Whereas, Current trends in medical education in the US often lead to medical students providing medical services under the practiced eyes of proctoring medical professionals (both teaching physicians and other health care providers such as medical assistants and respiratory therapists); and

Whereas, Services provided by intern or resident physicians are billable under Centers for Medicare and Medicaid Services (CMS) through the Medicare Physician Fee Schedule if a teaching physician is physically present during the critical or key portions of the service; and

Whereas, Services provided by medical students (such as obtaining a Pap smear or setting up a nebulizer treatment) are not currently billable under CMS even if proctoring medical professionals are directly assisting or overseeing the service as part of medical education; and

Whereas, The inability to bill for these services may result in unnecessary duplication of services for patients, including the potential risk of repetitive minor procedures; and

Whereas, The inability to bill for these services may also result in restrictions in medical student education access since the educational facility may not be able to sustain the educational process without the procedural revenue; therefore be it

RESOLVED, That our American Medical Association amend existing AMA Policy, H-390.999, “Payments to Physicians in Teaching Setting by Medicare Fiscal Intermediaries,” by addition as follows:

When a physician assumes responsibility for the services rendered to a patient by a medical student, a resident, or an intern, the physician may ethically bill the patient for services which were performed under the physician’s personal observation, direction, and supervision (Modify Current HOD Policy); and be it further

RESOLVED, That our AMA work with the Centers for Medicare and Medicaid Services to require coverage of medical services performed by medical students while under the physician’s personal observation, direction, and supervision. (Directive to Take Action)

Fiscal Note: Not yet determined

Received: 09/29/17
RELEVANT AMA POLICY

Payments to Physicians in Teaching Setting by Medicare Fiscal Intermediaries H-390.999
When a physician assumes responsibility for the services rendered to a patient by a resident or an intern, the physician may ethically bill the patient for services which were performed under the physician's personal observation, direction, and supervision.

Clinical Proctoring H-375.974
AMA policy states that clinical proctoring is an important tool for education and the evaluation of clinical competence of new physicians seeking privileges or existing medical staff members requesting new privileges. Therefore, the AMA:
(1) encourages hospital medical staffs to develop proctoring programs, with appropriate medical staff bylaws provisions, to evaluate the clinical competency of new physicians seeking privileges and existing medical staff members requesting new privileges; and
(2) encourages hospital medical staffs to consider including the following provisions in their medical staff bylaws for use in their proctoring program:
(a) Except as otherwise determined by the medical executive committee, all initial appointees to the medical staff and all members granted new clinical privileges shall be subject to a period of proctoring.
(b) Each appointee or recipient of new clinical privileges shall be assigned to a department where performance of an appropriate number of cases as established by the medical executive committee, or the department as designee of the medical executive committee, shall be observed by the chair of the department, or the chair's designee, during the period of proctoring specified in the department's rules and regulations, to determine the suitability to continue to exercise the clinical privileges granted in that department. The exercise of clinical privileges in any other department shall also be subject to direct observation by that department's chair or the chair's designee.
(c) The members shall remain subject to such proctoring until the medical executive committee has been furnished with: a report signed by the chair of the department(s) to which the member is assigned as well as other department(s) in which the appointee may exercise clinical privileges, describing the types and numbers of cases observed and the evaluation of the applicant's performance, a statement that the applicant appears to meet all of the qualifications for unsupervised practice in that department, has discharged all of the responsibilities of staff membership, and has not exceeded or abused the prerogative of the category to which the appointment was made, and that the member has satisfactorily demonstrated the ability to exercise the clinical privileges initially granted in those departments.
Citation: (BOT Rep. 30-A-94; Amended: CMS Rep. 3, A-99; Reaffirmed: CLRDPD Rep. 1, A-09)

Supervision and Proctoring by Facility Medical Staff H-375.967
Our AMA advocates that the conduct of medical staff supervision be included in medical staff bylaws and be guided by the following principles:
(1) Physicians serving as medical staff supervisors should be indemnified at the facility's expense from malpractice claims and other litigation arising out of the supervision function.
(2) Physicians being supervised should be indemnified at the facility's expense for any damages that might occur as a result of implementing interventions recommended by medical staff supervisors.
(3) AMA principles of peer review as found in Policies H-320.968 [2,d], H-285.998 [5], and H-320.982 [2c,d] should be adhered to in the conduct of medical staff supervision.
(4) The medical staff member serving as supervisor should be determined through a formal process by the department chair or medical staff executive committee.
(5) The scope of the medical staff supervision should be limited to the provision of services that have been restricted, are clearly questionable, or are under question, as determined by the department chair or medical staff executive committee.
(6) The duration of the medical staff supervision should be limited to the amount of time necessary to adequately assess the degree of clinical competence in the area of skill being assessed.
(7) Medical staff supervision should include a sufficient volume of procedures or admissions for meaningful assessment.
(8) Medical staff supervisors should provide periodic performance reports on each patient to the appropriate designated medical staff committee. The reports should be transcribed or transcripted by the medical staff office to assure confidentiality. The confidentiality of medical staff supervision reports must be strictly maintained.
(9) Physicians whose performance is supervised should have access to the performance reports submitted by medical staff supervisors and should be given the opportunity to comment on the contents of the reports.
Citation: (CMS Rep. 3, A-99; Reaffirmed: CLRDPD Rep. 1, A-09)