

COMPLIANCE CONNECTION



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

NOVEMBER 2023

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

IN THIS ISSUE

FEATURE ARTICLE

2023 Corporate Compliance & Ethics Week

Midland Health PolicyTech

(See entire newsletter Page 2)

DID YOU KNOW...

CORPORATE COMPLIANCE & ETHICS WEEK

November 5-11, 2023



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/>

Corporate Compliance & Ethics Week® began in 2005 to shine a spotlight on the importance of compliance and ethics. The core principles of the week are awareness, recognition, and reinforcement. The “official” Corporate Compliance & Ethics Week was first observed in 2005 as an event that could assist members of the Society of Corporate Compliance and Ethics (SCCE) and the Health Care Compliance Association (HCCA) with the need to educate staff on the importance of compliance and ethics. But the event’s roots actually go back to 2002, when two HCCA members, Gene DeLaddy and Cheryl Atkinson, wrote an article for Compliance Today telling others about an awareness program at their facility. That event was called Compliance Awareness Week, and it was celebrated at the Carolinas HealthCare System in Charlotte, North Carolina. The first National Corporate Compliance and Ethics Week was launched May 22–28, 2005. SCCE and HCCA have always co-sponsored the event.

Corporate Compliance & Ethics Week offers a great opportunity to shine a spotlight on the importance of compliance and ethics at your organization. By having a designated week, you and your compliance staff can build awareness in ways that reinforce not just specific rules and regulations, but an overall culture of compliance. Using the “hook” of Corporate Compliance & Ethics Week, you can emphasize your overall message in several different ways.

The importance of employee education is emphasized by the U.S. Federal Sentencing Guidelines’ seven elements of an effective compliance and ethics program. The education element requires that steps be taken so all employees know and understand the compliance and ethics standards that they are expected to meet. With a week-long celebration of compliance and ethics, you have a great opportunity to introduce and reinforce your chosen themes. Your plans will rely in part on your organization’s specific needs, but some basic goals may include:

- **Awareness:** of the Code of Conduct, relevant laws/regulations, hotlines and other reporting methods, the organization’s compliance and ethics staff, etc.
- **Recognition:** of training completion, compliance and ethics successes, etc.
- **Reinforcement:** of the culture of compliance for which the organization strives.

Resource:

<https://www.corporatecompliance.org/about-scce/corporate-compliance-ethics-week>



COMPLIANCE TEAM

Michelle Pendergrass, MBA, CHC
Chief Compliance Officer/Privacy Officer
P: 432-221-1972

Michelle.Pendergrass@midlandhealth.org

Regenia Blackmon, Compliance Auditor
Regenia.Blackmon@midlandhealth.org

Melissa Bailey, Sr. Compliance Analyst
Melissa.Bailey@midlandhealth.org

DID YOU KNOW...



WHAT DOES THE HIPAA PRIVACY RULE DO?

The HIPAA Privacy Rule for the first time creates national standards to protect individuals’ medical records and other personal health information. It holds violators accountable, with civil and criminal penalties that can be imposed if they violate patients’ privacy rights.

Read entire article:

<https://www.hhs.gov/hipaa/for-individuals/faq/187/what-does-the-hipaa-privacy-rule-do/index.html#:~:text=The%20HIPAA%20Privacy%20Rule%20for,and%20release%20of%20health%20records.>





**HIPAA Section 13:
Receiving and Resolving Complaints**

POLICY

MIDLAND MEMORIAL HOSPITAL shall have a process by which any person can make a complaint to MIDLAND MEMORIAL HOSPITAL or the Secretary of the Department of Health and Human Services ("Secretary") regarding MIDLAND MEMORIAL HOSPITAL's privacy policies, procedures, and/or practices, as well as MIDLAND MEMORIAL HOSPITAL's compliance with its privacy policies and procedures and the Privacy Standards. MIDLAND MEMORIAL HOSPITAL employees whose responsibilities include receiving and/or responding to complaints shall be familiar with this policy and shall follow these procedures.

PROCEDURE

Designation of Contact Person. All complaints will be forwarded to the Privacy Officer in accord with HIPAA Section 2: Privacy Officer. The Privacy Officer will be responsible for receiving complaints relating to: (a) privacy policies, procedures, and/or practices; (b) compliance with its policies and procedures; and (c) compliance with the Privacy Standards. The Privacy Officer's responsibilities also include investigating and resolving complaints, as well as providing information to persons who request additional information about matters addressed in the Notice of Privacy Practices ("Notice").

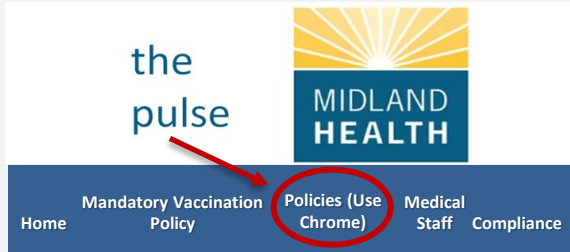
Inform Persons of Their Right To Complain. In accordance with HIPAA Section 4.1: Notice, the Notice shall inform persons that they may complain to MIDLAND MEMORIAL HOSPITAL and/or to the Secretary if they believe their privacy rights have been violated. The Notice shall identify the Privacy Officer or office for receiving complaints and give a brief description of how the person may file a complaint with MIDLAND MEMORIAL HOSPITAL. The Notice shall also contain a statement that the person will not be retaliated against for filing a complaint.

*Read entire Policy: Midland Health PolicyTech #2935
"HIPAA Section 13: Receiving and Resolving Complaints"*

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

L.A. Care Health Plan Settles Multiple HIPAA Violations for \$1.3 Million

<https://www.hipaajournal.com/la-care-health-plan-1300000-hipaa-settlement/>

LINK 2

Marietta Area Health Care Settles Class Action Data Breach Lawsuit for \$1.75 Million

<https://www.hipaajournal.com/marietta-area-health-care-data-breach-settlement/>

LINK 3

HIPAA Business Associate Fined \$75,000 for Maintaining ePHI on an Unsecured Server

<https://www.hipaajournal.com/the-alth-solutions-75000-hipaa-settlement/>

LINK 4

Schneck Medical Center Settles HIPAA Lawsuit with Indiana AG

<https://www.hipaajournal.com/schneck-medical-center-settles-hipaa-lawsuit-with-indiana-ag/>



Federal Court Orders San Antonio-Area Pharmacy and Pharmacist to Pay \$275,000 Civil Penalty in Case Alleging Unlawful Opioid Distribution

A federal court in Texas ordered a San Antonio pharmacy and its pharmacist to pay a \$275,000 civil penalty and imposed restrictions related to the dispensing of opioids and other controlled substances.

Pursuant to an agreed consent judgment and permanent injunction, the court enjoined Zarzamora Healthcare LLC, doing business as Rite-Away Pharmacy & Medical Supply #2, along with pharmacist-owner Jitendra Chaudhary, from dispensing certain opioid prescriptions, including combination opioid and benzodiazepine prescriptions. The order also mandates that the defendants undergo periodic comprehensive reviews of their dispensing practices to ensure compliance with the order and the Controlled Substances Act.

The order resolves a civil complaint the government filed on Jan. 21, 2022, in the Western District of Texas. The complaint alleged that the defendants repeatedly dispensed opioids and other controlled substances in violation of the Controlled Substances Act by filing prescriptions while ignoring "red flags" – that is, obvious indications that the prescriptions were not for any legitimate medical use. The complaint also alleged that the defendants altered prescriptions that lacked required information in order to make them appear to be in compliance with DEA regulations.

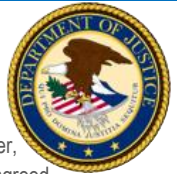
"The Controlled Substances Act requires pharmacies and pharmacists to ensure that opioids are dispensed for medically legitimate purposes," said Principal Deputy Assistant Attorney General Brian M. Boynton of the Justice Department's Civil Division. "The Justice Department will continue to hold accountable professionals who flout their obligations regarding potentially dangerous prescription drugs."

Read entire article:

<https://www.justice.gov/opa/pr/federal-court-orders-san-antonio-area-pharmacy-and-pharmacist-pay-275000-civil-penalty-case>

ANTI-KICKBACK STATUTE and STARK LAW

Mobile Cardiac PET Scan Provider and Founder to Pay \$85 Million to Resolve Allegedly Unlawful Payments to Referring Doctors



Cardiac Imaging Inc. (CII), headquartered in Illinois, and its founder, owner, and CEO Sam Kancherlapalli, a resident of Florida, have agreed to pay a total of \$85,480,000 to resolve False Claims Act allegations that they paid referring cardiologists excessive fees to supervise PET scans in violation of the Anti-Kickback Statute (AKS) and the Physician Self-Referral Law (Stark Law). CII agreed to pay \$75 million, plus additional amounts based on future revenues, and Kancherlapalli agreed to pay \$10,480,000. These settlements are based on their ability to pay.

"Healthcare providers that pursue patient referrals through illegal kickbacks and other unlawful financial arrangements will be held accountable," said Principal Deputy Attorney General Brian M. Boynton, head of the Justice Department's Civil Division. "We will continue to safeguard federal healthcare funds by rooting out financial relationships between healthcare providers and referring physicians that can corrupt medical decision making and increase the cost of care."

Read entire article:

<https://www.justice.gov/opa/pr/mobile-cardiac-pet-scan-provider-and-founder-pay-85-million-resolve-allegedly-unlawful>



Do you have a hot topic or interesting Compliance News to report?

If so, please email an article or news link to:

**Regenia Blackmon
Compliance Auditor**

Regenia.Blackmon@midlandhealth.org