COMPLIANCE CONNECTION

MAY 2022

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

IN THIS ISSUE

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/

Midland Health NEW Compliance Hotline
855-662-SAFE (7233)
Midland Health ID#: 6874433130
This ID# is required to submit a report.

MIDLAND HEALTH

COMPLIANCE TEAM

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DEPARTMENT OF JUSTICE NEWS

Woman Pleads Guilty for $43.8 Million COVID-19 Relief Fraud Scheme

An Oklahoma woman pleaded guilty today in the Western District of New York for a scheme to defraud the Paycheck Protection Program (PPP) of over $43.8 million in COVID-19 relief loans guaranteed by the Small Business Administration (SBA) under the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

According to court documents, Amanda J. Gloria, 45, of Altus, admitted that she conspired to submit at least 153 fraudulent PPP applications seeking a total of approximately $43.8 million on behalf of at least 111 entities between approximately May 2020 and June 2021. Gloria admitted that she falsified or aided and assisted with falsifying various information on these loan applications, including the number of employees, payroll expenses and documentation, and federal tax filings. Gloria then submitted or aided and assisted with the submission of the fraudulent PPP applications to financial institutions. In total, the recipient entities unlawfully obtained approximately $32.5 million in PPP funds. From those fraudulently obtained funds, Gloria personally received at least approximately $1.7 million.

Gloria also admitted that she conspired with Adam D. Arena to submit a fraudulent PPP loan application seeking approximately $954,000 for ADA Auto Group LLC, a previously inactive Florida-based business owned and controlled by Arena. After fraudulently obtaining the PPP loan, Gloria directed Arena to launder the proceeds, including by transferring nearly $25,000 to a bank account held in the name of WildWest Trucking LLC, an Oklahoma-based business owned and controlled by Gloria. Gloria also admitted that she submitted and fraudulently obtained a separate PPP loan for WildWest Trucking LLC for approximately $421,000. Arena pleaded guilty in November 2021 to one count of conspiracy to commit bank fraud and one count of engaging in a monetary transaction with criminally derived proceeds in a related case.

Gloria is scheduled to be sentenced on July 20 and faces up to 30 years in prison for conspiracy to commit bank fraud and up to 10 years in prison for money laundering. A federal district judge will determine any sentence after considering the U.S. Sentencing Guidelines and other statutory factors.

Assistant Attorney General Kenneth A. Polite, Jr. of the Justice Department's Criminal Division; U.S. Attorney Trini E. Ross for the Western District of New York; Assistant Director Luis Quesada of the FBI's Criminal Investigative Division; Special Agent in Charge Stephen Belongia of the FBI's Buffalo Field Office; and Special Agent in Charge Thomas Fattorusso of IRS Criminal Investigation (IRS-CI) made the announcement.

Read entire article:
https://www.justice.gov/opa/pr/woman-pleads-guilty-438-million-covid-19-relief-fraud-scheme

DID YOU KNOW...

Civil Monetary Penalties Law (CMPL)

OIG may seek civil monetary penalties and sometimes exclusion for a wide variety of conduct and is authorized to seek different amounts of penalties and assessments based on the type of violation at issue. Penalties range from $10,000 to $50,000 per violation.

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

MIDLAND HEALTH

MIDLAND HEALTH POLICYTECH

MIDLAND HEALTH • PT POLICYTECH® Policy & Procedure Management

COMPLIANCE PROGRAM PLAN

PURPOSE

Midland County Hospital District d/b/a Midland Memorial Hospital is a Texas governmental entity, established under the Texas Constitution by the Texas Legislature, to provide medical care to the residents of its District. In pursuit of its legislative purpose, Midland Memorial Hospital supports and promotes charitable, educational and scientific purposes through the hospital as well as its through its maintenance and support of its physician corporations and various corporate affiliations which support this mission. Midland Health (MH) is the entire system through which Midland Memorial Hospital conducts its activities in pursuit of its charitable, educational and scientific purposes.

MISSION Leading healthcare for greater Midland.

VISION Midland will be the healthiest community in Texas.

CORE VALUES:

Pioneer Spirit…

- We tell the truth and honor commitments.
- We innovate and embrace change.
- We are careful stewards of our resources.
- We overcome problems without complaining.
- We exceed quality and safety expectations through teamwork and partnerships.

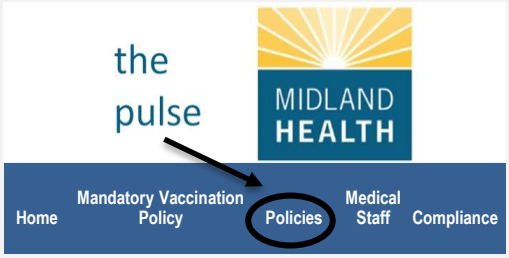
Healing Mission…

- We do our best to improve the health and well-being of our community.
- We are continuous learners.
- We create an environment that supports the healing process.
- We care for ourselves so we are able to care for others.
- We find joy in our work and have fun together.

Read entire Policy: Midland Health PolicyTech #8690 "Compliance Program Plan"

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

Video: Why HIPAA Compliance is Important for Healthcare Professionals

https://www.hipaajournal.com/why-hipaa-compliance-is-important-for-healthcare-professionals/

LINK 2

Referral Ease Confirmed as HIPAA Compliant

https://www.hipaajournal.com/referral-ease-confirmed-as-hipaa-compliant/

LINK 3

Network Six Confirmed as HIPAA Compliant by Compliancy Group

https://www.hipaajournal.com/network-six-confirmed-as-hipaa-compliant-by-compliancy-group/

LINK 4

What Are THE 3 Major Things Addressed in the HIPAA Law?

https://www.hipaajournal.com/3-major-things-addressed-in-the-hipaa-law/

PHYSICIAN SELF-REFERRAL LAW *(STARK LAW)*

EXAMPLES OF STARK LAW VIOLATIONS

TUOMEY HEALTHCARE SYSTEM - 21,000 FALSE CLAIMS

Allegations

- Illegally billing the Medicare program for services referred by physicians with whom the hospital had improper financial relationships
- Entering into contracts with various specialist physicians that required the physicians to refer their outpatient procedures to Tuomey in exchange for bribes
- Completely ignoring warnings from attorneys that the risky physician contracts raised a lot of red flags
- Filing over 21,000 false claims with Medicare

Final payout: $237,000,000.00

TRI-CITY MEDICAL CENTER - BAD PAPERWORK

Allegations

- Maintaining illegal financial arrangements with community-based physicians and physician groups.
- Maintaining ninety-seven financial arrangements with physicians and physician groups that did not comply with the Stark Law
- Five illegal arrangements with its former chief of staff ranging over three years
- Ninety-two financial arrangements with community-based physicians and practice groups that did not satisfy an exception to the Stark Law because written agreements were either expired missing signatures or could not be located

Final payout: $3,200,000.00

Resource: https://www.99mgmt.com/blog/stark-law-violation-examples

FALSE CLAIMS ACT (FCA)

Florida's BayCare Health System and Hospital Affiliates Agree to Pay $20 Million to Settle False Claims Act Allegations Relating to Impermissible Medicaid Donations

BayCare Health System Inc. and entities that operate four affiliated Florida hospitals (collectively BayCare) have agreed to pay the United States $20 million to resolve allegations that BayCare violated the False Claims Act by making donations to the Juvenile Welfare Board of Pinellas County (JWB) to improperly fund the state's share of Medicaid payments to BayCare. The four hospitals are Morton Plant Hospital, Mease Countryside Hospital, Mease Dunedin Hospital and St. Anthony's Hospital.

The Florida Medicaid program provides medical assistance to low-income individuals and individuals with disabilities, and is jointly funded by the federal and state governments. Under federal law, Florida's share of Medicaid payments must consist of state or local government funds, and not "non-bona fide donations" from private health care providers, such as hospitals. A non-bona fide donation is a payment — in cash or in kind — from a private provider to a governmental entity that is then returned to the private provider as the state share of Medicaid. The private provider's donation triggers a corresponding federal expenditure for the federal share of Medicaid, which is also paid to the private provider. This unlawful conduct causes federal expenditures to increase without any corresponding increase in state expenditures, since the state share of the Medicaid payments to the provider comes from and is returned to the provider. The prohibition of this practice ensures that states are in fact paying a share of Medicaid payments and thus have an incentive to curb Medicaid costs and prevent unnecessary services.

Read entire article:
https://www.justice.gov/opa/pr/florida-s-baycare-health-system-and-hospital-affiliates-agree-pay-20-million-settle-false