



Are we all ‘criminals’?



How of hands...how many of you consider yourselves “compliant” with the array of regulations, laws and so-called “guidelines” you work under? Most of the time? Some of the time? Never? Now, let me pose the question a different way: How many of you think you can always, or even most of the time, remain in compliance and have a successful practice? Or, consider the question presented this way: How many of you think you can be compliant to the “letter of the law” and simply get through a typical day in practice?

Will all of you confessing the inevitable please blow the whistle on yourselves and report to the nearest OIG (Office of the Inspector General) office for fingerprinting? Yes, that means you...ALL of you!

Perhaps I am the first to propose that we are ALL “criminals,” but if so, then I am the only honest one of the lot. But wait, I’m not finished exposing our injustices. Not only am I suggesting that we are noncompliant, I am quite confident that we are NEVER fully compliant. Why, you ask? Because it is humanly impossible to comply with every regulation and every law, for every patient, every day. What’s more, even attempting to do so would compromise patient care so profoundly that we may as well pass the stethoscope to Watson, the IBM supercomputer. Maybe “he” could do a better job.

Let’s follow a typical encounter in an urgent care center to illustrate:

Mrs D., a 44-year-old new patient to the practice, presents with acute abdominal pain in the right lower quadrant. Dr. Sam Quentin performs a focused evaluation, which reveals nothing alarming. He orders some lab tests and performs a pelvic exam, obtaining cultures for sexually transmitted disease. The entirety of the visit lasts about 2 hours and consumes significant resources. It has put Dr. Sam Quentin behind and patient wait times are growing. He aptly recognizes that he must get paid for his efforts and bills a 99204. He simply doesn’t have time to count all the elements in his H&P, but certainly feels that the case is worthy of the higher code. Dr. Sam Quentin quickly works through the next four patients with simple upper respiratory complaints, giving verbal orders between rooms. He uses a pre-populated template to assist with documenting these encounters quickly. He bills a 99203 for each of these visits. He completes the day with 25 visits (felt like 50), yet despite his

efforts, revenue trails expenses for the shift.

Several patients left the office that day due to wait times and he realizes that he will have to approach the shift differently if he hopes to make any money. He ponders how he can see more patients and generate more revenue while remaining compliant with the myriad of OIG, HHS, CMS and AMA “rules,” documenting clearly to mitigate risk of a lawsuit, checking his PQRS requirements, counting all the elements in history and physical, asking a bunch of worthless review of systems questions, adding up the “points” for labs, EKGs and x-rays, and managing the follow-ups and referrals. I am sure I am missing something...oh yeah, and getting good patient satisfaction scores, and ummm...what’s that called...“taking care of patients”?

Unfortunately, despite their most genuine effort that day, Dr. Sam Quentin and his staff were noncompliant with at least five statutes and regulations.

Dr. Quentin has few palatable options here. He could go faster, and spend less time with patients, increasing risk and decreasing patient satisfaction, but then he will need to bill lower codes to remain compliant. He could spend more time on the simple cases and document more completely, but that would take time away from the patient with abdominal pain, the one case that day that really needed him. He could require ALL patient care conversations to occur behind closed doors, an admirable, albeit entirely unrealistic goal. We all know that he will fail despite his best intentions. In fact, to stay in business and provide a reasonable level of care, Dr. Quentin cuts corners where he can, embellishes when he needs to, and speaks too freely when he must...like any of us brave enough to admit it. But, does this make Sam a cheater, a defrauder and a criminal? The uncomfortable truth is, Sam Quentin is in all of us, and all of us *could be* in Sam Quentin. ■

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