

# COMPLIANCE CONNECTION



JANUARY 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

Amazon Ends Support for Third Party HIPAA-Eligible Alexa Skills

### 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 Penalties 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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## AMAZON ENDS SUPPORT FOR THIRD PARTY HIPAA-ELIGIBLE ALEXA SKILLS

Amazon has announced that it will stop support for third-party HIPAA-eligible skills for its Alexa devices, which means developers will no longer be able to create Alexa skills that collect data covered under the Health Insurance Portability and Accountability Act (HIPAA).

Amazon launched its HIPAA-compliant Alexa feature in April 2019, with skills added for patients of Atrium Health, Boston Children's Hospital, Cigna, Express Scripts, Livongo, and Swedish Health Connect. The HIPAA compliance support meant healthcare organizations could use Alexa skills that collected HIPAA-protected data and could transmit that information in a HIPAA-compliant way. The decision has now been taken to end that support. HIPAA-eligible skills are now part of the Alexa Smart Properties for Healthcare business unit, and those skills can only be developed with first-party support.

"We regularly review our experiences to ensure we are investing in services that will delight customers. We are continuing to invest heavily in developing healthcare experiences with first and third-party developers, including Alexa Smart Properties for Healthcare," explained Amazon in a statement.

Amazon has now written to all third-party developers to advise them that support for Alexa 3P HIPAA-eligible skills comes to an end this week and has advised them to remove their HIPAA-eligible skills from the skills store. Any developer that fails to remove the skill from the store will have it removed automatically on December 9, 2022, and the use of that skill will be suppressed. Any protected health information associated with that skill will be deleted and if any user attempts to use a HIPAA-eligible skill after it has been suppressed, they will receive a message that the skill is no longer supported. Amazon has confirmed that it will not be notifying users of the skills directly to advise them that support is ending.

The ending of support for third-party HIPAA-eligible skills does not mean that all healthcare-related Alexa skills will be suppressed, only those that collect protected health information. Any healthcare-related Alexa skills that do not collect data protected under HIPAA will be unaffected.

Resource:

<https://www.hipaajournal.com/amazon-ends-support-for-third-party-hipaa-eligible-alexa-skills/>

## DID YOU KNOW...



### Physician Self-Referral Law (Stark Law)

Financial relationships include both ownership/investment interests and compensation arrangements. For example, if you invest in an imaging center, the Stark law requires the resulting financial relationship to fit within an exception or you may not refer patients to the facility and the entity may not bill for the referred imaging services.

Resource: <https://oig.hhs.gov/compliance/physician-education/fraud-abuse-laws/#:~:text=The%20Physician%20Self%20Referral%20Law%2C%20commonly%20referred%20to%20as%20the,relationship%2C%20unless%20an%20exception%20applies.>



MIDLAND HEALTH



**Compliance Program Progressive Discipline Policy**

**PURPOSE:**

To provide research and guidelines for addressing the appropriate sanction/corrective action for violation of patient privacy and security by a workforce member.

Related Policies and Procedures:

- HR-522: Sanctions Policy
- Confidentiality of Protected Health Information Policy
- Workforce Member Protected Health Information Agreement

**DEFINITIONS:**

Privacy/Security Violation: Any inappropriate access, use, disclosure, destruction or other misuse of PHI, failure to comply with MIDLAND MEMORIAL HOSPITAL privacy and security policies, or any violation of federal or state privacy and security regulations. A violation may involve, but is not necessarily limited to, verbal communications, paper medical records, electronic health records, or any other medium used to create, maintain, or transmit PHI. A violation of patient privacy through access to electronic patient health information applications and systems is both a Privacy and Security violation.

Protected Health Information (PHI): Individually identifiable health information that is created by or received by MIDLAND MEMORIAL HOSPITAL, including demographic information that identifies an individual, or provides a reasonable basis to believe the information can be used to identify an individual, and relates to:

- Past, present or future physical or mental health or condition of an individual.
- The provision of health care to an individual.
- The past, present, or future payment for the provision of health care to an individual.

Workforce: Under HIPAA, the workforce is defined to include employees, medical staff members, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

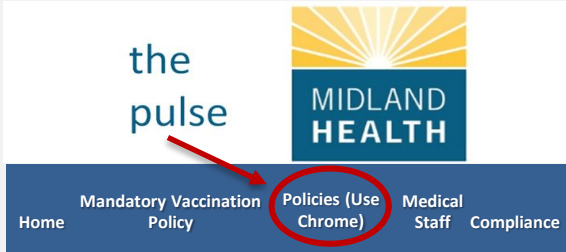
*Read entire Policy: Midland Health PolicyTech #2648*

<https://midland.policytech.com/dotNet/documents/?docid=30240>

**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**

**More than 623,000 Patients Affected by CommonSpirit Health Ransomware Attack**

<https://www.hipaajournal.com/more-than-623000-patients-affected-by-commonspirit-health-ransomware-attack/>

**LINK 2**

**Sturdy Memorial Hospital & North Shore Pain Management Settle Data Breach Lawsuits**

<https://www.hipaajournal.com/sturdy-memorial-hospital-north-shore-pain-management-settle-data-breach-lawsuits/>

**LINK 3**

**OCR Confirms Use of Website and Other Tracking Technologies Without a BAA is a HIPAA Violation**

<https://www.hipaajournal.com/ocr-website-tracking-technology-without-baa-hipaa-violation/>

**LINK 4**

**FTC and HHS Update Online Compliance Tool for Mobile Health App Developers**

<https://www.hipaajournal.com/ftc-and-hhs-update-online-compliance-tool-for-mobile-health-app-developers/>

**Justice Department Files False Claims Act Complaint Against Two Laboratory CEOs, One Hospital CEO and Others Across Texas, New York, and Pennsylvania**

The Justice Department has filed a complaint against two laboratory CEOs, one hospital CEO and other individuals and entities, alleging False Claims Act violations based on patient referrals in violation of the Anti-Kickback Statute and the Stark Law, as well as claims otherwise improperly billed to federal healthcare programs for laboratory testing.

According to the United States' complaint, laboratory executives and employees at True Health Diagnostics LLC (THD) and Boston Heart Diagnostics Corporation (BHD) allegedly conspired with small Texas hospitals, including Rockdale Hospital dba Little River Healthcare (LRH), to pay doctors to induce referrals to the hospitals for laboratory testing, which was then performed by BHD or THD. The complaint alleges that the hospitals paid a portion of their laboratory profits to recruiters, who in turn kicked back those funds to the referring doctors. The recruiters allegedly set up companies known as management service organizations (MSOs) to make payments to referring doctors that were disguised as investment returns but were actually based on, and offered in exchange for, the doctors' referrals. As alleged in the complaint, BHD and THD executives and sales force employees leveraged the MSO kickbacks to doctors to increase referrals and, in turn, their bonuses and commissions.

*Read entire article:*

<https://www.justice.gov/opa/pr/justice-department-files-false-claims-act-complaint-against-two-laboratory-ceos-one-hospital>

**ANTI-KICKBACK STATUTE (AKS)**

**Total of Thirty-Three Texas Doctors Have Settled Related Healthcare Fraud Allegations**

SHERMAN, Texas – Fifteen additional Texas doctors have agreed to pay a total of \$2,831,280 to resolve False Claims Act allegations involving illegal kickbacks in violation of the Anti-Kickback Statute and Stark Law, and to cooperate with the Department's investigations of and litigation against other parties, announced Eastern District of Texas U.S. Attorney Brit Featherston today.

"These settlements should reinforce the message that the Eastern District of Texas will not tolerate health care providers who seek to enrich themselves through kickback schemes," said U.S. Attorney Brit Featherston. "We will continue to work with our agency partners to identify those who defraud our taxpayers and we will hold those who have engaged in the schemes responsible."

The Anti-Kickback Statute prohibits offering, paying, soliciting, or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid, and other federally funded programs. The Stark Law forbids a hospital or laboratory from billing Medicare for certain services referred by physicians that have a financial relationship with the hospital or laboratory. The Anti-Kickback Statute and the Stark Law are intended to ensure that medical providers' judgments are not compromised by improper financial incentives and are instead based on the best interests of their patients.

The settlements announced today resolve allegations that fifteen Texas doctors violated the Anti-Kickback Statute and the Stark Law by receiving thousands of dollars in remuneration from nine management service organizations (MSOs) in exchange for ordering laboratory tests from Rockdale Hospital d/b/a Little River Healthcare (Little River), True Health Diagnostics LLC (True Health), and/or Boston Heart Diagnostics Corporation (Boston Heart). Little River allegedly funded the remuneration to certain doctors, in the form of volume-based commissions paid to independent contractor recruiters, who used MSOs to pay numerous doctors for their referrals. The MSO payments to the doctors were allegedly disguised as investment returns but in fact were based on, and offered in exchange for, the doctors' referrals.

*Read entire article:*

<https://www.justice.gov/usao-edtx/pr/fifteen-texas-doctors-agree-pay-over-28-million-settle-kickback-allegations>

