is comprised of the following four final rules:

1. Final modifications to the HIPAA Privacy, Security, and Enforcement Rules mandated by the HITECH Act, and certain other modifications to improve the rules, which were issued as a proposed rule on July 14, 2010. These modifications include:
  - Make business associates of covered entities directly liable for compliance with certain HIPAA Privacy and Security Rules' requirements.
  - Strengthen the limitations on the use and disclosure of PHI for marketing and fundraising purposes and prohibit the sale of PHI without individual authorization.
  - Expand individuals' rights to receive electronic copies of their health information and to restrict disclosures to a health plan concerning treatment for which the individual has paid out of pocket in full.
  - Require modifications to, and redistribution of, a covered entity's notice of privacy practices.
  - Modify the individual authorization and other requirements to facilitate research and disclosure of child immunization proof to schools, and to enable access to decedent information by family members or others.

## Revocation of Authorization

An individual may revoke an authorization at any time, if the revocation is in writing, except:

- a. To the extent that the covered entity has used PHI in reliance on a valid authorization before the date of revocation, or
- b. If the authorization was obtained as a condition of obtaining insurance coverage, and other law provides the insurer with the right to contest a claim under the policy or the policy itself.

### Medical Record Authorization Sample

Authorization to Release or Obtain Protected Health Information				
<b>PLEASE PRINT</b>				
Patient Name: (Last)		(First)		
Phone:		Maiden/Other Name:		
Date of Birth:		Social Security No.		
Address:				
City:	State:	ZIP:		
I authorize (Organization Name) to release information contained in my medical records to the following healthcare person or institution indicated below:			INFORMATION TO BE RELEASED	
Institution or Requestor:			INDICATE DATES IF KNOWN:	
Attention to:			Pertinent Medical Data:	
Address:			History & Physical Report:	
City	State	ZIP	Consultation Report:	
Phone			Operative Report:	
I authorize the following institution to release protected health information contained in my medical record to (Organization Name).			X-ray Report:	
Institution or Requestor:			Lab Report:	
Phone:			Pathology Report:	
REASON FOR DISCLOSURE: Check or Circle			Discharge Summary:	
Continuation of Care:			Emergency Room Report:	
Medical Consultation:			Other:	
Attorney Inquire:			Check or circle one if you want this information released:	
Social Security:			Alcohol/Drug Abuse:	
Workers' Comp:			Mental Health:	
Insurance Claim:			HIV/AIDS:	
Employer Request:			Anticipated completion date:	
Other:			30 Days	
			60 Days	
			90 Days	
This authorization to disclose information may be revoked by the patient at any time except to the extent that any action has been taken (this means if any copies have already been sent that they cannot be revoked). A written revocation can be sent to the compliance officer of (Organization Name & Address). This authorization expires one year from the date of signature.				
Signature of Patient:			Date:	
Signature of Parent or Guardian:			Date:	
Witness to Signature:			Date:	
Approved:	Denied:	Reason:	Date:	
<b>Identification verified by:</b>		Photo ID:	SS Card:	Driver's License:
				Other:

## CLINICAL LABORATORY IMPROVEMENT AMENDMENTS (CLIA) LABORATORY GUIDANCE DURING COVID-19 PUBLIC HEALTH EMERGENCY

CMS is issuing this memorandum to laboratory surveyors to provide important guidance to surveyors and laboratories during the COVID-19 public health emergency, such as:

- CMS' Exercise of enforcement discretion to ensure pathologists may review pathology slides remotely if certain defined conditions are met,
- Ensuring that laboratories located in the United States wishing to perform COVID-19 testing that apply for CLIA certification are able to begin testing as quickly as possible during the public health emergency,
- Highlighting that laboratories within a hospital/ University Hospital Campus may hold a single certificate for the laboratory sites within the same physical location or street address,
- Offering enforcement discretion as to Proficiency Testing (PT) During the duration of the Public Health Emergency,
- Addressing alternate Specimen Collection Devices, and
- Addressing Laboratory Developed Tests
- CMS is committed to taking critical steps to ensure America's clinical laboratories are prepared to respond to the threat of 2019 Novel Coronavirus (COVID-19) and other respiratory illnesses to ensure reliable testing as well as ensuring patient health and safety.
- All guidance in this memorandum is applicable only during the COVID-19 public health emergency.
- Laboratories that are accredited must follow their accrediting organization (AO) requirements and must follow applicable State laws, which may be more stringent than the CLIA requirements.
- The CLIA program is unable to approve section 1135 waiver requests with respect to waivers of CLIA program requirements. Section 1135 waiver authority is only applicable to specified programs (or penalties) authorized by the Social Security Act (SSA). The CLIA program does not fall into this category of programs.

**Source:** <https://www.cms.gov/medicare-provider-enrollment-and-certificationsurveycertificationgeninfo-policy-and-memos-states-and/clinical-laboratory-improvement-amendments-clia-laboratory-guidance-during-covid-19-public-health>

CMS-3355-F was published on July 11, 2022. This final rule implemented revised regulations to update those that the Centers for Medicare & Medicaid Services (CMS) has identified as unnecessary, obsolete, or excessively burdensome on laboratories under the Clinical Laboratory Improvement Amendments of 1988 (CLIA). The regulations §§ 493.2 and

493.801 through 493.959 were effective two years after publication in the Federal Register [July 11, 2024]. Amendments to 42 CFR §§ 493.20 and 493.25, related to laboratories performing tests of moderate complexity and high complexity testing that also perform waived testing and proficiency testing enrollment, were effective 30 days after the publication date of this final rule and are effective as of Aug. 10, 2022.

You can read more about the final rule and its effect on clinical laboratories here: <https://www.cms.gov/medicare/health-safety-standards/quality-safety-oversight-general-information/policy-memos-states-and-cms-locations>.

This is the first update to the CLIA 1988 PT regulations since its inception in 1992.

### COMPLIANCE TIP

If a practice performs any laboratory tests or procedures in the office, it should:

- Hold a valid CLIA certificate that is appropriate for the type of testing being performed in the office; and
- If performing PPMP tests or above, it must maintain a laboratory procedure manual with written procedures to comply with the applicable standards mandated by CLIA for the category of laboratory maintained by the practice.

### COMPLIANCE TIP

Review all the CLIA requirements. Additional information can be found on the following websites:

<https://www.govinfo.gov/content/pkg/CFR-2012-title42-vol5/pdf/CFR-2012-title42-vol5-part493.pdf>

<https://www.cms.gov/Regulations-and-Guidance/Legislation/CLIA/downloads/HowObtainCLIACertificate.pdf>

<https://www.cms.gov/Regulations-and-Guidance/Legislation/CLIA>

<https://www.cdc.gov/clia>

<https://www.fda.gov/medical-devices/ivd-regulatory-assistance/clinical-laboratory-improvement-amendments-clia>

<https://www.cms.gov/files/document/clia-laboratory-covid-19-emergency-frequently-asked-questions.pdf>

## EXAMPLE

**Sharps Injury Log**

Sharps Injury Log for 20XX

Date of Occurrence	Type/Brand of Device Involved	Brief Description of How the Incident Occurred. Examples: Body part affected, procedure performed (e.g., injection, disposal, incision)	Physical Location of Incident in Facility

**Sharps Injury Report**

NOTE: This is not the same as the Sharps Injury Log.

Name of Employee:

Employee ID Number:

Assigned Injury ID #:

Employee Work Unit:

Date of Injury:

Time of Injury:

Completed by:

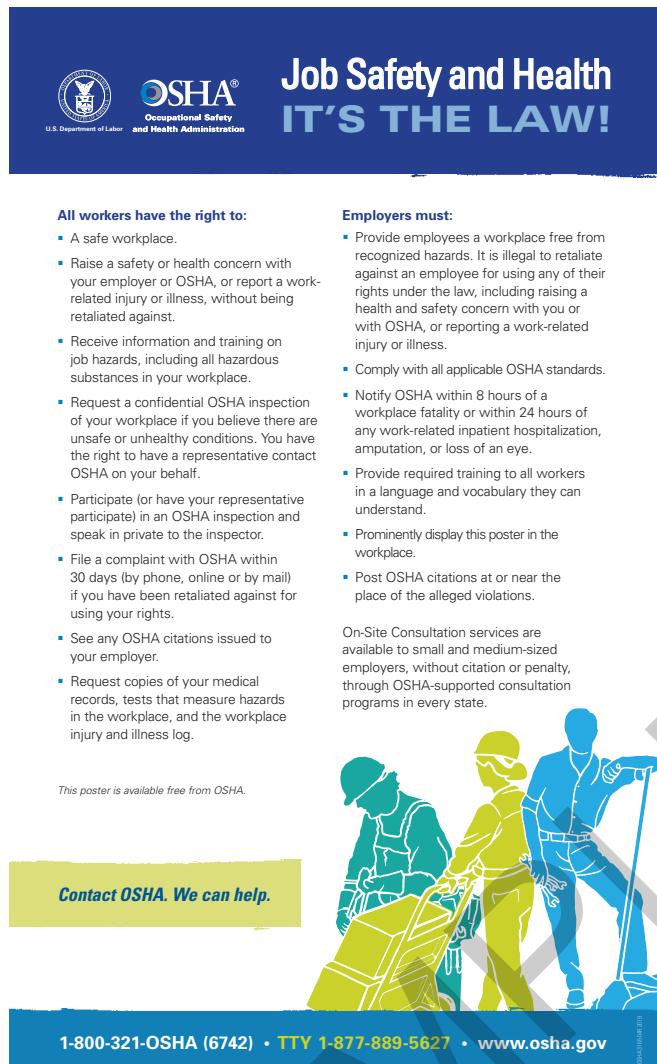
Date:

<b>Location of Injury (Check all that apply)</b>  <input type="checkbox"/> Finger <input type="checkbox"/> Hand <input type="checkbox"/> L <input type="checkbox"/> R <input type="checkbox"/> Arm <input type="checkbox"/> L <input type="checkbox"/> R <input type="checkbox"/> Face or Head <input type="checkbox"/> Torso <input type="checkbox"/> Leg <input type="checkbox"/> L <input type="checkbox"/> R <input type="checkbox"/> Other: _____	<b>Sharp Involved (If known)</b>  Type: _____ Brand: _____ Model: _____  <b>Body Fluid Involved:</b> _____	<b>Did the sharp being used have engineered injury protection(s)?</b>  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know  <b>Was the protective mechanism activated?</b>  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Don't Know  <b>When did the injury occur?</b>  <input type="checkbox"/> Before activation <input type="checkbox"/> Don't Know <input type="checkbox"/> During activation <input type="checkbox"/> After activation
--	---	--

<b>Job Classification</b>  <input type="checkbox"/> Doctor <input type="checkbox"/> Nurse <input type="checkbox"/> Intern/Resident <input type="checkbox"/> Patient Care Support Staff <input type="checkbox"/> Technologist: <input type="checkbox"/> OR <input type="checkbox"/> RT <input type="checkbox"/> RAD <input type="checkbox"/> Phlebotomist/Lab Tech <input type="checkbox"/> Housekeeper/Laundry Worker <input type="checkbox"/> Trainee - specify: _____ <input type="checkbox"/> Other: _____	<b>Location and Department</b>  <input type="checkbox"/> Patient Room <input type="checkbox"/> ICU <input type="checkbox"/> Outside Patient Room <input type="checkbox"/> Emergency Department <input type="checkbox"/> Operating Room/PACU <input type="checkbox"/> Clinical Laboratory <input type="checkbox"/> Outpatient Clinic/Office <input type="checkbox"/> Utility Area <input type="checkbox"/> Other: _____	<b>Procedure</b>  <input type="checkbox"/> Draw venous blood <input type="checkbox"/> Draw arterial blood <input type="checkbox"/> Injection <input type="checkbox"/> Start IV/Central line <input type="checkbox"/> Heparin/Saline flush <input type="checkbox"/> Obtain body fluid/tissue sample <input type="checkbox"/> Cutting <input type="checkbox"/> Suturing <input type="checkbox"/> Other: _____
--	--	---

**Describe, in detail, how the exposure incident occurred** (e.g., the procedure being performed, the device being used, the body part affected, objects or substances involved and how they were involved):

Below is a screenshot of the official federal OSHA poster.



OSHA regulations do not specify or require employers to display the OSHA poster in a foreign language. However, OSHA encourages employers with Spanish-speaking workers to also display the Spanish version of the poster.

For more information, see <https://www.osha.gov/Publications/poster>.

As one can gather from the information presented, OSHA compliance can be cumbersome and many times difficult to maintain. OSHA believes education and assistance to employers is key to their mission and to the safety of employees. For this reason, they created a program that allows an employer to request a consultation. This is free of charge to the employer, and it will create (except in very rare and extreme circumstances) a one-year time frame in which the employer is safe from penalties if any deficient areas are found upon inspection.

## COMPLIANCE TIP

Local fire departments are very helpful in providing fire safety training and in fire hazard inspections. Some employers have also used the service of their property or liability insurance companies to provide inspection and training services.

## Conclusion

Compliance officers and their employers have a responsibility to provide a safe workplace. In doing so, employers are protecting an important asset, its EMPLOYEES. The following is a short summary of key employer responsibilities we have covered in this chapter:

- Providing a drug-free workplace free from serious recognized hazards and comply with standards, rules, and regulations issued under the OSH Act.
- Examining workplace conditions to ensure safety.
- Making sure employees have necessary equipment and resources to properly maintain equipment.
- Using color codes, posters, labels, or signs to warn employees of potential hazards.
- Establishing or updating operating procedures and communicating them so employees follow safety and health requirements.
- Providing safety training in a language and vocabulary workers can understand.
- Developing and implementing a written hazard communication program and training employees on the hazards to which they are exposed and proper precautions. See the OSHA page <https://www.osha.gov/hazcom>.
- Providing medical examinations and training when required by OSHA standards. Visit <https://www.osha.gov/hazardous-drugs/controlling-occex#surveillance> for more information.
- Posting, at a prominent location within the workplace, the OSHA poster (or the state-plan equivalent) informing employees of their rights and responsibilities. See the OSHA poster at <https://www.osha.gov/Publications/poster>.
- Reporting to the nearest OSHA office all work-related fatalities within eight hours, and all work-related inpatient hospitalizations, all amputations, and all losses of an eye within 24 hours. Find your nearest OSHA office here: <https://www.osha.gov/contactus/bystate>.
- Keeping records of work-related injuries and illnesses. View the requirements here: <https://www.osha.gov/recordkeeping>.

## EXAMPLES

Below are examples of one method for benchmarking a practice's E/M utilization rates to the utilization rates published by CMS. Although there are many metrics that should be benchmarked, we will briefly review how the comparison of utilization rates can be beneficial.

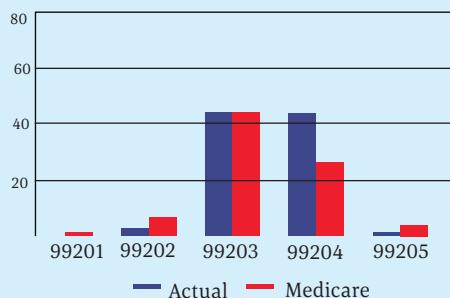
The first graph indicates values for the provider compared to Medicare averages. If you traced the values with a pencil, you would create a bell shape line. This represents the provider's "bell curve." In this example, this provider's benchmark, or bell curve, is not alarming.

### Family Practice

The following analysis shows a distribution of Evaluation and Management (E/M) codes for your practice compared to national Medicare averages for your speciality. This can be used as a tool to evaluate your coding practices and identify any potential patterns that may warrant further scrutiny.

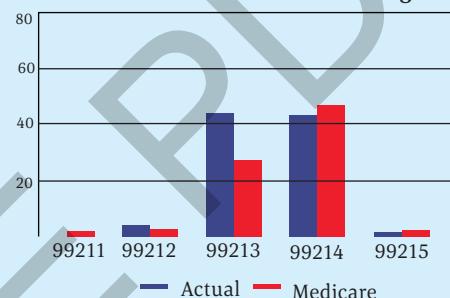
#### New Pt. E/M Utilization:

##### Actual vs. National Medicare Averages



#### Est. Pt. E/M Utilization:

##### Actual vs. National Medicare Averages



This next graph represents "same coding," where all claims are billed out at the same 99213 code. This coding pattern puts a provider at risk for an audit. This coding pattern is not typical and is not likely appropriate.

**CORRECTIVE ACTION PLAN**

Date of CAP: \_\_\_\_\_

Revision Date (if applicable) \_\_\_\_\_

Reason for CAP: \_\_\_\_\_

Errors or discrepancies were discovered/identified on \_\_\_\_\_ (date) through the following mechanism:

Description of resolution of error or discrepancy:

Repayment Complete: Yes    No    Not Applicable

If Yes: Check Number \_\_\_\_\_, Date \_\_\_\_\_, and Amount: \_\_\_\_\_

Legal counsel's recommendation of reporting corrective action to outside entities: \_\_\_\_\_  
\_\_\_\_\_Billing policies or procedures modified, including date of modification(s): \_\_\_\_\_  
\_\_\_\_\_Education or re-education undertaken as a result of this error/discrepancy, including timeline for completion of training or re-education: \_\_\_\_\_  
\_\_\_\_\_Disciplinary actions taken as a result of this error/discrepancy: \_\_\_\_\_  
\_\_\_\_\_

Increased or focused audits and/or oversight will or will not (circle one) will be undertaken as a result of this error/discrepancy. Description of audit focus and length of time that increased oversight will be undertaken, including, if applicable, levels of confidence of correction and continued compliance (e.g., 95%)

CEO/Board of Trustees Notified? Yes    No    Date of Notification: \_\_\_\_\_

Means of Notification: \_\_\_\_\_

Other reasonable corrective measures taken:

## COMPLIANCE TIP

The best defense as a compliance officer is to be prepared. As part of the annual billing and reimbursement compliance program audit/review it is important to understand in what areas previous improper payments have been found. To accomplish this:

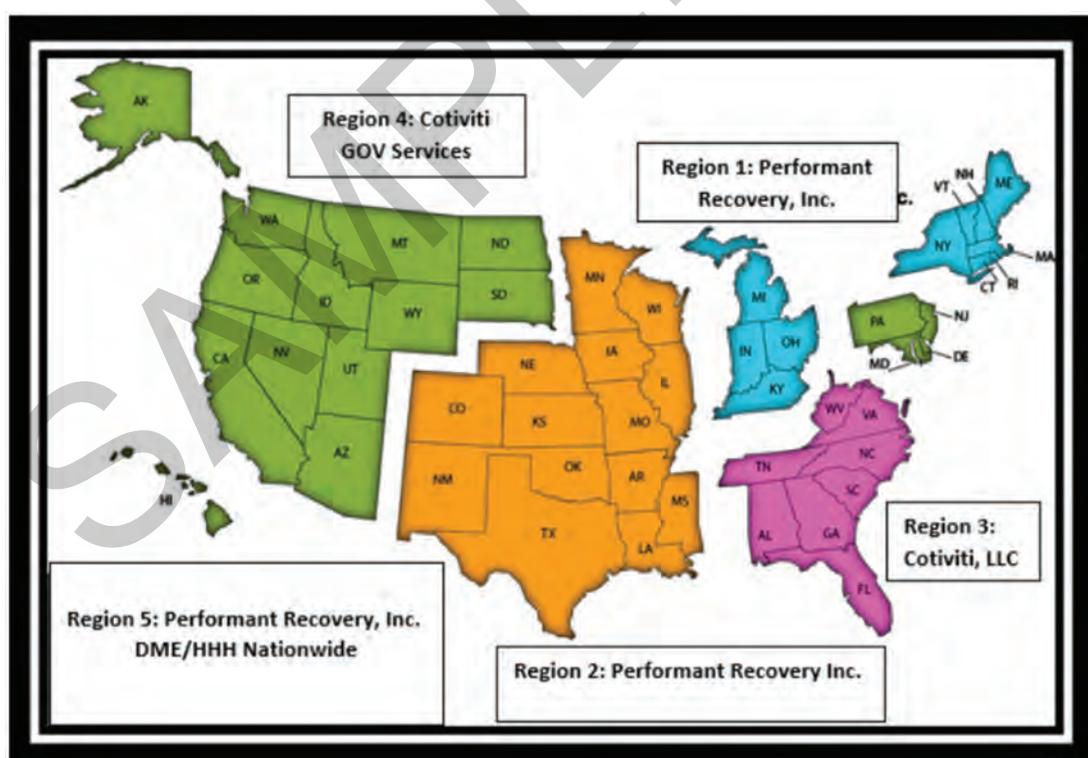
- Analyze improper payments previously identified by RACs:
  - Demonstration findings: Therefore, it was crucial for the House of Representatives to pass a law to fix or even repeal the Sustainable Growth Rate (SGR). On March 26, 2015, five days before the SGR pay cut was to go into effect, a bi-partisan vote was cast allowing the “Doc Fix Bill” to pass with a 392/37 vote. The new \$200 billion measure provides more stable funding through 2025 and includes \$70 billion in spending cuts. The Senate passed the bill on April 13, 2015. The new bill is aimed to prevent a 21% cut in payments on April 1 to doctors who treat Medicare patients.
  - Listed on CMS’ website.
- Analyze improper payments previously identified in OIG and CERT reports:
  - OIG reports: <https://oig.hhs.gov/reports-and-publications/>
  - CERT reports: <https://www.cms.hhs.gov/cert>

- Conduct an internal assessment by auditing current workflow.
- Identify compliance or non-compliance with federal healthcare rules.
- Create corrective actions to promote compliance.
- Appeal when necessary and keep track of denied claims.
- Learn from past experiences.
- Educate, train, and retrain employees.
- Reevaluate problem areas frequently.

## Approved Services

There are currently three contractors awarded a RAC contract. The contractors by region are:

- Region 1 – Performant Recovery, Inc.
- Region 2 – Performant Recovery, Inc.
- Region 3 – Cotiviti, LLC
- Region 4 – Cotiviti GOV Services
- Region 5 – Performant Recovery, Inc. DME/HHH Nationwide



**Source:** <https://www.cms.gov/research-statistics-data-and-systems/monitoring-programs/medicare-ffs-compliance-programs/recovery-audit-program>

Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules, 78 Fed. Reg. 5566, <https://www.govinfo.gov/content/pkg/FR-2013-01-25/pdf/2013-01073.pdf>

HHS, Emergency Situations: Preparedness, Planning, and Response, <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/index.html>

HHS, Marketing, <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/marketing/index.html>

HHS, Guidance Regarding Methods for De-identification of Protected Health Information in Accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, <https://www.hhs.gov/hipaa/for-professionals/privacy/special-topics/de-identification/index.html>

HHS, Summary of the HIPAA Security Rule, <https://www.hhs.gov/hipaa/for-professionals/security/laws-regulations/index.html>

HHS, Business Associate Contracts, January 25, 2013, <https://www.hhs.gov/hipaa/for-professionals/covered-entities/sample-business-associate-agreement-provisions/index.html>

HHS, FAQ, <https://www.hhs.gov/hipaa/for-professionals/faq/1501/am-i-required-to-keep-the-decedents-information-for-50-years/index.html>

HHS, HIPAA Security Series, "Security Standards: Implementation for the Small Provider", Volume 2, Paper 7, December 10, 2007, <https://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/administrative/securityrule/smallprovider.pdf>

HHS, Breach Notification Rule, <https://www.hhs.gov/hipaa/for-professionals/breach-notification/index.html>

## Chapter 6

Government Publishing Office (GPO), CMS, HHS Part 493, 42 CFR §493- Laboratory Requirements, October 1, 2012, <https://www.govinfo.gov/content/pkg/CFR-2012-title42-vol5/pdf/CFR-2012-title42-vol5-part493.pdf>

GPO, Electronic Code of Federal Regulations, CFR §489.23, <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-489#489.24>

CMS, How to Apply for a CLIA Certificate, Including International, Laboratories, <https://www.cms.gov/medicare/quality/clinical-laboratory-improvement-amendments/apply>

HHS, CMS, Emergency Medical Treatment and Labor Act (EMTALA) On-Call Requirements and Remote Consultation

Utilizing Telecommunications Media, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/downloads/SCLetter07-23.pdf>

CMS, Clinical Laboratory Improvement Amendments (CLIA) State Survey Agency Contacts, <https://www.cms.gov/Regulations-and-Guidance/Legislation/CLIA/Downloads/CLIASA.pdf>

CDC, Clinical Laboratory Improvement Amendments (CLIA), <https://www.cdc.gov/clia/>

FDA, Clinical Laboratory Improvement Amendments (CLIA), <https://www.fda.gov/medical-devices/ivd-regulatory-assistance/clinical-laboratory-improvement-amendments-clia>

## Chapter 7

OSHA Homepage, <https://www.osha.gov/>

OSHA, Appendix D Model Exposure Control Plan, <https://www.osha.gov/bloodborne-pathogens/evaluating-controlling-exposure> or <https://www.osha.gov/sites/default/files/publications/osha3186.pdf>

OSHA, Compressed Gas and Equipment, <https://www.osha.gov/compressed-gas-equipment>

OSHA, "Job Safety and Health, It's the Law!", <https://www.osha.gov/Publications/poster>

OSHA, OSHA Injury and Illness Recordkeeping and Reporting Requirements, <https://www.osha.gov/recordkeeping/>

OSHA Fact Sheet, Bloodborne Pathogen Exposure Incidents, <https://www.osha.gov/sites/default/files/publications/bbfact04.pdf>

National Fire Protection Organization, Fires by Occupancy or Property Type, <https://www.nfpa.org/News-and-Research/Data-research-and-tools/US-Fire-Problem/Fires-by-occupancy-or-property-type>

OSHA, Fire Safety, <https://www.osha.gov/fire-safety>

GPO, Electronic Code of Federal Regulations, <https://www.ecfr.gov/>

CDC. "Guidelines for Preventing the Transmission of *Mycobacterium tuberculosis* in Health-Care Settings, 2005.", Morbidity and Mortality Weekly Report (MMWR). December 30, 2005, [https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm?s\\_cid=rr5417a1\\_e](https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5417a1.htm?s_cid=rr5417a1_e)

CDC, Tuberculosis Information, <https://www.cdc.gov/tb/default.htm>

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## Chapter 12 Questions

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1. Advisory opinions can assist a party in deciding whether to move forward with an arrangement or not. What do you need to remember about the applicability of Advisory Opinion?
  - a. The OIG's opinions apply only to the requesting party's specific arrangement.
  - b. Requests are made only on arrangements that are less likely to be approved.
  - c. The OIG provides opinion on Stark law.
  - d. Advisory opinions issued by CMS cover legality under the Anti-Kickback Law.
2. Which one of the following is referenced to setting forth various projects to be addressed during the fiscal year when looking for potential problem areas identified by the government indicating scrutiny of the services?
  - a. OIG Semi-annual Report
  - b. OIG Work Plan
  - c. Internet-only Medicare manuals
  - d. Physician Fee Schedule
3. Which scenario would apply for a workers' compensation case?
  - a. An employee is injured in an auto accident on the way to work.
  - b. An independent contractor (who is not an employee) is injured when he falls off a ladder in the office building.
  - c. An employee develops food poisoning from the lunch he brought from home.
  - d. A file clerk is hit by a filing cabinet at work when it fell over.
4. A patient is seen in an outpatient clinic. Her husband calls later in the day to ask for information about the visit. The clinic pulls the patient's privacy authorization to see if they can speak to the husband. Which one of the following does this action fall under?
  - a. Health Insurance Portability and Accountability Act (HIPAA)
  - b. Office for Civil Rights (OCR)
  - c. Stabilization Act
  - d. Health Information Act
5. Local Coverage Determinations (LCDs) are established by which entity and for what purpose?
  - a. LCDs are established by OIG and provides a monthly newsletter on the LCDs for that state.
  - b. LCDs are developed by MACs and are responsible for administering the payment of Medicare services.
  - c. LCDs are established by CMS and sets the coding standards for reporting certain services.
  - d. LCDs are developed by HHS and makes coverage determinations universal throughout jurisdictions.

## CPCO® Exam

The CPCO® exam tests knowledge and skills for compliance professionals. The categories include:

### Healthcare Compliance History:

- History of healthcare laws in the United States
- Past healthcare industry investigations
- Federal sentencing guidelines
- Implementation of compliance program guidance
- Key agencies involved in healthcare compliance
- Current statistics related to CERT reports and national healthcare expenditures
- OIG five-principal strategy

### OIG Compliance Guidance for Individual and Small Group Physician Practices:

- General guidance information
- The seven elements of an effective compliance program:
  - Written Policies and Procedures
  - Compliance Leadership and Oversight
  - Training and Education
  - Effective Lines of Communication With the Compliance Officer and Disclosure Programs
  - Enforcing Standards: Consequences and Incentives
  - Risk Assessment, Auditing, and Monitoring
  - Responding to Detected Offenses and Developing Corrective Action Initiatives

### OIG Compliance Guidance for Third-Party Billing Companies and Clinical Laboratories:

- Lab orders and billing
- Balanced Budget Act of 1997
- Use of outside billing companies

### OIG Supplemental Compliance Program Guidance for Hospitals:

- Supplemental hospital guidance

### Key Risk Areas:

- Physician compliance program guidance risks
- Documentation
- Conflict of interest
- Gifts/gratuities
- Medical necessity
- Advance Beneficiary Notices
- Incident-to
- Overpayments/credit balances
- Certificates of medical necessity
- Certifications for home health and therapy services
- Billing of non-covered services as if covered
- Teaching physicians
- Gainsharing arrangements
- Joint ventures
- Limiting charges for PAR and non-PAR practices
- Professional courtesy/discounts/adjustments
- Rental of office space
- Unlawful advertising
- State escheat laws

### Fraud and Abuse Laws:

- Difference between fraud and abuse
- Civil Monetary Penalties
- False Claims Act
- Anti-kickback statute
- Stark Laws
- Fraud Enforcement and Recovery Act (FERA)
- Affordable Care Act (ACA/Health Reform)

### Other Laws and Regulations:

- HIPAA
- EMTALA
- CLIA
- OSHA
- Racketeer Influenced and Corrupt Organizations Act (RICO)
- Mail/wire fraud

finding for no documentation. This triggers an automatic denial/refund request because the service does not meet the criteria of medical necessity.

## Chapter 12

1. **Answer:** a. The OIG's opinions apply only to the requesting party's specific arrangement.

**Rationale:** The OIG provides advisory opinions on the Anti-Kickback Statute and CMS provides opinions for the Stark Law. Advisory opinions can assist a party in deciding whether to move forward with an arrangement; however, there are drawbacks: The OIG's opinions apply only to the requesting party's specific arrangement and cannot be used to assess the legality of any other arrangement. Requests are made only on arrangements that are highly likely to be approved and, thus, tend to be conservative.

2. **Answer:** b. OIG Work Plan

**Rationale:** The OIG's Work Plan sets forth various projects to be addressed during the fiscal year by the Office of Audit Services, Office of Evaluation and Inspections, Office of Investigations, and Office of Counsel to the Inspector General. Twice a year, the OIG releases a Work Plan outlining its priorities for the fiscal year ahead. Within the Work Plan, potential problem areas with claims submissions are listed and will be targeted with special scrutiny.

3. **Answer:** d. A file clerk is hit by a filing cabinet at work when it fell over.

**Rationale:** In order to qualify for workers' compensation, an employee must be injured while working within the scope of their job description, injured while performing services required by the employer, or contract an illness that can be directly connected to employment. Independent contractors are not covered under workers' compensation.

4. **Answer:** a. Health Insurance Portability and Accountability Act (HIPAA)

**Rationale:** The Privacy Act is under HIPAA and protects the health information of the patient. According to HIPAA, for a practice to release information to the husband, the patient would need a signed an authorization form on file that specifically names their husband as authorized to access their PHI. The authorization form provides an area for the patient to identify the individuals (such as spouse, children, and/or trusted friend) who can contact the practice regarding their care.

5. **Answer:** b. LCDs are developed by MACs and are responsible for administering the payment of Medicare services.

**Rationale:** Medicare Administrative Contractors (MACs) are responsible for administering the payment of Medicare services. Providers and suppliers submit their claims to the MAC and are paid based on locally influenced fee schedules. MACs may issue coverage decisions for certain services within their discretion in local coverage determinations (LCDs), or informally through newsletters and provider communications.



1. **Answer:** d. Enrollment, Payment, Compliance, Oversight, and Response

**Rationale:** The OIG uses five principles in its strategic work planning to assist in effectively focusing its audit, evaluation, investigative, enforcement, and compliance efforts. These broad principles underlie the recommendations that OIG makes to HHS and Congress. These five principles are:

1. Enrollment: Scrutinize individuals and entities that want to participate as providers and suppliers prior to their enrollment in healthcare programs.
2. Payment: Establish payment methodologies that are reasonable and responsive to changes in the marketplace and medical practice.
3. Compliance: Assist healthcare providers and suppliers in adopting practices that promote compliance with program requirements.
4. Oversight: Vigilantly monitor programs for evidence of fraud, waste, and abuse.
5. Response: Respond swiftly to detected fraud, impose sufficient punishment to deter others, and promptly remedy program vulnerabilities.

2. **Answer:** c. Developing open lines of communication.

**Rationale:** By developing open lines of communication, a physician's practice can identify, prevent, and discuss problem areas before they become violations.

**Source:** OIG Compliance Program Guidance for Individual and Small Group Physician Practices.

3. **Answer:** d. Fear of employees receiving compensation for addressing the risk

**Rationale:** Non-retaliation is essential to an effective compliance program. Fear of retaliation can result in ongoing fraudulent activities when those activities could have been identified and remediated. In an atmosphere of distrust and retribution, whistleblowers are more likely to not come forward.

**Source:** OIG Compliance Program Guidance for Individual and Small Group Physician Practices

4. **Answer:** c. Compliance is a condition of continued employment.

**Rationale:** There are two goals a practice should strive for when conducting compliance training: (1) All employees will receive training on how to perform their jobs in compliance with the standards of the practice and any applicable regulations; and (2) each employee will understand that compliance is a condition of continued employment. Compliance training focuses on explaining why the practice is developing and establishing a compliance program. The training should emphasize that following the standards and procedures will not get a practice employee in trouble, but violating the standards and procedures will get a practice employee in trouble.

**Source:** OIG Compliance Program Guidance for Individual and Small Group Physician Practices

5. **Answer:** a. Annually

**Rationale:** Annual training is called for when the practice has no violations identified.

**Source:** OIG Compliance Program Guidance for Individual and Small Group Physician Practices

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