

# COMPLIANCE CONNECTION



OCTOBER 2022



**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

Georgia Nurse Practitioner Convicted of Health Care Fraud in Complex Telemedicine Fraud Scheme

### 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

### COMPLIANCE TEAM

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

[Michelle.Pendergrass@midlandhealth.org](mailto:Michelle.Pendergrass@midlandhealth.org)

Regenia Blackmon  
Compliance Auditor

[Regenia.Blackmon@midlandhealth.org](mailto:Regenia.Blackmon@midlandhealth.org)

## DEPARTMENT OF JUSTICE NEWS



### Georgia Nurse Practitioner Convicted of Health Care Fraud in Complex Telemedicine Fraud Scheme

Fraudulent Orders Included Knee Brace for Leg Amputee

AUGUSTA, GA: A Rockdale County, Ga., nurse practitioner faces substantial time in federal prison after a jury found her guilty of health care fraud, aggravated identity theft, and other counts in a multimillion-dollar telemedicine fraud scheme.

Sherley L. Beauflis, 43, of Conyers, Ga., was convicted after a two-day trial on charges of an illegal kickback conspiracy, and five counts each of Health Care Fraud, False Statements Related to Health Care, and Aggravated Identity Theft, said David H. Estes, U.S. Attorney for the Southern District of Georgia. Conviction on the charges subjects Beauflis to a possible statutory sentence of up to 10 years in prison on each count of Health Care Fraud, two years on each count of Aggravated Identity Theft, and five years in prison on all other counts, along with substantial fines and penalties, followed by a period of supervised release upon completion of any prison term. There is no parole in the federal system.

"Indicted in the Southern District as part of the nationwide Operation Brace Yourself initiative targeting healthcare fraud, Sherley Beauflis profited by signing unnecessary orders for orthotic braces for patients she never examined or spoke to," said U.S. Attorney Estes. "Her greed was her undoing – and she is now being held accountable for targeting the elderly with her serial fraud."

As described in court documents and testimony, Beauflis, as a nurse practitioner, facilitated orders for more than 3,000 orthotic braces that generated more than \$3 million in fraudulent or excessive charges to Medicare. Co-conspirators captured the identities of senior citizens, identified through a telemarketing scheme, and bundled that information as "leads."

Beauflis then signed her name to fake medical records, in which she falsely claimed she provided examinations of those patients, and then created orders for orthotic braces for patients she never met or spoke with – including a knee brace for an amputee, and a back brace for a recently deceased patient – and other durable medical equipment, in exchange for money. Beauflis' fraudulent orders were then sold to companies that would generate reimbursement from Medicare.

Beauflis was found not guilty at trial of one additional charge of conspiracy.

Read entire article:

<https://www.justice.gov/usao-sdga/pr/georgia-nurse-practitioner-convicted-health-care-fraud-complex-telemedicine-fraud>

### DID YOU KNOW...



### OFFICES OF THE UNITED STATES ATTORNEYS

The President appoints a United States Attorney to each of the 94 federal districts (Guam and the Northern Mariana Islands are separate districts but share a United States Attorney). The United States Attorney is the chief federal law enforcement officer in their district and is also involved in civil litigation where the United States is a party.

Resource: <https://www.justice.gov/usao>





**Destruction of Protected Health Information**

**POLICY**

Purpose: This policy will establish guidelines for appropriate destruction of protected health information.

**Policy:**

- I. Destruction of patient health information shall be carried out in accordance with federal and state laws, and pursuant to a written retention schedule and destruction policy approved by the Director of HIM (Health Information Management/Medical Records), Chief Executive Officer, Medical Staff and Midland Memorial Hospital legal counsel.
- II. The following retention schedule will be used to determine when medical records may be destroyed:
  - a. If the patient is 18 years of age or older on the day of treatment, the record for that specific treatment may be destroyed 10 years later.
  - b. If the patient is under 18 years of age on the day of treatment, the record for that specific treatment may be destroyed on or after the patient's 20th birthday or on or after the 10th anniversary of the date on which the patient was last treated, whichever date is later.

**Procedure:**

- I. The Director of HIM or designee will:
  - a. Consult the above retention schedule to make sure the required retention period has been fulfilled.
  - b. Contact Quality Management to ensure that the record is not subject to pending litigation.
  - c. Ensure that the records are destroyed in a manner wherein there is no possibility of information reconstruction.
  - d. Ensure that information on back-up media has also been destroyed.
  - e. Ensure that the appropriate method of destruction is used:
    - i. Paper media – Shredding, pulping or burning
    - ii. Microfilm or microfiche – Shredding
    - iii. CD-ROM, CD-RW or DVD - Shredding or physically destroying the disk.

*Read entire Policy: Midland Health PolicyTech #88  
"Destruction of Protected Health Information"*

**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**

**Study Explores How Medical Apps are Sending Health Data to Facebook and Others**

<https://www.hipaajournal.com/study-explores-how-medical-apps-are-sending-health-data-to-facebook-and-others/>

**LINK 3**

**PHI Exposed in Cyberattacks on Methodist McKinny Hospital and Columbia River Mental Health Services**

<https://www.hipaajournal.com/phi-exposed-methodist-mckinny-hospital-columbia-river-mental-health-services/>

**LINK 2**

**Improper Disposal of PHI Results in \$300,640 HIPAA Penalty**

<https://www.hipaajournal.com/improper-disposal-of-phi-results-in-300640-hipaa-penalty/>

**LINK 4**

**Survey Confirms Patients Are Extremely Concerned About Healthcare Data Privacy**

<https://www.hipaajournal.com/survey-confirms-patients-are-extremely-concerned-about-healthcare-data-privacy/>

**FALSE CLAIMS ACT (FCA)**

**13 Novus Healthcare Fraud Defendants Sentenced to Combined 84 Years in Prison**

Thirteen defendants involved in the \$27 million Novus healthcare fraud have been sentenced to a combined 84 years in federal prison, announced U.S. Attorney for the Northern District of Texas Chad E. Meacham.

According to plea papers and evidence presented to a jury, Novus Health Services, a Dallas-based hospice agency, defrauded Medicare by submitting materially false claims for hospice services, providing kickbacks for referrals, and violating HIPAA to recruit beneficiaries. Novus employees also dispensed Schedule II controlled substances to patients without the guidance of medical professionals and moved patients to a new hospice company in order to avoid a Medicare suspension.

CEO Bradley J. Harris eventually admitted to the fraud and testified against two physicians who elected to proceed to trial.

He told the jury that instead of relying on the expertise of licensed medical professionals, he and Novus' nurses determined which medications and dosages patients would receive, dispensing drugs like morphine and hydrocodone using pre-signed prescription pads. Novus medical directors, including Dr. Mark Gibbs and Dr. Laila Hirjee, were supposed to oversee the care of these patients and examine patients face-to-face to certify that they were terminally ill. Often, however, the medical directors signed off on patient care plans without properly reviewing patients files and falsely certified they had completed in-person examinations when they had not.

*Read entire article:*

<https://www.justice.gov/usao-ndtx/pr/13-novus-healthcare-fraud-defendants-sentenced-combined-84-years-prison>

**ANTI-KICKBACK STATUTE (ATS)**

**Texas Pharmacy Owner Indicted in Conspiracy That Netted More Than \$10 Million in Payments for Expensive Drugs**

**Indictment Alleges Kickbacks Paid for Prescriptions**

A Texas pharmacy owner is charged in a federal indictment for a scheme that generated millions of dollars in payments for unnecessary, expensive prescriptions through bribes paid to prescribing physicians.

Lucky S. Ott Jr., 44, of Boerne, Texas, is charged with Conspiracy in a one-count indictment alleging that he participated in a scheme to generate revenue by paying doctors to write prescriptions for expensive drugs that were reimbursed by insurance companies, said David H. Estes, U.S. Attorney for the Southern District of Georgia. The charge carries a statutory penalty of up to 15 years in prison, along with substantial financial penalties and up to three years of supervised release following any prison term. There is no parole in the federal system.

"Prescription drug fraud increases health care costs for everyone, including taxpayers who subsidize social safety net programs," said U.S. Attorney Estes. "With our law enforcement partners, we will identify and shut down operations using illegal means to enrich those who profit at patient and taxpayer expense."

According to the indictment, Ott was the owner of Boerne Drug in Boerne, Texas. The newly returned indictment by a Southern District of Georgia U.S. District Court Grand Jury alleges that from about 2017 to April 2019, Ott and co-conspirators offered and paid bribes to prescribing physicians in exchange for prescriptions for expensive drugs, including prescriptions to patients in the Southern District of Georgia whose information was obtained through the fraudulent use of a telemedicine call center. Boerne Drug would fill those prescriptions, typically for topical creams and gels, sending the unnecessary drugs to the named patients, and then receive reimbursement from pharmacy benefit managers.

*Read entire article:*

<https://www.justice.gov/usao-sdga/pr/texas-pharmacy-owner-indicted-conspiracy-netted-more-10-million-payments-expensive>

