

## Sales Staff as W2 Employees or Independent Contractors?

Jeffrey S. Baird, Esq., Chairman  
Health Care Group of Brown & Fortunato, P.C.

Although it seems that requirements change every day for DME Suppliers, there are several items that have not changed over the years. One of these is how a supplier's sales staff is reimbursed and this item is a constant question posed to our attorneys.

Your sales rep is either a 1099 independent contractor or a W2 full time or part time employee. The rep is one or the other---there is no "in between." There is no such thing as a "1099 employee" nor is there such a thing as a "W2 independent contractor." The plumber who comes to my house is a 1099 contractor. My secretary (whose office is next to mine) is my employee. A supplier is responsible for the acts of its employee; a supplier is not responsible for the acts of an independent contractor.

The "smell test" applies in this situation. If a rep will be a W2 employee, then he/she needs to be a bona fide (not a "sham") employee. By this I mean that the supplier must exercise supervision and control over the employee. The provider must train the employee and reimburse the employee for the expenses he/she incurs during the course and scope of his/her employment. Even if the supplier (i) has the rep sign an employment agreement, (ii) withholds taxes, and (iii) issues a W2, if the supervision, control and expense reimbursement aspects are not met, the Department of Justice will construe the rep to be a 1099 contractor.

The OIG has said that the following scenario **will violate** the anti-kickback statute:

- i. A 1099 rep generates Medicare and commercial business for the supplier; and
- ii. The supplier pays a commission to the rep for commercial patients and pays nothing to the rep for the Medicare patients.

If a 1099 sales rep (independent contractor) generates Medicare/Medicaid business for the supplier, the provider **CAN NOT** pay the sales rep on a commission (or other type of production) basis. Doing so violates the Medicare anti-kickback statute.



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According to the OIG, the commission being paid for other patients with non-Medicare payers is also, in reality, compensating the rep for the Medicare patients. The only way that a supplier can pay a 1099 rep for generating Medicare or Medicaid patients is for the compensation to be fixed one year in advance (e.g., \$24,000 over the next 12 months) and that that compensation be the fair market value equivalent of the services rendered by the rep. The rep will be paid for his/her efforts, but not for his/her results. Fair Market Value fixed annual compensation is an essential element of the Personal Services and Management Contracts safe harbor to the anti-kickback statute.

On the other hand, if the rep is a bona fide full or part time employee, then the supplier can pay commissions and other production-based compensation to him/her. The anti-kickback statute includes an "employee" exception and there is an "employee" safe harbor.

For example, let's say that a 1099 rep will generate only commercial business for the provider. In this case, the supplier can pay him/her commissions as long as there is no state statute that says otherwise.

What about the hiring of a Medical Director:  
The supplier may enter into a Medical Director Agreement with a physician, even a referring physician. The physician will be a 1099 independent contractor, not a W2 part time employee. The Medical Director Agreement will need to comply with the personal services exception to the federal Stark Physician Self-Referral Statute and the Personal Services and Management Contract safe harbor to the Medicare anti-kickback statute.

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## From the Director's Desk

Mary Nicholas, MHA  
Executive Director

### HQAA Preparing for Standards Update

Longer ago than I'd care to admit, HQAA pulled together stakeholders, customers and staff to "retreat" for a couple of days to create updates to the HQAA standards. Combine that with the many comments we've received over time regarding their flow, repetitions and requirements, we have taken them all in to consideration for an update that is coming at the end of this year. Lastly, as we worked with our contacts at Medicare for their review, we received approval to move forward.

Very detailed and specific communications will come your way so that you have clarity in regards to how this transition will occur. Because of the electronic methodology that is the core of how we process accreditation, this update should keep your work to a minimum. We plan to offer you a complete crosswalk as we have taken several standards and combined them in to others. The "map" we plan to send will include how the standards have been updated as well as how and where your documents will be attached to the standards. We will manage the updates in everyone's current and past Workrooms, complete with the map, just as smart phones update "apps".

There are multitudes of details that are going in to this update. We have a synergy team

in place working to perfect the many facets where the standards are found. This includes all of the materials that surveyors use, the 18 monthly topics in the ACT program including the monthly webinars, the coaches tools, and formats in which accreditation surveys are written. The depth and breadth of areas and items that are being coordinated with this edit have been our focus for the past 6 months. Our commitment is for a smooth, well-communicated transition to a set of standards that have improvements that result in as little impact as possible.

I am pretty sure that this initial notice may leave you with more questions. Please be assured that we will notify and communicate more details as the transition nears. Our goal is to have this completed by January 15th at the latest. Every customer will become aware of the effects as they relate to the "stage" or "status" they are in; those that are in the workroom, in the survey queue, or accredited will have a plan for moving forward with the edits that we've made. Our team will continue to work through these details and plans with focused determination. We will provide you with the proper notices as we finalize. Thank you ahead of time for your cooperation as we move forward and progress. ✓

### HQAA Capacity for Surveys Given a Major Boost

This past summer, HQAA conducted three Surveyor Training Camps whereby 28 new surveyors each came to Waterloo for an intensive 2.5 day camp. HQAA philosophy, mission, and methods were detailed, including a full day on the HQAA standards and surveying each.

In 2009, HQAA added record numbers of companies to the rolls. Knowing what to expect for triennial renewals led us to the decision to add surveyors in order to manage the high numbers we saw three years ago.

Each new surveyor is a surveyor-in-training until they complete three surveys

accompanied by a seasoned trainer. Each of these three surveys results in competency assessment and verbal feedback with review by the trainer with the trainee. We are pleased to say that over half of the new trainees are well in to their sessions and many from the first camp are on their own.

We rely on feedback from our customers too, so thank you to all of you who complete the satisfaction surveys that are sent a.) at the completion of your Workroom, and b.) at the completion of your survey. Your feedback and constructive criticisms give us opportunity to continue our improvement process!

**HQAA**  
**On the Road**  
Come visit us at:

**KMESA**  
11/9-10  
(Lexington, KY)

**OAMES**  
11/10-11  
(Dublin, OH)



follow us on **twitter**

twitter.com/HQAA  
Follow @HQAA on Twitter, where Mary tweets a tip (#twip) everyday that relates to the standards, quality or efficient business practices for your company.

To sign in and start an account (HQAA follows many DME businesses on Twitter) go to [www.twitter.com](http://www.twitter.com).

This is yet another good place for informative resources. You should see what other DME's are saying and doing!



To sign up to receive **Champion Chat** directly, click **here** or contact us at 866-909-HQAA and ask us to add you to our mailing list

**NOVEMBER**  
**Quality Improvement Program**

**DECEMBER**  
**Leadership Review**

**JANUARY 2012**  
**Forms Review**

**FEBRUARY**  
Disaster Plan and Emergency Preparedness Plan

**MARCH**  
Grievances/Adverse Event Management

**APRIL**  
Patient Intake Process

**MAY**  
Transfers, Terminations & Denials

**JUNE**  
Delivery Process Review

**JULY**  
Materials Management

**AUGUST**  
The 3 R's: Recalls, Returns, Repairs

**SEPTEMBER**  
Physical Locations

**OCTOBER**  
Personnel Files

**ACT** (Accreditation Continuation Toolkit) is the program offered to HQAA accredited providers after their successful accreditation to assist them in maintaining and updating their high quality standards and accreditation requirements on an ongoing, on-line basis so that accreditation renewal is smooth and seamless.

Each month, providers enrolled in **ACT** work with a “bite-sized” component of standards to ensure that they are reviewing and updating their processes as needed. By addressing accreditation compliance requirements in small, “bite-sized” components, last-minute renewal work is eliminated, and what can be extensive work is accomplished in efficient, incremental steps. Featured monthly topics assist providers in conducting audits and updating information. Providers who subscribe to **ACT** receive the plans, tools and access to experts in one easy-to-use website, saving both time and money.

In this issue we are highlighting the **ACT** topics for November, December and January and listing some of the questions posed for subscribers to review to ensure that they are meeting their accreditation standard requirements.

**November - Quality Improvement Program**

Are you polling your customer groups to gather information that will help you improve the quality of your services? What do your results tell you? Do your QI reports include all required components?

**December - Leadership Review**

Are your Board of Directors and Advisory Committee policies accurate and up to date and in compliance? Is your Compliance Program up to date? You may need to have more in your program currently than you did when you were first accredited.

**January - Forms Review**

Is your patient packet current and up to date with all of the forms you need to provide to your customers? What about the forms you use for HR documentation: orientation checklist, competency forms and more? Do they need to be reviewed and updated? How about the Employee Manual?

**Starting in 2011, all companies awarded accreditation receive 3 months of the **ACT** program for FREE! We appreciate your continued trust in HQAA as your accreditor!**

**For more information, contact:**

gabe.nicholas@hqa.org  
866.490.7980

**Thank You for your Loyalty!**

**Here's what one of our current **ACT** subscribers is saying:**

“The ACT program ensures that I review all of our policies in a way that makes it manageable for me. When it was time for our last survey, I knew everything was in order and I actually looked forward to the day our surveyor walked in. I highly recommend it and don't know what I would do without it.”

**Dea Reddell, RRT, Billing Specialist  
Stockton Finance, d/b/a: Wheelchairs Etc**



# HQAA

## Recently Accredited Quality Champions

Please join us in congratulating  
these recently accredited providers.

Adaptive Mediquip, Inc	July 19, 2011	Blue River Pharmacy, Inc.	October 13, 2011
Advantage Healthcare of Charleston, LLC	June 22, 2011	Blueprint To Healthcare	September 14, 2011
Agnesian Health Shoppe Home Medical and Respiratory Equipment	August 02, 2011	Bowers Mobility Sales & Repair	August 22, 2011
Air Care LLC	June 28, 2011	Breath E-Z Health Care	August 29, 2011
AIR-CAIRE HOME MEDICAL EQUIPMENT AND SUPPLIES INC	June 28, 2011	Brevard Medical Equipment, Inc.	August 10, 2011
Alamo Respiratory Services, Inc.	September 20, 2011	Buffalo Wheelchair, Inc.	August 29, 2011
Allcare Medical, LLC	July 11, 2011	BUSINESS LINK INTERNATIONAL LIMITED	August 11, 2011
Alma Respiratory Services Inc.	September 07, 2011	Capital Medical Corporation	September 20, 2011
Amador Medical, LLC	August 02, 2011	Carolina Physical Medicine Group and Rehabilitation Center, LLC	July 12, 2011
Amgem Homecare	July 07, 2011	Chesapeake Drug, Inc	July 12, 2011
Anile Pharmacy, Inc.	September 12, 2011	Claypool Hill Pharmacy, Inc.	September 21, 2011
Antietam Apothecary Inc.	August 01, 2011	CNM Pharmacy Inc	July 27, 2011
Asbury Medical Supply	September 13, 2011	COLER DRUG BRIGHTON LTD.	September 12, 2011
ATK Pain Solutions	July 12, 2011	CPAP & More, INC	September 28, 2011
AUTREY I.V. THERAPY	September 12, 2011	Current Medical Technologies, Inc.	September 20, 2011
Bainbridge Pharmacy Inc.	August 23, 2011	D&H Prescription Drug Company, Incorporated	August 24, 2011
Banks Drug, Inc.	August 02, 2011	Damasius Inc.	October 13, 2011
Bemes Home Medical, Inc.	September 12, 2011	Deluxe Medical Supply LLC	August 16, 2011
Berry Pharmacist Group, LLC.	August 02, 2011		

**We look forward to listing your company as one of our Quarterly Champions! Come join our family!**

**HQAA**  
**Recently Accredited**  
**Quality Champions**



DeVille Pharmacies, Inc.	July 19, 2011	Greever`s Drug Store, Inc.	September 20, 2011
Direct Medical, Incorporated	September 08, 2011	Guardian Medical Inc	October 11, 2011
Dr. Med. Inc.	July 27, 2011	Gulf States Medical Supply, LLC	September 26, 2011
Dura-Med Solutions, LLC	August 31, 2011	Hancock Medical Equipment	October 17, 2011
Easy Life Medical Supplies Inc.	August 04, 2011	Harvest Drug & Gift, LP	September 27, 2011
ECS Billing & Consulting, Inc.	October 12, 2011	Health Innovations Pharmacy, Inc.	August 01, 2011
Ellis Medical Supply, Inc	August 08, 2011	HealthCare Providers Inc.	August 31, 2011
Emerald Medical Services, LLC	August 29, 2011	Helping Hands Medical Supplies, Inc.	June 01, 2011
Ennis Diagnostic Center, Inc	August 30, 2011	High Mountain Corp	August 30, 2011
Falls City Pharmacy, Inc.	October 05, 2011	HLS Pharmacies, Inc	October 05, 2011
Focus Respiratory, Inc	July 25, 2011	Idaho Sleep Solutions, LLC	July 26, 2011
Forest Hills Pharmacy Services	February 24, 2011	Infinity Medical Supply LLC	September 21, 2011
Frontier Home Medical, Inc.	July 11, 2011	J&B DME LLC	September 26, 2011
GenVentures, Inc.	August 09, 2011	J&S Kelly, LLC	July 11, 2011
George Parks Pharmacy, Inc.	August 11, 2011	J.C. HOME CARE, INC.	June 14, 2011
Global Medical & Hospital Supplies, Inc.	August 29, 2011	JAMES MEDICAL EQUIPMENT, LTD	August 18, 2011
Gold Management Inc.	August 16, 2011	Jayhawk Primary Care, Inc	June 22, 2011
Greenbrier Medical Arts Pharmacy, Inc	October 10, 2011	Kalpana Patel B Pharmacy Inc.	August 09, 2011





# HQAA

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KENS THRIFTY WAY PHARMACY AND HOME MEDICAL INC	August 17, 2011	Midtown Pharmacy LLC.	March 21, 2011
Keokuk Area Medical Equipment & Supply	October 11, 2011	Midwest Medical Inc.	September 26, 2011
Kilgore`s Respiratory Services Inc.	August 04, 2011	MILLEN HOME CARE MEDICAL INC	September 12, 2011
KJ Medical, LLC	August 15, 2011	Mobile Med, Inc.	June 27, 2011
L T C Pharmacy, LLC	August 10, 2011	MobileXpress LLC	September 08, 2011
Lamar LLC	August 16, 2011	Neighborhood Medical Supply, Inc.	May 23, 2011
LIDO Property Management LLP	June 23, 2011	NEKIL INC	September 07, 2011
Lindsey`s Hometown Pharmacy LLC	August 22, 2011	NORWALK PHARMACY INC	August 23, 2011
Living Medical Equipment, Inc.	August 17, 2011	Nurturing Expressions	October 04, 2011
Loftis Home Medical, LLC	July 25, 2011	OPTIONS HEALTHCARE & MEDICAL SUPPLIES INC.	June 29, 2011
Mazolewski Medical, Inc.	August 03, 2011	Oxycare Medical Supply Company	September 07, 2011
Med+Plus Physical Medicine LLC	August 30, 2011	Patriot Medical Supplies , Inc.	September 19, 2011
MEDICAL CENTER PHARMACY INC OF HICKORY	August 03, 2011	PEE DEE HOME MEDICAL SUPPLY, INC.	July 18, 2011
Medical Center Pharmacy NT, Inc.	August 29, 2011	Pharmland, LLC	September 07, 2011
Medical Rentals and Supplies Inc of Oakwood	July 25, 2011	Phelps Memorial Hospital Association	April 01, 2009
Medstuff, Inc.	July 26, 2011	Pippenger Pharmacies LLC	July 06, 2011
MedSupply	August 03, 2011	Platinum Healthcare Physical Medicine, PLLC	August 08, 2011
Michael`s Pharmacy	September 19, 2011	Premier Home Care, Inc.	September 12, 2011
Sonas Medical Supply, Inc.	August 03, 2011		

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**HQAA**  
**Recently Accredited**  
**Quality Champions**



Premier Hospital Supply Inc.	August 24, 2011	Sound Oxygen Service Inc	June 14, 2011
Professional Medical Administrators, Inc.	September 13, 2011	Sun Optimum Supplies, Ltd.	July 27, 2011
Rapid Rehab, LLC	September 13, 2011	SUPERIOR HOME HEALTHCARE LLC	August 23, 2011
REDLANDS PHARMACY, INC.	October 11, 2011	Texas Star Medical Billing, Inc	July 26, 2011
Rehab and Mobility Systems, LLC	September 19, 2011	Thome Enterprises, L.L.C.	July 26, 2011
Roadrunner Home Medical Equipment	August 10, 2011	Thompson's RX, Inc.	September 13, 2011
ROCKLYN MEDICAL SUPPLY INC.	September 14, 2011	Three Springs Village Pharmacy	September 13, 2011
RTA Homecare, Inc.	August 16, 2011	TONY G BASTIAN PHARMACY INC	October 12, 2011
Samarpan Inc.	August 03, 2011	Total Respiratory and Rehab, Inc.	October 12, 2011
Seaside Prescription Pharmacy Inc.	August 25, 2011	Totally Committed Diabetic Supply, Inc.	September 19, 2011
SEMO DRUG-CARE PLUS OF MO, INC.	August 03, 2011	True Fit Medical, LLC	August 17, 2011
Seneca Healthcare, LLC	July 11, 2011	U.P. Superior Enterprises Inc.	July 06, 2011
Sharp Drugs, Inc.	August 23, 2011	UNITED MEDICAL SUPPLIES CORP	August 02, 2011
SHPH llc	September 08, 2011	Vanderbilt University Medical Center	December 14, 2009
Sinitram LLC	July 19, 2011	VEGAS MEDICAL SUPPLIES CORP	August 04, 2011
Sleep Centers of Texas	September 19, 2011	Waterfront Family Pharmacy, LLC	August 02, 2011
Sleep Group Holdings, LLC	September 26, 2011	Wulf Clinic Healthcare, PA	August 16, 2011
SleepOx, LLC	September 27, 2011	XCEL MED LLC	August 15, 2011
Sonas Medical Supply, Inc.	August 03, 2011	ZM HOLDING, INC	August 02, 2011



**Champion Chat's Regulatory Update**  
*is provided by industry consultant*  
**Mary Ellen Conway. Mary Ellen can be**  
**reached at 301.896.0193 or maryellen@**  
**capitalhealthcaregroup.com**

# Regulatory Update

Mary Ellen Conway, President  
 Capital Healthcare Group

## Round 2 of Competitive Bidding is Here

You've been hearing for months that Round 2 of Competitive Bidding is just around the corner, and now it is here. (See timeline in box) Competitive Bidding is currently required by law and is not going to be overturned. Our legislators think that any form of auctions or competitive bidding is a good thing since many of the other industries that deal with federal monies work off of bids, such as defense contractors, education initiatives and others.

In this round, the 91 Metropolitan Statistical Areas (MSAs) that CMS has identified are ENORMOUS and often cross more than one state line. (see [www.dmecompetitivebid.com](http://www.dmecompetitivebid.com) for maps by zip codes in the MSAs). If you are not in an MSA, chances are you are near one. Even if you are not included in Round 2, you will see the prices set in this round as your new reimbursement starting in 2014 or 2015. As everyone's been telling you, Competitive Bidding affects EVERYONE!

The current bidding program is unsustainable and has forced the closure of many providers in the first Round MSAs. It is a both a business and jobs killer. Don't let the industry collapse under this terribly flawed program! We know that we can't get rid of Competitive Bidding altogether, so we need an alternative to the current program. The American Association for Homecare and your state associations are supporting the "Market Pricing Program" or MPP. The MPP represents the HME community's recommendation for abolishing the existing CMS competitive bidding program and replacing it with a better, market-based approach that will preserve patient access to care and protect the providers who serve Medicare beneficiaries.

The MPP calls for many substantial and necessary changes to the current program. There are too many to mention in this short space, but briefly, these are a few of the key changes in the MPP for Round 2:

- Allows CMS to only bid 2 products of the 9 product categories per MSA
- Reduces the MSA from the HUGE areas identified to a single county
- Allows for transparency in the process so that we clearly understand what the financial requirements are

As an example of this scenario, CMS could only select two (2) products for bidding in each county. In County A, they might bid oxygen and enteral supplies. In County B, they might bid power mobility and hospital beds. After the bids were awarded, the winners would be the exclusive providers of these items **but every remaining supplier, whether or not they submitted a bid, would continue to stay in business and serve Medicare beneficiaries for all of the non-bid items.** This is the solution we've been waiting for! How can we NOT support this?

Read more about the MPP at [www.aahomecare.org](http://www.aahomecare.org) and on your state association websites. Contact your legislators and get their support for this new program so that our industry can survive. The goal is to get the MPP proposal included in the recommendations of the Debt Reduction Super Committee, which are due in late November. This is no time to sit on the sidelines.

**Competitive Bidding  
Round 2**

**Summer2011 (Complete)**  
 Announcement of Round 2 product categories and zip codes  
 Begin pre-registration education

**Fall 2011 (Current)**  
 Announcement of bidding schedule and education events  
 Begin bidder registration/education

**Winter 2012 (January/February)**  
 Registration ends  
 Bid window opens  
 Covered document review begins

**Spring 2012**  
 Bidding closes  
 Supplier notification of missing financial items  
 Bid evaluation begins

**Fall 2012**  
 Bid evaluation ends  
 Announcement of single payment amounts  
 Begin contracting process

**Spring 2013**  
 Contract winners announced  
 Begin contract supplier education  
 Start beneficiary, referral source and general supplier education

**July 2013**  
 Round 2 begins





# Compliance Corner

Curtis McLees  
Director of Compliance

*Each quarter, Champion Chat features information provided by Curtis McLees, that highlights common problematic areas of compliance*

## Thinking of purchasing an accredited DME supplier? A new angle on Caveat Emptor

No doubt this is a buyer's market for people who are interested in acquiring an established DME company. Stories such as paying ten cents on the dollar, working inventory and being fully accredited sound like an enticing deal, but potential buyers should add an Accreditation checklist to the due diligence process. It would seem appropriate that adding Accreditation due diligence to the list of things to check on before buying a company would be pretty high on the list, right? Unfortunately, that is not always the case.

Conducting "due diligence", or a thorough review of an organization before signing the final documents is a common business practice to minimize risk. Looking at the organization's financial history, inventory, personnel records, physical space and other assets is common, but what else should be on the "list"? Does the company have an effective compliance program? Does the organization have a history of billing audits, record reviews, and employee education? All of the above are necessary areas of review for the buyer to truly understand what they are paying for, but I've recently observed another aspect of "caveat emptor" that prospective buyers could be overlooking - and it is costly!

Recently two new owners went through a survey and did so poorly they had to go through a costly resurvey. It was obvious that the new owners did not include an Accreditation checklist before closing the deal. In both cases it was easy for the sellers to prove they had an accreditation certificate to answer the question, "Are you accredited?"; but what the owners failed to disclose is the fact they did nothing to keep up with the accreditation standards once the coveted certificate came in the mail.

A prospective buyer should review employee education records, conduct their own billing audits, look at each quarter's QI reports, and look at the complaint records among other things to determine how much of a liability or an asset Accreditation is going to be. In the two cases mentioned above, a careful review of the organization's ongoing accreditation efforts could have made a difference in the value of their new business and possibly changed the price of the sale.

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## HQAA Now Offers Third Party Billing Accreditation

In January 2012, HQAA will officially launch our newest accreditation product, third party billing accreditation. This program offers accreditation to HME billing companies. Although this is not mandatory issuance at this time, the feedback on becoming an accredited billing company has been very positive. HQAA developed standards using both the health information network standards and the Office of Inspector General expectations for proper billing procedures as a basis for the new standards in this program.

HQAA feels that it is critical to strengthen the chain in our healthcare system as the link between providers/suppliers and their billing company is a highly important one.

You know what hard work you have put in to achieve your accreditation – wouldn't it be of importance for you to know that your billing company has made the same commitment to you and to quality?

When our research indicated that the need existed, we responded.

We would like to take the opportunity to congratulate our first three accredited companies for their achievement. They are:

- ✓ Texas Star Medical Billing Company
- ✓ Professional Medical Administrators Inc.
- ✓ ECS Billing and Consulting

Please feel free to have your outside billing company contact us for more information on how they too can become an HQAA Champion!

Visit [www.HQAA.org](http://www.HQAA.org)

Call: 866.909.4722 | E-mail: [info@HQAA.org](mailto:info@HQAA.org)



# Ask the Surveyor

*your questions answered...*

*Jim Moyer*

*Assistant Director of Survey Services*

*In each issue we address questions our customers send to our surveyor team*

## Tracking and Transporting DME Equipment & Supplies

**Q: How many chart audits or patient record reviews are required per quarter for HQAA?**

**A:** This is a good question often asked by many suppliers. The best way to answer this is it depends on your company policy and the types of equipment you provide.

HQAA does not stipulate a specific number or percentage of chart audits or patient record reviews to be performed each quarter. However, you are required to show evidence that you are reviewing all of the components of these charts during your audit process.

Most suppliers select a certain number of charts to be audited or perhaps a percentage of records depending on the number of patients serviced on a daily, monthly or quarterly basis. We observe that generally 10-20% of patient records are audited for completeness. Remember you can always do additional chart audits if you find issues/problems.

Sometimes we observe suppliers performing a 100% review due to issues meeting all of the billing requirements in a timely manner. Surveyors are seeing more audits performed in some of the higher ticket items and with equipment that has a higher potential for incomplete documentation such as power wheelchairs, CPAP and oxygen. You need to make a decision which files receive a comprehensive review and which receive a brief review.

An important issue to remember when selecting these files for review is to obtain a good cross section of all of the equipment being billed (not just the equipment with probable issues) from all of your billing staff.

Review your files as a component of your compliance plan to make certain all of the billing requirements and accreditation standards are being met. It is much better for you to find an issue in your documentation and correct it long before a payor source finds it. Recent published results by CMS have shown that 50% to 80% of claims have been denied due to the lack of supporting documentation. It is imperative suppliers understand what documentation must be available when audited.

The saying I have used for years holds particularly true when reviewing patient and billing records: "You get what you inspect, not what you expect".

**Q: How can I store clean and dirty equipment in my van without having an issue with infection control?**

**A:** There are several different ways to address the answer to this question.

Most organizations designate a "clean" and a "dirty" side in a delivery vehicle. This is not fool-proof and may still allow for cross-contamination. Additionally, many suppliers bag and tag the equipment

to designate it as either "clean" or "dirty". However you do it, there needs to be some type of segregation in a vehicle so that "clean" equipment is not comingled or comes in contact with "dirty" equipment. You need to meet the intent of the standard by properly protecting your patients from potential pathogens.

There are several issues to address when dealing with transporting your equipment. Organizations are often cited for infection control issues not because they are not following proper infection control standards, but often because they are not following their own policy. Know your policy. Adjust your policy if needed but make sure it meets the intent of the standard. If your policy states you bag and tag equipment and the surveyor does not see this in practice, you can be cited for not following your procedure. If you revise your policy, ensure you are still meeting the standard, that all staff are trained on the new procedure and that the process has been implemented.

Several organizations spray "dirty" equipment with a cleaner/disinfectant before placing it into the company vehicle. If you do this, remember to follow the manufacturer's recommendations found on the cleaner/disinfectant. Your staff needs to wear personal protective equipment (PPE) to protect themselves from the effects of the chemicals used during this process. If you are spraying any type of chemical, it is recommended to have some type of eye wash available in the vehicle in the event of chemical exposure to your staff members' eyes.

Ensure that all equipment is properly secured from shifting, falling or causing any type of injury to the driver or other equipment during transport. Bungee cords are not allowed. Use a ratchet strap to secure your cargo at all times. Secure large items such as bed frames and power mobility devices that can shift during transport. Install oxygen cylinder racks when possible.

Ensure you know all state and federal Department of Transportation requirements for transporting oxygen. These include the weight limits and restrictions requiring the driver to have a CDL with hazmat endorsement, van placarding, signage and more.

It is easy for small items such as swivels, water bottle adapters, oxygen "Christmas trees", oxygen regulators, oxygen conserving devices, PAP masks and others to become dirty and dusty. Keep them in covered bins or sealed plastic bags when available.

If you carry oxygen in a vehicle, do not allow any type of petroleum based products come into contact with the oxygen. Remember that oxygen is a legend drug controlled by the FDA and considered a hazardous material.

All items in your delivery vehicle must be secure at all times whether you are at your office, on the road or moving them at a patient's home.

Submit your questions by clicking "[Ask the Surveyor](#)"

Visit [www.HQAA.org](http://www.HQAA.org)

Call: 866.909.4722 | E-mail: [info@HQAA.org](mailto:info@HQAA.org)

# Ask the Coaches

Here we feature questions often asked of our coaches

**Q:** Do we need to have a separate audit / review tool for the Billing records (BC 1) and Patient files (PS 6)?

**A:** No, you may use one review tool for both of the standards as long as the correct information is addressed within the tool(s) used.

**Q:** If we use an outside billing company, do we need to maintain the billing information at our organization?

**A:** Yes, even though you may be using an outside or third party billing agency, you are still responsible for making sure all of the necessary information is maintained and the billing company is compliant with all of the billing procedures.

**Q:** Our organization uses paper and electronic systems for billing and patient records. Do we need to have all of the information maintained in the one file?

**A:** No, you may have information maintained in separate areas or systems as long as the information is easily accessible and can be produced if requested.



(continued from p.1)

## Sales Staff as W2 Employees or Independent Contractors?

Know that many states have their own requirements as well. For example, here in Texas, the Texas Illegal Remuneration Statute incorporates, by reference, the federal safe harbors.

Among other requirements, the Medical Director Agreement will need to include the following items:

- Term of at least one year
- Real, substantive services to be performed by the physician (not “made up” services)
- Fixed annual compensation that is fair market value. For example, assume that the physician’s time is worth \$300 per hour. Assume that the physician will give you three hours of his time each month. The fixed annual compensation will be \$10,800 (\$900 per month)

Understanding the laws and regulations that apply to sales reps as 1099 independent contractors and employees as well as Medical Director Agreements must be handled properly. Please contact your company’s DME expert attorney for further guidance to ensure that you are compliant.

## Palmetto GBA Licensure/ Certification Website Updated

Palmetto GBA has released their updated licensure website found at <http://bit.ly/nyn8bb>. This is the website that HQAA surveyors use when checking your home state’s licensure requirements. There have been many improvements to the site, the most notable of which is the long list of equipment items that are delineated and the requirements attached to each, (where applicable). The items are coded in the same way that your equipment list is found in your workroom. With this similar coding system, there is no guesswork involved with state requirements for different pieces of equipment.

This is a valuable resource for your own home state, but if you work in other states, or plan to participate in competitive bidding areas that cross state lines, this site will prove to be a wealth of information.



## Here’s Our Latest News - What’s Yours?

We hope you are enjoying your issues of Champion Chat as much as we enjoy providing them to you. Help us stay in touch with what’s happening in your world by keeping us up-to-date. We rely on you to suggest stories, submit questions to our team of experts and give us feedback on the items and articles you are reading. We need you, our industry colleagues and accredited providers, to keep us in your “loop”. If you, a co-worker, supervisor or owner of your company has been recognized in some way, or has done an outstanding job of demonstrating Champion behavior, submit your nominations for **HQAA Champions in the News** to [info@hqaa.org](mailto:info@hqaa.org) so that we can share your pride in making a difference in your customers lives, your community or in the industry. We appreciate the questions you’ve sent to **Ask the Surveyor** and **Ask the Coaches** and hope the questions and answers we’ve featured have been helpful. Your involvement helps us stay informed and in touch. Keep those Emails coming!

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