

Equipment (use of yours)

We know that payors will write Provider Agreements to favor their own interests. We can't expect anything different. Still, some payors will write provisions that just seem to be an astonishing and perplexing over-reach. Here is an example from a payor's practice and facility agreements.

First I'll quote the text as taken from the agreements. Then I'll show edits I was able to negotiate. As with everything else discussed in this primer, if such language appears in one of your agreements you'll need to decide if the issue I raise is one on which you'd choose to push-back.

Provider shall maintain all office medical equipment including, but not limited to, imaging, diagnostic and/or therapeutic equipment (hereinafter collectively referred to as "Equipment") in acceptable working order and condition and in accordance with the Equipment manufacturer's recommendations for scheduled service and maintenance. Such Equipment shall be located in Provider's office locations that promote patient and employee safety. Provider shall provide <name of Plan> and/or Payors with access to such Equipment for inspection and an opportunity to review all records reflecting Equipment maintenance and service history. Such Equipment shall only be operated by qualified technicians with appropriate training and required licenses and certifications.

Equipment owned and/or operated by Provider shall comply with all standards for use of such Equipment and technician qualifications established by <name of Plan> and/or Payors. In the event: (i) Provider's Equipment fails to meet <name of Plan's> and/or Payor's standards; or (ii) Provider declines to comply with <name of Plan's> and/or Payor's standards for use of Equipment, Provider agrees that it will not use such Equipment while providing health care services to Members and shall not bill, charge, seek payment or have any recourse against <name of Plan>, Payors, or Members for any amounts for health care services with respect to such Equipment.

The Issue: This is just nuts. Absent clear evidence that patients are being put at risk I can see no reason why a payor should have or even needs the right to have any say in setting the standards for use of your equipment.

Exercising control over how you use your equipment and then being able to deny payment if you don't follow **the payor's standards** for how it deems equipment should be used, well.... I just don't think so.

Possible Solutions: Here is how I was able to negotiate changes to these paragraphs.

Provider shall maintain all office medical equipment including, but not limited to, imaging, diagnostic and/or therapeutic equipment (hereinafter collectively referred to as "Equipment") in acceptable working order and condition and in accordance with the Equipment manufacturer's recommendations for scheduled service and maintenance. Such Equipment shall be located in Provider's office locations that promote patient and employee safety. Provider shall provide <name of Plan> and/or Payors with access to such Equipment for inspection. ~~and an opportunity to review all records reflecting Equipment maintenance and service history.~~ Such Equipment shall only be operated by qualified technicians with appropriate training and required licenses and certifications.

Equipment owned and/or operated by Provider shall comply with all standards for use of such Equipment and technician qualifications established by ~~<name of Plan> and/or Payors~~ **Manufacturers. Provider agrees to comply with all requests for information related to Equipment and Provider's and/or Provider's staff qualifications for use of same.** In the event: (i) Provider's Equipment fails to meet ~~<name of Plan's> and/or Payor(s) Manufacturer's~~ standards; or (ii) Provider declines to comply with ~~<name of Plan's> and/or Payor(s) Manufacturer's~~ standards for use of Equipment, Provider agrees that it will not use such Equipment while providing health care services to Members and shall not bill, charge, seek payment or have any recourse against <name of Plan>, Payors, or Members for any amounts for health care services with respect to such Equipment.