

**Texas Tech University Health Sciences Center
Billing Compliance Program Policy and Procedure**

4.1 Teaching Physician Requirements for Evaluation & Management Services, Including Time- Based Codes	
Approved: October 21, 2010	Effective Date: October 21, 2010
Latest Revision: June 1, 2015 August 23, 2017	References: 42 USC §1395u(b)(7)(A); 42 CFR 415.170-172; IOM 100-04, Chapter 12, Section 100.

A. PURPOSE

The purpose of this policy is to provide guidance about teaching physician presence and documentation requirements for evaluation and management (E/M) services, including time-based E/M services, when residents are involved in the care of patients.

B. POLICY

In order to bill for services, the teaching physician shall personally participate in the critical or key portions of any E/M service or time-based E/M service, and personally document his/her participation in the management of the patient's care. For billing purposes, the resident SHALL NOT document the teaching physician's presence and participation in E/M services, including time-based E/M services.

C. SCOPE

This policy applies to Texas Tech University Health Sciences Center Schools of Medicine physicians who involve residents in the care of their patients. It applies to all federal, state and private payers unless a specific written waiver is obtained from the Institutional Compliance Officer.

This policy DOES NOT apply to presence and documentation requirements for E/M services furnished by residents under the supervision of a teaching physician in a primary care exception (PCE) clinic setting, which is addressed in a separate policy.

D. DEFINITIONS

1. *Resident.* A resident is an individual who participates in an approved Graduate Medical Education (GME) program, including interns and fellows in GME programs recognized as approved for purposes of direct GME payments made by Medicare. It DOES NOT INCLUDE students in an accredited educational program that is not an approved GME program. It does not include fellows who are not in an approved GME program or whose hours are not counted for purposes of GME payment to an affiliated hospital.

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2. *Teaching Physician.* A physician (other than another resident) who involves residents in the care of his/her patients.
3. *Critical/Key Portion.* The critical/key portion(s) is that part(s) of a service(s) that the teaching physician determines is/are a critical or key portion(s). Critical and key are interchangeable terms.
4. *Macro.* A macro means a command in a computer or dictation application that automatically generates pre-determined text that is not edited by the user.
5. *Physical Presence.* Physical presence means the teaching physician is located in the same room (or partitioned or curtained area, if the room is subdivided to accommodate multiple patients, such as an Emergency Room) as the patient when the resident performs the service and/or performs a face-to-face service.

E. PROCEDURE

1. *Evaluation and Management Services (Excluding Time-Based Codes)*
 - a. Teaching Physician Presence. In order to bill for E/M services where a resident is involved, the teaching physician must either:
 - Personally furnish the services; or
 - Be physically present during the critical or key portions of a service furnished by the resident.
 - b. Teaching Physician Documentation of Presence & Participation.
 - 1) Documentation Requirement. In order to bill for E/M services where a resident is involved, the teaching physician must personally document at least BOTH OF the following:
 - That the teaching physician performed the service or was physically present during the key or critical portions of the service performed by a resident; AND
 - The participation of the teaching physician in the management of the patient.

NOTE: Where the resident has performed an E/M service independently of the Teaching Physician, the Teaching Physician may reference the resident's note, documenting that he/she performed the critical/key portions and was directly

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involved in the management of the patient's care. **The Teaching Physician's documentation must reflect the date of service he/she saw the patient.** See Attachment "A", Examples of Acceptable Teaching Physician Documentation.

The resident SHALL NOT document the presence and participation of the teaching physician in an E/M service as it is insufficient for billing purposes.

- 2) Electronic Health Record (EHR) – Use of Macros. Refer to [Electronic Medical Record Playbook](#).
 - a) The teaching physician may personally add a macro in a secured (password protected) system to document his/her participation. The macro must be used along with the resident's and/or teaching physician's patient specific documentation that supports medical necessity of the specific services provided and billed.
 - b) The resident and teaching physician shall **NOT** both use macros to document patient specific care.
- 3) See Attachment "A" for examples of acceptable Teaching Physician Documentation. See Attachment "B" for examples of unacceptable documentation of teaching physician presence and participation.
 - a) *When a medical resident admits a patient to a hospital late at night and the teaching physician does not see the patient until later, including the next calendar day:*
 - b) *The teaching physician must document that he/she personally saw the patient and participated in the management of the patient. The teaching physician may reference the resident's note in lieu of re-documenting the history of present illness, exam, medical decision-making, review of systems and /or past family/social history provided that the patient's condition has not changed, and the teaching physician agrees with the residents note,*
 - c) *The teaching physician's note must reflect changes in the patient's condition and clinical course that require that the resident's note be amended with further information to address the patient's condition and course at the time the patient is seen personally by the teaching physician,*
 - d) *The teaching physician's documentation and bill must reflect the date of service he/she saw the patient and his/her personal work of obtaining a history, performing a physical, and participating in medical decision-making regardless of whether*

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the combination of the teaching physician's and resident's documentation satisfies criteria for a higher level of service. For payment, the composite of the teaching physician's entry and the resident's entry together must support the medical necessity of the billed service and the level of the service billed by the teaching physician.

2. Time-Based Evaluation & Management (E/M) Services

- a. Time-Based Services Defined. The following codes/services, among others, are common time-based services that may be utilized in a teaching setting for purposes of this policy.
- Individual Medical Psychotherapy (90804-90829; 90875-90876);
 - Critical Care Services (99291-99292; 99466-99467);
 - Hospital discharge day management (99238-99239);
 - E/M services where counseling and/or coordination of care represents more than 50% of the time for the entire encounter;
 - Prolonged services (99354-99359); and
 - Care plan oversight (99374-99380).
- b. Teaching Physician Presence. The teaching physician must be present for the period of time used to bill for the time-based services determined on the basis of time. The teaching physician shall not use time spent by the Resident in the absence of the teaching physician when selecting the time-based code. For example, if the resident had a face-to-face encounter with the patient for hospital discharge of 35 minutes and the physician saw the patient for 15 minutes, the service would be coded as 99238 based on the teaching physician's total time with the patient without counting any of the resident's time.
- c. Teaching Physician Documentation Requirement.
- 1) The teaching physician must personally document his/her time before billing for time-based codes. The teaching physician shall not include any of the resident's time for purposes of documenting time for billing purposes.
 - 2) The teaching physician must also personally document his/her participation in the management of the patient's care. The teaching physician may refer to the resident's note, but must also personally document, briefly, his/her participation in management of the patient's care.

3. Medicare Teaching Physician Modifier – "GC"

The "GC" modifier shall be added to E/M and time-based codes billed to Medicare where a resident was involved in providing services (excluding E/M

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services in a PCE setting) with a teaching physician. For purposes of this policy, “involved” means providing hands-on care to patients and/or watching care or services provided by a teaching physician.

F. ADMINISTRATION AND INTERPRETATION, REVISIONS OR TERMINATION

Refer to Billing Compliance Program Policy and Procedure [1.0 Policy Development and Implementation](#)

Failure to comply with this policy shall result in appropriate disciplinary action.

Questions regarding this policy may be addressed to the TTUHSC Institutional Compliance Officer or BCD/O.

This policy shall be reviewed no later than April 1 in each odd- numbered year.

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Attachment "A"

**EXAMPLES OF ACCEPTABLE TEACHING PHYSICIAN DOCUMENTATION
FOR EVALUATION/MANAGEMENT & TIME-BASED CODES**

**SCENARIO ONE
(physician without resident)**

The teaching physician personally performs all the required elements of an E/M service without a resident. In this scenario the resident may or may not have performed the E/M service independently.

In the absence of a note by a resident, the teaching physician must document as he/she would document an E/M service in a nonteaching setting.

Where a resident has written notes, the teaching physician's note may reference the resident's note. The teaching physician must document that he/she performed the critical or key portion(s) of the service, and that he/she was directly involved in the management of the patient. For payment, the composite of the teaching physician's entry and the resident's entry together must support the medical necessity of the billed service and the level of the service billed by the teaching physician.

The following are examples of minimally acceptable documentation:

Admitting Note: "I performed a history and physical examination of the patient and discussed his management with the resident. I reviewed the resident's note and agree with the documented findings and plan of care."

Follow-up Visit: "Hospital Day #3. I saw and evaluated the patient. I agree with the findings and the plan of care as documented in the resident's note."

Follow-up Visit: "Hospital Day #5. I saw and examined the patient. I agree with the resident's note except the heart murmur is louder, so I will obtain an echo to evaluate."

(NOTE: In this scenario if there are no resident notes, the teaching physician must document as he/she would document an E/M service in a non-teaching setting.)

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Attachment "A"

**EXAMPLES OF ACCEPTABLE TEACHING PHYSICIAN DOCUMENTATION
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**SCENARIO TWO
(physician with resident)**

The resident performs the elements required for an E/M service in the presence of, or jointly with, the teaching physician and the resident documents the service. In this case, the teaching physician must document that he/she was present during the performance of the critical or key portion(s) of the service and that he/she was directly involved in the management of the patient. The teaching physician's note should reference the resident's note. For payment, the composite of the teaching physician's entry and the resident's entry together must support the medical necessity and the level of the service billed by the teaching physician.

The following are examples of minimally acceptable documentation

Initial or Follow-up Visit: "I was present with the resident during the history and exam. I discussed the case with the resident and agree with the findings and plan as documented in the resident's note."

Follow-up Visit: "I saw the patient with the resident and agree with the resident's findings and plan."

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Attachment "A"

**EXAMPLES OF ACCEPTABLE TEACHING PHYSICIAN DOCUMENTATION
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**SCENARIO THREE
(physician separate from resident)**

The resident performs some or all of the required elements of the service in the absence of the teaching physician and documents his/her service. The teaching physician independently performs the critical or key portion(s) of the service with or without the resident present and, as appropriate, discusses the case with the resident. In this instance, the teaching physician must document that he/she personally saw the patient, personally performed critical or key portions of the service, and participated in the management of the patient. The teaching physician's note should reference the resident's note. For payment, the composite of the teaching physician's entry and the resident's entry together must support the medical necessity of the billed service and the level of the service billed by the teaching physician.

The following are examples of minimally acceptable documentation

Initial Visit: "I saw and evaluated the patient. I reviewed the resident's note and agree, except that picture is more consistent with pericarditis than myocardial ischemia. Will begin NSAIDs."

Initial or Follow-up Visit: "I saw and evaluated the patient. Discussed with resident and agree with resident's findings and plan as documented in the resident's note."

Follow-up Visit: "See resident's note for details. I saw and evaluated the patient and agree with the resident's finding and plans as written."

Follow-up Visit: "I saw and evaluated the patient. Agree with resident's note but lower extremities are weaker, now 3/5; MRI of L/S Spine today."

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Attachment "B"

**EXAMPLES OF UNACCEPTABLE TEACHING PHYSICIAN DOCUMENTATION
FOR EVALUATION/MANAGEMENT & TIME-BASED CODES**

"Agree with above.", followed by legible countersignature or identity;

"Rounded, Reviewed, Agree.", followed by legible countersignature or identity;

"Discussed with resident. Agree.", followed by legible countersignature or identity;

"Seen and agree.", followed by legible countersignature or identity;

"Patient seen and evaluated.", followed by legible countersignature or identity; and

A legible countersignature or identity alone.

Such documentation is not acceptable, because the documentation does not make it possible to determine whether the teaching physician was present, evaluated the patient, and/or had any involvement with the plan of care.