

<b>POLICY TITLE:</b> Physicians at Teaching Hospitals (PATH) Supervision and Billing Policy	<b>ADMINISTRATIVE POLICY AND          PROCEDURE MANUAL</b>
<b>POLICY #:</b> 800.21	<b>CATEGORY:</b> Compliance and Ethics
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**GENERAL STATEMENT of PURPOSE**

The purpose of this policy is to ensure that Physicians in a Teaching environment working with members of the House Staff at Northwell Health are in compliance with federal, state, Joint Commission and Northwell Health requirements.

**SCOPE**

This policy applies to all members of the Northwell Health workforce including, but not limited to: employees, medical staff, volunteers, students, physician office staff, and other persons performing work for or at Northwell Health; faculty and students of the Hofstra Northwell School of Medicine conducting Research on behalf of the School of Medicine on or at any Northwell Health facility; and the faculty and students of the Hofstra Northwell School of Graduate Nursing & Physician Assistant Studies.

**DEFINITIONS**

**House Staff (e.g., interns, residents and fellows):** means any individual who participates in an accredited or independent graduate medical education (GME) program. This will include a Physician who is not in an accredited GME program, but who is enrolled in an Independent Fellowship Program approved by Northwell Health’s Graduate Medical Education Committee and is fully licensed to practice medicine in New York State. Receiving a staff or faculty appointment or participating in a fellowship does not by itself alter the status of a member of House Staff. Additionally, a member of the House Staff’s status remains unaffected regardless of whether a hospital includes the Physician in its full-time equivalency count of the House Staff. House Staff does not include students.

**Teaching Physician:** means a fully licensed practitioner who is a member of the Medical Staff (Members of the Graduate Staff are not considered Teaching Physicians), and supervises members of the House Staff while they care for patients, including those of the Teaching Physician.

**Teaching Hospital:** means a hospital engaged in providing clinical experiences for accredited and non-accredited residency programs in medicine, osteopathy, dentistry, or podiatry.

**Teaching Setting:** means any provider, hospital-based provider, or nonprovider setting in which Medicare payment for the services of members of the House Staff is made under the Part A direct GME payment.

**Critical or Key Portion of Care (or of a Procedure):** means that part (or parts) of care provided to a patient that the Teaching Physician determines is critical or a key portion and, therefore, is physically present and actively supervises. The terms *Critical* and *Key* are interchangeable.

**Documentation:** means notes recorded in a patient's medical record by a member of the House Staff and/or a Teaching Physician and/or others, as outlined in specific situations regarding the service(s) furnished. Documentation may be hand-written; typed; dictated and transcribed; or computer-generated. Documentation must be dated and include a legible signature. (See Northwell Health Policy #800.20 – Physician Signature Requirements).

**Physically Present or Physical Presence (i.e., supervision):** means that the Teaching Physician is located in the same room (or partitioned or curtained area, if the room is subdivided to accommodate multiple patients) as the patient and/or performs a face-to-face service. Documentation by a member of the House Staff of the physical presence of and the supervision by a Teaching Physician *is not* sufficient to establish that supervision occurred. Rather, that documentation must be made by the Teaching Physician him/herself.

**Immediately Available:** means being able to attend a patient immediately when called and, therefore, *not* simultaneously involved in the Key portion of care for another patient. If the Teaching Physician for a particular patient becomes involved in the care of a second patient and, therefore, is not Immediately Available to the first patient, he/she must arrange for another Teaching Physician to be Immediately Available to attend the first patient if needed.

**Evaluation and Management (E/M) Services:** E/M services include: examinations, evaluations, treatments, conferences with or concerning patients, preventive pediatric and adult health supervision, and similar medical services, for example, the determination of the need and/or location for appropriate care. Federal law requires that all expenses paid by Medicare, including expenses for Evaluation and Management (E/M) services, are “medically reasonable and necessary.”

## **PROCEDURE/GUIDELINES**

### **GENERAL TEACHING PHYSICIAN DOCUMENTATION AND BILLING REQUIREMENTS**

1. For a given encounter, the selection of the appropriate level of E/M service should be determined according to the coding definitions in the American Medical Association's

*Current Procedural Terminology (CPT) and any applicable documentation guidelines.*

2. To bill and to be paid for E/M services, Teaching Physicians must personally document at least the following:
  - That they performed the service or were Physically Present during the Key or Critical portions of the service when performed by a member of the House Staff; and
  - That they participated in the management of the patient.

Teaching Physicians must also link their documentation to that of the clearly identified House Staff member by referencing the House staff member's note as seen below in the examples of acceptable Teaching Physician statements.

3. Documentation by the House Staff member of the presence and participation of the Teaching Physician is *not* sufficient to establish the presence and participation of the Teaching Physician. Rather, that documentation must be made by the Teaching Physician him/herself.
4. When coding for services billed by Teaching Physicians, reviewers will utilize the documentation of both the House Staff member and the Teaching Physician when the Teaching Physician links his/her documentation to that of the House Staff member.
5. The medical record entries by both the Teaching Physician and the House Staff member constitute the documentation of care and must together support the medical necessity of the service.
6. Following are four common scenarios of Teaching Physicians providing E/M services:

Scenario 1:

- a. The Teaching Physician personally performs all the required elements of an E/M service without a member of the House Staff being present. In this scenario, a member of the House Staff may or may not have performed the E/M service separately. In the absence of a note by a member of the House Staff, the Teaching Physician must fully document the E/M service as he/she would in any non-teaching setting. When a member of the House Staff has previously performed documentation, the Teaching Physician's note may reference the House Staff member'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 House Staff member's entry, together, must support the medical necessity of the billed service and the level of the service billed by the Teaching Physician.

Scenario 2:

- a. The member of the House Staff performs the elements required for an E/M

service in the presence of, or jointly with, the Teaching Physician and the member of the House Staff 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 member of the House Staff's note. For payment, the composite of the Teaching Physician's entry and the House Staff member's entry together must support the medical necessity and the level of the service billed by the Teaching Physician.

Scenario 3:

- a. The House Staff member 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 member of the House Staff present and, as appropriate, discusses the case with the member of the House Staff. 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 member of the House Staff's note. For payment, the composite of the Teaching Physician's entry and the House Staff member's entry together must support the medical necessity of the billed service and the level of the service billed by the Teaching Physician.

Scenario 4:

- a. When a member of the House Staff 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:
  - 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 member of the House Staff'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 House Staff member's note.
  - The Teaching Physician's note must reflect changes in the patient's condition and clinical course that require that the House Staff member'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.
  - The Teaching Physician's 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 the combination of the Teaching Physician's and House Staff member's documentation satisfies criteria for a higher level of service. For payment, the composite of the Teaching Physician's entry and the member of the House Staff's entry together must support the medical necessity of the billed service and the level of the service billed by the Teaching Physician.

Examples of Minimally Acceptable Teaching Physician Statements:

Scenario 1:

- Admitting Note: "I performed a history and physical examination of the patient and discussed his management with the member of the House Staff. I reviewed the House Staff member'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 House Staff member's note."
- Follow-up Visit: "Hospital Day #5. I saw and examined the patient. I agree with the House Staff member's note except the heart murmur is louder, so I will obtain an echo to evaluate."

**(NOTE:** In this scenario, if there are no House Staff notes, the Teaching Physician must document as he/she would document an E/M service in a non-Teaching setting.)

Scenario 2:

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

Scenarios 3 and 4:

- 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 House Staff member's findings and plan as documented in the resident's note."

- Follow-up Visit: “See House Staff member’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 the House Staff member’s note but lower extremities are weaker, now 3/5; MRI of L/S Spine today.”

Examples of **Unacceptable Teaching Physician Statements:**

- “Agree with above.”, followed by legible countersignature or identity;
- “Rounded, Reviewed, Agree.”, followed by legible countersignature or identity;
- “Discussed with member of the House Staff. Agree,” followed by legible countersignature or identity;
- “Seen and agree,” followed by legible countersignature or identity; and
- “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.

**HOUSE STAFF MEMBER’S RESPONSIBILITIES**

- Members of the House Staff have the following documentation responsibilities;
  - Date all entries in the medical record;
  - Indicate his/her role in the heading of the note (e.g., cardiology fellow note, internal medicine visit);
  - Document services personally performed; and
  - Physician’s Signature must be legible and include the date and time.
- Except in programs where the Residency Review Committee or New York State Law requires the 24-hour presence of an attending Physician, House Staff members who are in their third year of graduate training may provide supervision to trainees in the same specialty. The supervising Physician must be appropriately credentialed to perform the treatment/procedure to be supervised and must be on duty or available in the hospital for the duration of the assigned rotation. When the supervising Physician is a member of the House Staff, an attending Physician must be available within 30 minutes travel time of the hospital.

Each department must have a detailed policy regarding the circumstances under which third-year members of the House Staff may function as a supervising physician in the department.

## **OTHER HEALTH SYSTEM DEPARTMENTS' TEACHING PHYSICIAN GUIDANCE**

Certain Northwell Health departments may have more specific guidance regarding the Teaching Physician documentation requirements for a particular specialty. To the extent those policies do not conflict with the guidance in this policy, it is appropriate to also adhere to the departmental guidance.

## **PERFORMING SURGICAL, HIGH-RISK OR OTHER COMPLEX PROCEDURES**

### **Minor Surgical Procedures (lasting less than 5 minutes)**

1. For procedures that last for five minutes or less to complete (e.g., simple suture) and involve relatively little decision making once the need for the operation is determined, the Teaching Surgeon must be present for the entire procedure in order to bill for the procedure.

### **Major Surgical Procedures (lasting more than 5 minutes)**

1. For major procedures (lasting more than 5 minutes), the Teaching Physician must be Physically Present during all "Critical or Key Portion(s)" of the service and must be Immediately Available to furnish service during the entire procedure. The Teaching Physician's presence is not required during the opening and closing of the surgical field unless these activities are considered to be Critical or Key Portions of the procedure.

## **OVERLAPPING SURGERIES**

1. The Teaching Surgeon must be present during the Critical or Key Portions of both operations. Therefore, the Critical or Key Portions may not take place at the same time. When all of the Critical or Key Portions of the initial procedure have been completed, the Teaching surgeon may begin to become involved in a second procedure.
2. The Teaching Surgeon must personally document in the medical record that he/she was Physically Present during the Critical or Key Portion(s) of both procedures.
3. When a Teaching Physician is not present during non-Critical or non-Key Portions of the procedure and is participating in another surgical procedure, he/she must arrange for another qualified surgeon to immediately assist the resident in the other case should the need arise.
4. In the case of three concurrent surgical procedures, the role of the Teaching Surgeon (but not anesthesiologist) in each of the cases is classified as a supervisory service to the hospital rather than a Physician service to an individual patient and is not payable under the Physician fee schedule.

## **TIME-BASED EVALUATION AND MANAGEMENT (E/M) AND CRITICAL CARE SERVICES**

1. For services determined on the basis of time, the Teaching Physician must be present for the period of time for which the claim is made. The Teaching Physician must personally document his/her time before billing for time-based codes. 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 House Staff member's note, but must also personally document, briefly, his/her participation in management of the patient's care.

2. The Teaching Physician must not add the time spent by the House Staff members in the absence of the Teaching Physician to time spent by the House Staff members and the Teaching Physician with the patient, or time spent by the Teaching Physician alone with the patient.
  - a. For example, a code that specifically describes a service of 20-30 minutes applies only if the Teaching Physician is present for 20-30 minutes.
  - b. For example, if the member of the House Staff had a face-to-face encounter with the patient for hospital discharge of 50 minutes and the Teaching Physician saw the patient for 20 minutes, the service would be coded as a 99238 based on the 20 minutes total time documented by the Teaching Physician without counting any of the House Staff member's time.
  - c. For example, a Teaching Physician must personally see the patient and spend more than 30 minutes of critical care time, to bill the critical care code 99291.
3. Examples of time-based codes falling into this category include:
  - a. Individual Medical Psychotherapy (90832-90840; 90875-90876);
  - b. Critical Care Services (99291-99292);
  - c. Hospital Discharge Day Management (99238-99239);
  - d. E/M services where counseling and coordination of care represents more than 50% of the time for the entire encounter;
  - e. Prolonged services (99354-99359); and
  - f. Care Plan Oversight (99374-99380).

#### **TEACHING PHYSICIAN REQUIREMENTS FOR ENDOSCOPY**

The Teaching Physician must be present in the room for the entire viewing from the time the scope is inserted to the time the scope is removed. Viewing of the entire procedure through a monitor in another room does not meet the Teaching Physician Presence requirement.

#### **TEACHING PHYSICIAN REQUIREMENTS FOR ANESTHESIA SERVICES**

1. The Teaching Anesthesiologist must be present during all Critical or Key Portions of the anesthesia service or procedure including, but not limited to, induction and emergence and documentation must indicate the Teaching Physician's presence during all Critical or Key Portions of the anesthesia procedure and the Immediate Availability of another Teaching Anesthesiologist.
2. The Teaching Anesthesiologist (or another anesthesiologist with whom the Teaching Anesthesiologist has entered into an arrangement) must be Immediately Available to furnish anesthesia services during the entire procedure.

## **INTERPRETATION OF DIAGNOSTIC RADIOLOGY AND OTHER DIAGNOSTIC TESTS**

1. The Teaching Physician must personally interpret or review the interpretation of the test results.
2. Documentation must indicate that the Teaching Physician personally performed the interpretation or reviewed the resident's interpretation with the resident.

## **TEACHING PHYSICIAN REQUIREMENTS FOR PSYCHIATRY**

1. For time-based counseling codes, the Physical Presence requirement can be met by remote, simultaneous observation and immediate consultation with the resident (e.g., one-way mirror, video equipment or similar device). Audio only equipment does not satisfy the Physical Presence requirement. The Teaching Physician should only bill on the basis of the time the Teaching Physician spent directly observing the session.
2. Evaluation and Management services and procedures provided in Psychiatry need to comply with the same Physical Presence requirements of other Evaluation and Management services and procedures stated earlier in the policy.

## **MEDICARE TEACHING PHYSICIAN MODIFIERS – “GC” AND “GE”**

1. The GC modifier must be used to bill Medicare for any service involving a resident regarding the Teaching Physician's presence during the entire service or just the Critical or Key Portions of a service. This requirement applies even if those services are provided in a primary care setting.
2. The GE modifier must be used to bill Medicare when a resident provides a Level 1, 2 or 3 New or Established Patient Office Visit (i.e., 99201, 99202, 99203, 99211, 99212, and 99213) under the supervision of a Teaching Physician in a qualified primary care center.

## **PRIMARY CARE EXCEPTION REQUIREMENTS**

1. The primary care exception allows qualified House Staff members who have been in residency to see patients in a primary care practice under the supervision of the Teaching Physician, but without the requirement that the Teaching Physician see each patient.
2. In order to qualify for the primary care exception, the following requirements must be met:
  - a. The House Staff member must have completed more than six months of an approved residency program;
  - b. The services must be furnished in a center that is located in an outpatient or another ambulatory care entity of Northwell Health in which the time spent by residents in patient care activities is included in determining direct GME payments to a Teaching Hospital by Northwell Health's fiscal intermediary; and

- c. The Teaching Physician must not direct the care of more than four members of the House Staff at any given time and be immediately available. Teaching Physicians may include residents with less than 6 months in a GME approved residency program in the mix of four residents under the Teaching Physician’s supervision. However, the Teaching Physician must be physically present for the Critical or Key Portions of services furnished by the House Staff member’s with less than 6 months in a GME approved residency program. That is, the primary care exception does not apply in the case of House Staff with less than 6 months in a GME approved residency program.
- d. In the limited context of the section of the policy only, Immediately Available is defined as:
  - i. Having no other responsibilities at the time;
  - ii. Assuming management responsibility for those beneficiaries seen by the House Staff members;
  - iii. Ensuring that the services furnished are appropriate, reviewing with each House Staff member;
  - iv. Reviewing with each House Staff member during or immediately after the visit, the beneficiary’s medical history, physical examination, diagnosis, and record of tests and therapies; and
  - v. Documenting the extent of the Teaching Physician’s participation in the review and direction of services furnished to each beneficiary.
- e. House Staff members must only bill Medicare for lower and mid-level services. These services are:

<b>New Patients</b>	<b>Established Patients</b>
99201 – Level 1	99211 – Level 1
99202 – Level 2	99212 – Level 2
99203 – Level 3	99213 – Level 3

All other services, including procedures, require the Teaching Physician’s presence with the patient.

- f. Residents may provide:
  - i. Acute care for undifferentiated problems or chronic care for ongoing conditions;
  - ii. Coordination of care furnished by other Physicians and providers;
  - iii. Comprehensive care not limited by organ system or diagnosis; and
  - iv. Annual wellness visits, (i.e. G0438 and G0439) are included under the primary care exception.

3. If a more complex service other than those listed above needs to be furnished, then the general Teaching Physician policy applies, meaning that the services are:

- a. Personally furnished by a Physician who is not a member of the House Staff; or
  - b. Furnished by a member of the House Staff where a Teaching Physician was Physically Present during the Critical or Key Portions of the service.
4. Claims for services furnished by Teaching Physicians under the primary care center exception must include the GE modifier on the claim for each service furnished under the primary care center exception.

#### **ADMINISTRATION AND INTERPRETATIONS**

Questions regarding this policy may be addressed to the Office of Academic Affairs or the Office of Corporate Compliance.

#### **REFERENCES to REGULATIONS and/or OTHER RELATED POLICIES:**

CMS/DOHHS, Medicare Learning Network (MLN) Guidelines for Teaching Physicians, Interns and Residents. <https://146.123.140.205/MLNProducts/downloads/gdelinesteachgresfctsh.pdf>

Medicare Carriers Manual, Transmittal 1780, 11/22/2002; Section 15016 Supervising Physicians in Teaching Settings. <http://www.cms.gov/Transmittals/Downloads/R1780B3.pdf>

Medicare Claims Processing Manual, Chapter 12, Section 100.

<http://www.cms.gov/manuals/downloads/clm104c12.pdf>

Office of Academic Affairs, Graduate Medical Education Policies 2010-2011, Policies 12 & 17, pages 16 & 21.

Medicare Claims Processing Manual, Chapter 12, Section 100 (Pub. 100-4).

<http://www.cms.gov/manuals/downloads/clm104c12.pdf>

42 CFR § 415.170

Northwell Health Policy #800.20 - Physician Signature Requirements.

CMS Manual System; Pub. 100-08 Medicare Program Integrity, Transmittal 327; Change Request 6698; Dated March 16, 2010. <http://www2.cms.gov/transmittals/downloads/R327PI.pdf>

CMS Memorandum Summary; Subject; Hospitals – Publication of the Hospital Condition of Participation: Requirements for History and Physical Examinations; Authentication of Verbal Orders; Securing Medications; and Post-anesthesia Evaluations Final Rule; Dated January 26, 2007.

<https://www.cms.gov/SurveyCertificationGenInfo/downloads/SCLetter07-13.pdf>

CMS Manual System, Medicare Claims Processing Transmittal 2303 (Pub. 100-04).

<http://www.cms.gov/manuals/downloads/clm104c12.pdf>

**CLINICAL REFERENCES**

N/A

**FORMS**

N/A

**ATTACHMENTS**

N/A

<b><u>APPROVAL:</u></b>	
System Administrative P&P Committee	8/25/16
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