

COMPLIANCE CONNECTION



JUNE 2023



Compliance HOTLINE:
MIDLAND HEALTH
855-662-SAFE (7233) • ID#: 6874433130
This ID# is required to submit a report.

This newsletter is prepared by the Midland Health Compliance Department and is intended to provide relevant compliance issues and hot topics.

IN THIS ISSUE

FEATURE ARTICLE

Two Doctors Sentenced for Stealing \$31M From Medicare

Midland Health PolicyTech

(See entire newsletter page 2)

DID YOU KNOW...

FRAUD & ABUSE LAWS EXAMPLES

The five most important Federal Fraud and Abuse Laws that apply to physicians are:

- 1. False Claims Act (FCA):** A physician knowingly submits claims to Medicare for medical services not provided or for a higher level of medical services than actually provided.
- 2. Anti-Kickback Statute (AKS):** A provider receives cash or below-fair-market-value rent for medical office space in exchange for referrals.
- 3. Physician Self-Referral Law (Stark law):** A physician refers a beneficiary for a designated health service to a clinic where the physician has an investment interest.
- 4. Exclusion Authorities:** Several doctors and medical clinics conspire in a coordinated scheme to defraud the Medicare Program by submitting medically unnecessary claims for power wheelchairs.
- 5. Civil Monetary Penalty Law (CMPL):** Includes making false statements or misrepresentations on applications or contracts to participate in the Federal health care programs.

Resource:

<https://oig.hhs.gov/compliance/physician-education/fraud-abuse-laws/>

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MIDLAND HEALTH

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THE UNITED STATES
DEPARTMENT of JUSTICE
Office of Public Affairs

Two Doctors Sentenced for Stealing \$31M From Medicare

Two Florida doctors were sentenced today for their respective roles in a scheme to defraud Medicare by submitting over \$31 million in claims for expensive durable medical equipment (DME) that Medicare beneficiaries did not want or need and that were procured through the payment of kickbacks.

Dean Zusmer, 54, of Miami, was sentenced to eight years and one month in prison and ordered to pay \$1,404,200.97 in restitution. Dr. Lawrence Alexander, 45, of Miami, was sentenced to two years and nine months in prison. Restitution will be determined at a later hearing.

According to court documents, Zusmer was a chiropractor who conspired with others to steal millions of dollars from Medicare. Zusmer owned one of four DME companies that collectively billed Medicare over \$31 million for medically unnecessary DME, of which over \$15 million was paid. Zusmer and his co-conspirators, including Jeremy Waxman, acquired patient referrals and signed doctors' orders by paying kickbacks to marketers who used overseas call centers to solicit patients and telemedicine companies to procure prescriptions for unnecessary braces for these patients. Alexander was an orthopedic surgeon who owned one of the DME companies with Waxman and concealed both his and Waxman's roles in the scheme by putting the DME company in the name of one of Alexander's family members.

In January 2023, Zusmer was convicted after trial of multiple health care fraud-related offenses and for making a false statement relating to health care matters; Alexander was convicted of making a false statement relating to health care matters. Waxman was previously sentenced to over 15 years in prison for his role in the scheme.

Read entire article:

<https://www.justice.gov/opa/pr/two-doctors-sentenced-stealing-31m-medicare>

DID YOU KNOW...



TYPES OF CIVIL MONETARY PENALTIES AND AFFIRMATIVE EXCLUSIONS

Grants, Contracts, and Other Agreements: The OIG may impose CMPs, assessments, and exclusions against individuals and entities that engage in fraud and other improper conduct related to HHS grants, contracts, and other agreements. The OIG may impose sanctions for, among other things, knowingly presenting a specified claim under a grant, contract, or other agreement that is false or fraudulent, or knowingly making or using any false statement, omission, or misrepresentation of a material fact in any application, proposal, bid, progress report, or other document submitted to HHS in order to receive funds under an HHS grant, contract, or other agreement.

Resource: <https://oig.hhs.gov/fraud/enforcement/types-of-civil-monetary-penalties-and-affirmative-exclusions/>



MIDLAND
HEALTH



HIPAA Section 10.2: Technical Safeguards

POLICY

It is the policy of Midland Memorial Hospital to employ technical safeguards to maintain the privacy of PHI in compliance with the standards, implementation guidelines or other requirements of the HIPAA Privacy and Security Rules. The Privacy Officer and the Information Security Officer shall determine which Midland Memorial Hospital workforce members shall be required to be familiar with this policy and who shall follow these procedures.

PROCEDURE

Access Control. Midland Memorial Hospital implements technical policies and procedures for electronic information systems that maintain PHI to allow access only to those persons or software programs that have been granted access pursuant to the "Information Access Management" procedures set forth in the Administrative Safeguards Policy.

- a. Unique User Identification. (Required by the Security Rules.) Midland Memorial Hospital assigns a unique name and/or number for identifying and tracking user identity.
- b. Emergency Access Procedure. (Required by the Security Rules.) Midland Memorial Hospital establishes (and implements as needed) the following procedures for obtaining necessary PHI during an emergency.
- c. Automatic Logoff. (Addressable according to the Security Rules.) Midland Memorial Hospital configures networked and standalone systems to terminate an electronic session after a predetermined time of inactivity where possible.

Audit Controls. Midland Memorial Hospital implements the following hardware, software and/or procedural mechanisms that record and examine activity in information systems that contain or use electronic PHI.

- Midland Memorial Hospital logs user activity on the Midland Memorial Hospital network and standalone systems and utilizes intrusion detection software to alert management to unusual activity where possible.

Integrity. Midland Memorial Hospital implements procedures to protect PHI from improper alteration or destruction.

[Read entire Policy: Midland Health PolicyTech #2946](https://midland.policytech.com/dotNet/documents/?docid=23360)
<https://midland.policytech.com/dotNet/documents/?docid=23360>

Midland Health PolicyTech Instructions

Click this link located on the Midland Health intranet "Policies"

<https://midland.policytech.com/dotNet/noAuth/login.aspx?ReturnUrl=%2f>



IN OTHER COMPLIANCE NEWS

LINK 1

Ransomware Attack Results in 2 Week Shutdown of Operations at TN Medical Clinic

<https://www.hipaajournal.com/ransomware-attack-results-shutdown-operations-tn-medical-clinic/>

LINK 3

•Credential Stuffing Attack Exposed United HealthCare Member Data

<https://www.hipaajournal.com/credential-stuffing-attack-exposed-united-healthcare-member-data/>

LINK 2

World Password Day 2023 – Password Tips and Best Practices

<https://www.hipaajournal.com/world-password-day/>

LINK 4

HIPAA Updates and HIPAA Changes in 2023

<https://www.hipaajournal.com/hipaa-updates-hipaa-changes/>

Nine Defendants Sentenced in \$126M Compounding Fraud Scheme

Nine defendants – including three compounding pharmacy owners, a physician, two pharmacists, and three patient recruiters – were sentenced yesterday (April 13, 2023) for their respective roles in a years-long, multi-state scheme to defraud the Department of Labor’s Office of Workers’ Compensation Programs (OWCP) and TRICARE, the health care program for U.S. service members and their families.

The sentences include:

- John Cruise, 52, of Houston, a former co-owner of Assurance Consolidated Pharmacy (ACP), a pharmacy located in Spring, Texas, as well as an owner of the Injured Federal Workers Advocate Association (IFWAA), an organization that purported to assist injured federal workers, was sentenced to 20 years in prison.
- LaShonia Johnson, 50, of Houston, a former co-owner of ACP with her husband and co-defendant Cruise, and director at IFWAA, was sentenced to 15 years in prison.
- Kenny Ozoude, 48, of Houston, former owner of Compounding Solutions LLC, a Houston-based pharmacy, was sentenced to 10 years in prison.
- James Don Jackson, 63, of Tyler, Texas, a medical doctor licensed in Texas, was sentenced to five years in prison.
- Nirvana Hightower, 56, of Houston, a pharmacist licensed in Texas and pharmacist-in-charge at Compounding Solutions LLC, was sentenced to five years in prison.
- Keith Hudson, 55, of Humble, Texas, a pharmacist licensed in Texas and pharmacist-in-charge at ACP, was sentenced to 3 years in prison.
- Audra Jones, 46, of Houston, was sentenced to two years and six months in prison.
- Terrance Aice, 50, of Carrollton, Texas, a patient recruiter, was sentenced to one year and six months in prison.
- Sherod Johnson, 44, of Las Vegas, a patient recruiter, was sentenced to one year and six months in prison.

The defendants submitted false and fraudulent claims to the OWCP and TRICARE for prescriptions for compounded and other drugs prescribed to injured federal workers and members of the armed forces. The defendants also paid kickbacks to patient recruiters and physicians to prescribe these drugs. The defendants chose the particular compounds and other drugs based not on the patients’ medical needs but in light of the amount of reimbursement for the drugs. The drugs were then mailed to patients, even though the patients often never requested, wanted, or needed them.

Read entire article:
<https://www.justice.gov/opa/pr/nine-defendants-sentenced-126m-compounding-fraud-scheme>

ILLEGAL DISTRIBUTION OF OPIOID PILLS

Physician and Clinic Office Manager Convicted of Unlawfully Distributing Over 600,000 Opioid Pills

A federal jury convicted a Texas physician and clinic office manager yesterday (April 11, 2023) for operating a pill-mill clinic that unlawfully prescribed over 600,000 opioid pills in exchange for cash.

According to court documents and evidence presented at trial, Dr. Oscar Lightner, 73, and Andres Martinez Jr., 29, both of Laredo, operated Jomori Health and Wellness (Jomori), a purported Houston pain management clinic, as a pill mill. Lightner, who was the owner of and physician at Jomori, unlawfully prescribed dangerous combinations of controlled substances including hydrocodone, carisoprodol, and alprazolam to his patients without a legitimate medical purpose, in exchange for cash payments ranging from \$250 to \$500 per patient. Martinez, who was Jomori’s office manager and Lightner’s stepson, coordinated with “crew leaders” to bring multiple people – including individuals living in homeless shelters – into Jomori to pose as patients. Jomori received over \$1.2 million in cash over fourteen months through its scheme that resulted in the unlawful distribution and dispensing of over 600,000 Schedule II opioids – including hydrocodone – and other controlled substances.

Read entire article:
<https://www.justice.gov/opa/pr/physician-and-clinic-office-manager-convicted-unlawfully-distributing-over-600000-opioid>

